Draft Order laid before Parliament under section 150(5) of the Government of Wales Act 2006 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

CONSTITUTIONAL LAW

DEVOLUTION, WALES

PUBLIC BODIES

The Natural Resources Body for Wales (Consequential Provision) Order 2013

Made - - - -	***
Coming into force - -	***

The Secretary of State makes the following Order in exercise of the powers conferred by sections 150(1), (2) and (4) and 157(2) of the Government of Wales Act 2006(**a**) and section 2(2) of the European Communities Act 1972(**b**).

The Secretary of State is designated(**c**) for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to basic safety standards for the health protection of the general public and workers against the dangers of ionising radiation.

In accordance with section 150(5) of the Government of Wales Act 2006 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972, a draft of this instrument was laid before and approved by a resolution of each House of Parliament.

PART 1

Preliminary

Citation and commencement

1.—(1) This Order may be cited as the Natural Resources Body for Wales (Consequential Provision) Order 2013.

(**a**) 2006 c. 32. This Act is referred to in the footnotes to this Order as "the 2006 Act".
(**b**) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).
(**c**) S.I. 1991/2289, to which there are amendments not relevant to this Order.

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

(3) Parts 1 to 5 and 7 and articles 29 to 31 of this Order have effect from 1st April 2013.

Interpretation

2. In this Order—

"the 1967 Act" means the Forestry Act 1967(**a**);

"the 1995 Act" means the Environment Act 1995(**b**);

"the 1998 Act" means the Government of Wales Act 1998(**c**);

"the 1999 Order" means the National Assembly for Wales (Transfer of Functions) Order 1999(**d**).

PART 2

Delegation of functions

Delegation of functions by the Environment Agency

3.—(1) The Public Bodies Act 2011(**e**) is amended as follows.

(2) In section 26(1), omit "non-devolved".

(3) In section 36(1), in the definition of "cross-border operator", before paragraph (a) insert—

"(za) the Natural Resources Body for Wales,".

Delegation of functions by the Forestry Commissioners

4.—(1) The Forestry Commissioners may make arrangements with the Natural Resources Body for Wales for that Body to exercise a function of the Commissioners.

(2) Arrangements under paragraph (1) may be made only in relation to land in England that—

(a) has been placed, or is treated as having been placed, at the disposal of the Commissioners under the 1967 Act, and

(b) adjoins, or is adjacent to, Wales.

(**a**) 1967 c. 10.
(**b**) 1995 c. 25.
(**c**) 1998 c. 38.
(**d**) S.I. 1999/672, to which there are amendments not relevant to this Order. The 1999 Order was made under section 22 of the Government of Wales Act 1998 (c. 38). Its provisions continue to have effect despite the repeal of that section, by virtue of section 162 of, and paragraph 26 of Schedule 11 to, the 2006 Act.
(**e**) 2011 c. 24.

PART 3

Environment Agency: constitutional and funding arrangements and general provisions

Appointment of members: removal of functions of Welsh Ministers

5. Functions under section 1 of, and Schedule 1 to, the 1995 Act, so far as exercisable by the Welsh Ministers(**a**), are transferred to the Secretary of State.

General and financial provisions: removal of functions of Welsh Ministers

6. Functions under sections 37(2) and (4), 38 and 44 of the 1995 Act(**b**), so far as exercisable by the Welsh Ministers, cease to be exercisable by the Welsh Ministers.

7. The function under section 45(2) of the 1995 Act(**c**), so far as exercisable by the Welsh Ministers, is transferred to the Secretary of State.

8. Functions under sections 47 to 52 of the 1995 Act(**d**), so far as exercisable by the Welsh Ministers, cease to be exercisable by the Welsh Ministers.

9.—(1) The function under section 53(1)(b) of the 1995 Act(**e**), so far as exercisable by the Welsh Ministers, ceases to be exercisable by the Welsh Ministers.

(2) Functions under the other provisions of section 53(1)(a) and (2) of the 1995 Act(**f**), so far as exercisable by the Welsh Ministers, are transferred to the Secretary of State.

(**a**) The function under section 1(2)(b) is exercisable by the Welsh Ministers to the extent that they may make such appointments as will ensure that there is at all times one member of the Environment Agency appointed by them. Functions of the "appropriate Minister" under Schedule 1 are exercisable by the Welsh Ministers to the extent that they relate to any member appointed by them. *See* the entry relating to the 1995 Act in Schedule 1 to the 1999 Order, and section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. In relation to any other member of the Environment Agency, functions of "the Minister" and "the appropriate Minister" under section 1 and Schedule 1 are exercisable by the Secretary of State: *see* articles 1 and 2 of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794) ("the 2002 Order"). The effect of the 2002 Order and article 5 of this Order is that functions in relation to all members of the Agency become exercisable only by the Secretary of State.

(**b**) The functions under sections 37(2) and (4), 38 and 44 are exercisable by the Welsh Ministers, in relation to Wales, concurrently with any Minister of the Crown by whom they are exercisable. *See* the entry relating to the 1995 Act in Schedule 1 to the 1999 Order and section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. The effect of article 6 is that these functions become exercisable only by the relevant Minister of the Crown.

(**c**) The relevant function of "the appropriate Ministers" under section 45(2) was, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the 1999 Order. That function was transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. So far as exercisable otherwise than in relation to Wales, the function is exercisable by the Secretary of State: *see* articles 1 and 2 of the 2002 Order. The effect of the 2002 Order and article 7 of this Order is that the function becomes exercisable only by the Secretary of State.

(**d**) The functions of "the appropriate Minister" and "the appropriate Ministers" under these sections are exercisable by the Welsh Ministers, in relation to Wales, concurrently with any Minister of the Crown by whom they are exercisable. *See* the entry relating to the 1995 Act in Schedule 1 to the 1999 Order (which makes specific provision about the exercise of these functions and about the continuing effect of Treasury approval requirements), and section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. So far as exercisable in relation to the Environment Agency otherwise than in relation to Wales, the functions are exercisable by the Secretary of State: *see* articles 1 and 2 of the 2002 Order. The effect of the 2002 Order and article 8 of this Order is that these functions become exercisable in relation to the Environment Agency only by the Secretary of State.

(**e**) The function of "the appropriate Minister" under section 53(1)(b) is exercisable by the Welsh Ministers, in relation to Wales, concurrently with any other Minister of the Crown by whom it is exercisable. *See* the entry relating to the 1995 Act in Schedule 1 to the 1999 Order, and section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. So far as exercisable in relation to the Environment Agency otherwise than in relation to Wales, the function is exercisable by the Secretary of State: *see* articles 1 and 2 of the 2002 Order. The effect of the 2002 Order and article 9(1) of this Order is that the function becomes exercisable in relation to the Environment Agency only by the Secretary of State.

(**f**) The functions were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the 1999 Order. Those functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. So far as exercisable in relation to the Environment Agency otherwise than in relation to Wales, the function is exercisable by the Secretary of State: *see* articles 1 and 2 of the 2002 Order. The effect of the 2002 Order and article 9(2) of this Order is that these functions become exercisable in relation to the Environment Agency only by the Secretary of State.

Audit: removal of functions of Auditor General for Wales

10. Functions under sections 46(4) and 49(3) and (4) of the 1995 Act(**a**), so far as exercisable by the Auditor General for Wales, cease to be exercisable by the Auditor General for Wales.

Repeal of provisions of 1998 Act relating to Welsh functions of the Environment Agency

11.—(1) The 1998 Act is amended as follows.

(2) Omit section 147(**b**).

(3) In section 154, in subsections (3)(b) and (6)(a) omit ", 147(1)".

PART 4

Forestry Commissioners: constitutional and funding arrangements

Abolition of the National Committee for Wales

12.—(1) The 1967 Act is amended as follows.

(2) In section 2(3), for "England, Scotland and Wales" substitute "England and Scotland".

(3) In Schedule 1, in paragraph 7(2)(**c**), omit "or Wales".

Funding arrangements: removal of functions of Welsh Ministers

13.—(1) Functions under section 41 of the 1967 Act(**d**), so far as exercisable by the Welsh Ministers, are transferred to the Secretary of State.

(2) In section 41 of the 1967 Act—

(a) for "Minister", in each place where it occurs, substitute "Secretary of State";

(b) in subsection (7)(a), after "exchange of land" insert "in England".

Remuneration and superannuation: removal of functions of Welsh Ministers

14.—(1) Functions under Schedule 1 to the 1967 Act(**e**), so far as exercisable by the Welsh Ministers, are transferred to the Secretary of State.

(2) The function of the Treasury under paragraph 6(1) of Schedule 1 to the 1967 Act is exercisable free from any requirement to consult the Welsh Ministers(**f**).

(**a**) The functions of the Comptroller and Auditor General under sections 46(4) and 49(3) and (4) are exercisable concurrently with the Auditor General for Wales so far as they relate to any of the Welsh functions of the Environment Agency or to any funding provided to the Agency by the Welsh Ministers: *see* the entry relating to the 1995 Act in Schedule 1 to the 1999 Order. The effect of article 10 is that these functions become exercisable only by the Comptroller and Auditor General: but see the transitional provision in article 26 of this Order.

(**b**) There are amendments to section 147 that are not relevant to this Order.

(**c**) Amended by S.I. 1999/1747, 2000/746.

(**d**) The functions of the "the Minister" were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the 1999 Order. Those functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. So far as exercisable otherwise than in relation to Wales, the functions are exercisable by the Secretary of State: *see* articles 1 and 2 of the 2002 Order. The effect of the 2002 Order and article 13(1) of this Order is that those functions become exercisable only by the Secretary of State.

(**e**) The functions of "the Ministers" under paragraphs 6(2), 9(1) and 10(1) of Schedule 1 were, so far as exercisable by the Secretary of State in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the 1999 Order. Those functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. So far as not transferred by the 1999 Order, the functions were transferred to the Secretary of State by articles 1, 2 and 3(5) of the 2002 Order. The effect of the 2002 Order and article 14 of this Order is that those functions become exercisable only by the Secretary of State. Functions under paragraph 7(2) of Schedule 1 were transferred only to the extent that they relate to a committee for Wales appointed under section 2(3) of the 1967 Act; see the amendments to section 2(3) and paragraph 7(2) of Schedule 1 made by article 12 of this Order, which abolish that committee.

(**f**) The function of the Treasury under paragraph 6(1) was transferred to the Minister for the Civil Service by article 2(2) of the Transfer of Functions (Treasury and Minister for the Civil Service) Order 1995 (S.I. 1995/269). In relation to Wales, the function was made exercisable only after consulting the National Assembly for Wales by article 5(1) of, and Schedule 2 to,

Repeal of provisions of 1998 Act relating to Welsh functions of the Forestry Commissioners

15.—(1) The 1998 Act is amended as follows.

(2) Omit section 105 and paragraphs 3 to 11 of Schedule 7(**a**).

(3) In section 154—

(a) in subsection (3)(b) omit "or paragraph 1 of Schedule 7";

(b) in subsection (6)(a) omit ", paragraph 1 of Schedule 7".

PART 5

Charging schemes

Charging schemes: general provisions

16.—(1) Section 41 of the 1995 Act(**b**) is amended as follows.

(2) In subsection (1), in the opening words, for "section 42" substitute "sections 41B, 41C and 42".

(3) After subsection (10) insert—

"(10A) Any power of the Secretary of State to make regulations under this section is exercisable in relation to Wales only after consultation with the Welsh Ministers."

Charges in respect of EU greenhouse gas emissions trading scheme

17.—(1) Section 41A of the 1995 Act(**c**) is amended as follows.

(2) In subsection (1)—

(a) in the opening words, for "new Agencies" substitute "charging authorities";

(b) in the closing words, for "new Agency" substitute "charging authority".

(3) In subsection (1C)—

(a) for "new Agency" substitute "charging authority";

(b) after "Secretary of State" insert ", the Welsh Ministers".

(4) In subsection (2)—

(a) in paragraph (b), for "SEPA" substitute "another charging authority";

(b) in the closing words—

(i) for "SEPA" substitute "that other charging authority";

(ii) after "Secretary of State" insert ", the Welsh Ministers".

(5) In subsection (3), for "SEPA" substitute "the relevant charging authority".

(6) In subsection (5)—

(a) at the beginning, insert "The Natural Resources Body for Wales and";

(b) for "it receives" substitute "they receive".

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the 1999 Order (*see* the entry in Schedule 2 relating to the 1967 Act). The function of being consulted was transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the 2006 Act. The entry relating to the 1967 Act in Schedule 2 to the 1999 Order is revoked by article 29(3) of this Order.

(**a**) Schedule 7 was amended by W.S.I. 2013/755 (W. 90); there are other amendments to section 105 and Schedule 7 that are not relevant to this Order. The effect of article 15 is to remove Welsh Ministers' and the Auditor General for Wales' involvement in relation to the funding arrangements and financial accountability of the Forestry Commissioners; but see the transitional provision in article 27 of this Order.

(**b**) Section 41 was amended by W.S.I. 2013/755 (W. 90). There are other amendments to section 41 that are not relevant to this Order.

(**c**) Section 41A was inserted by S.I. 2005/925 and amended by S.I.2012/2788 and W.S.I 2013/755 (W. 90).

(7) In subsection (7), in the appropriate place insert—

""charging authority" means the Agency, the Natural Resources Body for Wales or SEPA;".

18.—(1) Section 42(3A) of the 1995 Act(**a**) is amended as follows.

(2) For "new Agency", in each place where it occurs, substitute "charging authority".

(3) After "Secretary of State" insert "or, as the case may be, the Welsh Ministers".

Charges in respect of abstraction and impounding licences: cross-border matters

19. After section 41A of the 1995 Act, insert—

"**Charging schemes in respect of abstraction and impounding licences: joint charging schemes**

41B.—(1) A charging scheme under section 41 relating to licences under Chapter II of Part II of the 1991 Act may be made by both of the appropriate agencies acting jointly (referred to in this section as a "joint charging scheme"), if that scheme prescribes charges in relation to licences granted within a combined area that—

(a) is partly in England and partly in Wales; and

(b) includes all of, or any part of, the catchment areas of the rivers Dee, Wye and Severn.

(2) A joint charging scheme must—

(a) designate the combined area to which it applies; and

(b) specify the manner in which the sums recovered by way of charges prescribed by the scheme are to be apportioned between, and paid to, each appropriate agency.

(3) Subsections (9) and (9A) of section 41 do not apply to joint charging schemes.

(4) Subject to subsection (5), the appropriate agencies may not make a joint charging scheme unless the provisions of the scheme have been approved under section 42 by the Secretary of State and the Welsh Ministers acting jointly.

(5) Section 42 applies in relation to joint charging schemes as though references in that section to—

(a) anything done by or in relation to either the Secretary of State or the Welsh Ministers were references to that thing being done by or in relation to the Secretary of State and the Welsh Ministers acting jointly;

(b) a charging authority were references to both of the appropriate agencies acting jointly.

(6) This section does not affect any power of an appropriate agency to make a charging scheme under section 41.

Charging schemes in respect of abstraction and impounding licences: cross-border arrangements

41C.—(1) An appropriate agency may not make or revise a relevant charging scheme unless it has—

(a) notified the other appropriate agency of its proposal; and

(b) had regard to any information provided by the other appropriate agency relating to costs or expenses—

(i) which the other appropriate agency has incurred or expects to incur, and

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(**a**) Section 42(3A) was inserted by S.I 2012/2788.

(ii) in respect of which the other appropriate agency considers that the relevant charging scheme should make provision.

(2) Subsection (1) does not apply to a joint charging scheme made in accordance with section 41B.

(3) An appropriate agency may not, without the consent of the other appropriate agency, enter into any agreement, or any variation of an agreement, as a result of which it will be liable to incur costs or expenses—

(a) in respect of which it would expect a relevant charging scheme made by the other appropriate agency (or by both of the appropriate agencies acting jointly) to make provision; and

(b) which would, if an existing relevant charging scheme were revised to make provision for the purpose of recovering the amount required to meet those costs or expenses in full, result in a significant increase in the charges payable under that charging scheme.

(4) Either appropriate agency may refer the question of whether consent should be given for the purposes of subsection (3) for determination by the Secretary of State and the Welsh Ministers acting jointly.

(5) The Secretary of State and the Welsh Ministers, acting jointly—

(a) may give guidance to the appropriate agencies as to the exercise of the appropriate agencies' functions under this section;

(b) must arrange for any guidance given under this subsection to be published in such manner as they consider appropriate.

(6) The appropriate agencies must have regard to any guidance given under subsection (5).

(7) In this section, "relevant charging scheme" means a charging scheme under section 41 which relates to any extent to licences granted under Chapter II of Part II of the 1991 Act in respect of abstractions from, or impounding of, waters in the catchment areas of the rivers Dee, Wye and Severn."

Approval of charging schemes and application of sums recovered

20.—(1) Section 42 of the 1995 Act(**a**) is amended as follows.

(2) In subsection (3), after paragraph (b) insert—

"(c) in the case of licences granted by the Agency under Chapter II of Part II of the 1991 Act (abstraction and impounding), which the Natural Resources Body for Wales incurs in carrying out its functions under Part II of that Act or section 6(2A) above in the catchment areas of the rivers Dee, Wye and Severn for purposes connected with abstractions from, or impounding of, waters in England,

(d) in the case of licences granted by the Natural Resources Body for Wales under Chapter II of Part II of the 1991 Act (abstraction and impounding), which the Agency incurs in carrying out its functions under Part II of that Act or section 6(2) above in the catchment areas of the rivers Dee, Wye and Severn for purposes connected with abstractions from, or impounding of, waters in Wales,".

(3) In subsection (7), after "Agency" insert "or by both of the appropriate agencies acting jointly".

(4) After subsection (9) insert—

"(9A) The Agency must pay to the Natural Resources Body for Wales any sums which the Agency recovers under a charging scheme made under section 41 (other than a joint

(**a**) Section 42 was amended by the Food Standards Act 1999 (c. 28), section 41(1) and (4), Schedule 5, paragraphs 44(1) and (2), and Schedule 6; other relevant amending instruments are S.I. 2010/675, 2012/2788, and W.S.I 2013/755 (W. 90).

charging scheme made in accordance with section 41B) that may fairly be regarded as recovered for the purpose of meeting (in whole or in part) any costs and expenses incurred, or deemed to have been incurred, by the Body in carrying out its functions under Part II of the 1991 Act or section 6(2A) above.

(9B) The Natural Resources Body for Wales must pay to the Agency any sums which the Body recovers under a charging scheme made under section 41 (other than a joint charging scheme made in accordance with section 41B) that may fairly be regarded as recovered for the purpose of meeting (in whole or in part) any costs and expenses incurred by the Agency in carrying out its functions under Part II of the 1991 Act or section 6(2) above, other than costs and expenses that are deemed to have been incurred by the Body.

(9C) Any sums recovered by an appropriate agency by way of charges prescribed by a joint charging scheme made in accordance with section 41B must be apportioned between, and paid to, each appropriate agency in the manner specified by the scheme pursuant to section 41B(2)(b).

(9D) For the purposes of subsections (9A) and (9B), costs or expenses are deemed to have been incurred by the Natural Resources Body for Wales if the liability for those costs or expenses was transferred from the Agency to the Body on 1st April 2013—

(a) by a transfer scheme made by the Welsh Ministers under section 23 of the Public Bodies Act 2011; or

(b) by virtue of article 10 of, and paragraph 2 of Schedule 7 to, the Natural Resources Body for Wales (Functions) Order 2013."

(5) After subsection (10) insert—

"(10A) Any dispute as to the apportionment or payment of sums under subsection (9A), (9B) or (9C) shall be determined by the Secretary of State and the Welsh Ministers acting jointly."

21. The function of approving charging schemes under section 42 of the 1995 Act is exercisable by the Secretary of State free from any requirement to consult the Welsh Ministers(**a**).

PART 6

Transfer of appeal functions to the Welsh Ministers

Appeal functions: Waste Electrical and Electronic Equipment Regulations 2006

22.—(1) Regulation 66 of the Waste Electrical and Electronic Equipment Regulations 2006(**b**) is amended as follows.

(2) In paragraph (1)—

(a) for sub-paragraph (a), substitute—

"(a) to the Secretary of State against—

(i) a decision of the Environment Agency; or

(ii) a decision of the Natural Resources Body for Wales made prior to 1st October 2013;"

(b) after sub-paragraph (a) insert—

"(aa) to the Welsh Ministers against a decision of the Natural Resources Body for Wales made on or after 1st October 2013;"

(**a**) In relation to Wales, the function was made exercisable only after consulting the National Assembly for Wales by article 5(1) of, and Schedule 2 to, the 1999 Order (*see* the entry in Schedule 2 relating to the 1995 Act). The function of being consulted was transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule to, the 2006 Act. The entry relating to the 1995 Act in Schedule 2 to the 1999 Order is revoked by article 29(3) of this Order.

(**b**) S.I. 2006/3289 as amended by W.S.I 2013/755 (W. 90); there are other amending instruments but none are relevant.

(3) In paragraph (3)—

(a) for sub-paragraph (a) substitute—

"(a) to the Secretary of State against—

(i) a decision of the Environment Agency; or

(ii) a decision of the Natural Resources Body for Wales made prior to 1st October 2013;"

(b) after sub-paragraph (a) insert—

"(aa) to the Welsh Ministers against a decision of the Natural Resources Body for Wales made on or after 1st October 2013."

(4) In paragraph (5), after sub-paragraph (a) insert—

"(aa) the Welsh Ministers,".

Appeal functions: Producer Responsibility Obligations (Packaging Waste) Regulations 2007

23.—(1) In regulation 2(2) of the Producer Responsibility Obligations (Packaging Waste) Regulations 2007(**a**), the definition of "appropriate authority" is amended as follows.

(2) In paragraph (d), omit "or the Natural Resources Body for Wales" and the "and" at the end.

(3) After paragraph (d) insert—

"(da) for the purposes of any provision in these Regulations relating to the exercise of functions in respect of determining appeals against decisions of the Natural Resources Body for Wales—

(i) where the decision was made prior to 1st October 2013, the Secretary of State;

(ii) where the decision was made on or after 1st October 2013, the Welsh Ministers;".

PART 7

Transitional and saving provisions

General saving

24. Nothing in any provision of this Order affects the validity of anything done before the provision comes into force.

Continuity of functions transferred from Welsh Ministers to Secretary of State

25.—(1) Anything (including legal proceedings) which relates to a transferred function and is in the process of being done by or in relation to the Welsh Ministers immediately before the function is transferred may be continued by or in relation to the Secretary of State.

(2) Anything done by or in relation to the Welsh Ministers in the exercise of, or otherwise in connection with a transferred function is, so far as is required for continuing its effect after the transfer of the function, to have effect as if done by or in relation to the Secretary of State.

(3) Any reference to the Welsh Ministers (and any reference which is to be read as a reference to the Welsh Ministers) in any document relating to a transferred function is, so far as is required for giving effect to this article, to be treated as a reference to the Secretary of State.

(4) In this article, "transferred function" means a function of the Welsh Ministers that is transferred to the Secretary of State by article 5, 7, 9(2), 13 or 14(1).

(**a**) S.I. 2007/871 as amended by W.S.I. 2013/755 (W. 90); there are other amending instruments but none are relevant.

Financial accountability of the Environment Agency for periods before 1st April 2013

26.—(1) Notwithstanding article 10, the Auditor General for Wales—

(a) is entitled to inspect the contents of all accounts and accounting records of the Environment Agency relating to any period before 1st April 2013, so far as those accounts and accounting records relate to the Agency's Welsh functions or to any funding provided to the Agency by the Welsh Ministers;

(b) may report to the National Assembly for Wales the results of any inspection carried out under paragraph (a) above;

(c) may carry out an examination under section 145 of the 1998 Act in relation to the Environment Agency's Welsh functions or any funding provided to the Agency by the Welsh Ministers, relating to any period before 1st April 2013, as if the Agency were a body specified in Schedule 17 to the 1998 Act.

(2) In this article—

(a) "accounts" and "accounting records" have the same meanings as in section 46(5) of the 1995 Act;

(b) references to the Environment Agency's Welsh functions have the same meaning as in section 147(4) of the 1998 Act (notwithstanding its repeal).

Financial accountability of the Forestry Commissioners for periods before 1st April 2013

27.—(1) Notwithstanding the repeal by article 15 of section 105 of, and paragraphs 3 to 11 of Schedule 7 to, the 1998 Act, those provisions continue to have effect in relation to the Welsh finances of the Forestry Commissioners relating to any period before 1st April 2013.

(2) In this article, "Welsh finances of the Forestry Commissioners" has the same meaning as in paragraph 5(2) of Schedule 7 to the 1998 Act (notwithstanding its repeal).

Existing charging schemes in respect of abstraction and impounding licences

28.—(1) Subject to paragraph (2), the existing abstraction and impounding charges scheme continues to have effect as though it were a joint charging scheme made under section 41 of the 1995 Act in accordance with sections 41B and 42 of that Act (as amended by this Order).

(2) Sections 41B(2) and 42(9C) of the 1995 Act (as amended by this Order) do not apply to the existing abstraction and impounding charges scheme.

(3) The appropriate agencies must, before 1st October 2013, agree the manner in which the sums recovered by way of charges prescribed by the existing abstraction and impounding charges scheme are to be apportioned between, and paid to, each appropriate agency.

(4) Any sums recovered by an appropriate agency by way of charges prescribed by the existing abstraction and impounding charges scheme must be apportioned between, and paid to, each appropriate agency in the manner agreed under paragraph (3).

(5) Any dispute as to the manner of apportionment and payment under paragraph (3), or as to the apportionment or payment of sums under paragraph (4), is to be determined by the Secretary of State and the Welsh Ministers acting jointly.

(6) In this article, "the existing abstraction and impounding charges scheme" means the charging scheme made by the Environment Agency under section 41 of the 1995 Act which relates to licences granted under Chapter II of Part II of the Water Resources Act 1991 Act(**a**) and was in force immediately before 1st April 2013.

(**a**) 1991 c. 57.

PART 8

Miscellaneous and consequential amendments

Amendments to the 1999 Order

29.—(1) The 1999 Order is amended as follows.

(2) In Schedule 1, in the entry relating to the 1995 Act—

(a) omit the paragraph relating to the function under section 48(2) and (4);

(b) in the paragraph beginning "It is directed that the functions under sections 37(2) and (4)"—

(i) omit the words from "37(2) and (4)" to "53(1)(b),";

(ii) omit the second sentence;

(c) omit the words from "In respect of section 40" to the end of the entry.

(3) In Schedule 2, omit the entries relating to the 1967 Act and the 1995 Act.

Definition of "the catchment areas of the rivers Dee, Wye and Severn"

30. In section 56(1) of the 1995 Act, in the appropriate place insert—

""the catchment areas of the rivers Dee, Wye and Severn" has the meaning given by article 1(3) of the National Assembly for Wales (Transfer of Functions) Order 1999;".

31.—(1) Article 11 of the Natural Resources Body for Wales (Establishment) Order 2012(**a**) ("*Gorchymyn Corff Adnoddau Naturiol Cymru (Sefydlu) 2012*") is amended as follows.

(2) In the English text, after paragraph (9) insert—

"(10) In this article, "the catchment areas of the rivers Dee, Wye and Severn" ("*dalgylchoedd afonydd Dyfrdwy, Gwy a Hafren*") has the meaning given by article 1(3) of the National Assembly for Wales (Transfer of Functions) Order 1999."

(3) In the Welsh text, after paragraph (9) insert—

"(10) Yn yr erthygl hon, mae i "dalgylchoedd afonydd Dyfrdwy, Gwy a Hafren" ("*the catchment areas of the rivers Dee, Wye and Severn*") yr un ystyr a roddir i "the catchment areas of the rivers Dee, Wye and Severn" yn erthygl 1(3) o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999."

Amendments to the Justification of Practices Involving Ionising Radiation Regulations 2004

32.—(1) The Justification of Practices Involving Ionising Radiation Regulations 2004(**b**) are amended as follows.

(2) In regulation 18(1)(a)(iv), after "Environment Agency," insert "the Natural Resources Body for Wales,".

(3) In regulation 22(3)(e), after "Environment Agency" insert ", the Natural Resources Body for Wales".

Name

Date

Secretary of State for Wales

(**a**) W.S.I. 2012/1903 (W. 230) as amended by W.S.I 2013/755 (W. 90).
(**b**) S.I. 2004/1769 as amended by S.I. 2005/525.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in consequence of the Natural Resources Body for Wales (Functions) Order 2013 ("the Functions Order").

The Natural Resources Body for Wales (Establishment) Order 2012 ("the Establishment Order") established a new statutory body, the Natural Resources Body for Wales ("the Body") and provided for its purpose, membership, procedure, financial governance and initial functions. The Functions Order made further provision about the Body, including provision about the modification and transfer of environmental functions to the Body. The general effect of the Functions Order was that Welsh devolved functions of the Environment Agency ("the Agency") and the Forestry Commissioners ("the Commissioners") were modified and transferred to the Body. The Functions Order also abolished the Countryside Council for Wales and transferred its functions to the Body.

The main purpose of this Order is to make provision: in relation to the membership, constitution, financial governance, and related functions of the Agency and the Commissioners in connection with the transfer of their Welsh devolved functions to the Body; in relation to charging arrangements involving the Agency and the Body; and in relation to the transfer of certain appeal functions from the Secretary of State to the Welsh Ministers.

Part 2 of the Order makes two minor amendments to the Public Bodies Act 2011, in order to facilitate the delegation by the Agency of any of its functions to the Body, and provides that the Commissioners may delegate certain of their functions to the Body.

Part 3 removes the Welsh Ministers' functions in relation to the appointment of the Agency's members, and removes the functions of the Welsh Ministers and the Auditor General for Wales in relation to the financial governance of the Agency.

Part 4 removes the requirement for the Commissioners to have a committee in relation to Wales, and removes the functions of the Welsh Ministers and the Auditor General for Wales in relation to the financial governance of the Commissioners.

Part 5 makes provision in relation to the Agency's and the Body's powers to make charging schemes. Articles 17 and 18 amend sections 41A and 42(3A) of the Environment Act 1995 (c. 25) to enable the Body to make charging schemes relating to the EU greenhouse gas emissions trading scheme. Articles 16 and 19 to 21 amend that Act to make provision about the powers of the Agency and the Body to make charging schemes which include provision in relation to each other's expenditure. In particular, article 19 amends that Act to allow the Agency and the Body to make a single joint charging scheme prescribing charges for water abstraction and impounding licences, which may apply in relation to a combined scheme area that is partly in England and partly in Wales, where the Agency and the Body agree a single joint scheme is preferable to individual schemes for England and for Wales.

Part 6 amends the Waste Electrical and Electronic Equipment Regulations 2006 (S.I. 2006/3289) and the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (S.I. 2007/871), in order to transfer certain functions of hearing appeals against decisions of the Body under those Regulations from the Secretary of State to the Welsh Ministers.

Part 7 contains transitional and saving provisions. Articles 26 and 27 preserve the functions of the Welsh Ministers and the Auditor General for Wales relating to the financial governance of the Agency and the Commissioners in relation to the exercise of their Welsh devolved functions before the transfer of those functions to the Body. Article 28 contains a transitional provision in relation to the charging scheme that relates to water abstraction and impounding licences made by the Agency on an England and Wales basis before, and existing as at, the date of the transfer of its Welsh devolved functions to the Body.

Part 8 makes amendments to various enactments. Articles 29 amends the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) to remove provisions relating to

functions under the Forestry Act 1967 and Environment Act 1995 which are no longer required as a result of this Order and the Functions Order. Articles 30 and 31 amend the Environment Act 1995 and the Establishment Order to insert definitions of "the catchment areas of the rivers Dee, Wye and Severn" that are in line with the definition of that expression used in this Order. Article 32 amends the Justification of Practices Involving Ionising Radiation Regulations 2004 to require that the Body is consulted, or served with notices, in certain cases.

The provisions of the Order (except for the provisions in Part 6 and article 32) have effect from 1st April 2013, which is the date on which the Functions Order comes into force. The power to make provision having retrospective effect is conferred by section 150(4) of the Government of Wales Act 2006 (c. 32).

An impact assessment has not been prepared for this Order as no costs to the business or voluntary sectors are foreseen.

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