LEGISLATION (PROCEDURE, PUBLICATION AND REPEALS) (WALES) ACT 2025

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Legislation (Procedure, Publication and Repeals) (Wales) Act 2025 that was passed by Senedd Cymru on 20 May 2025 and received Royal Assent on 10 July 2025. They have been prepared by the Office of the Legislative Counsel of the Welsh Government to assist the reader of the Act. The Explanatory Notes should be read in conjunction with the Act but are not part of it.

SUMMARY AND BACKGROUND

2. The purpose of the Act is to:

    a. bring together and formalise:

        i. the procedural arrangements for making Welsh subordinate legislation, and

        ii. the requirements for publishing Acts of Senedd Cymru and Welsh statutory instruments, and other subordinate legislation that is not made by statutory instrument.

    b. improve the accessibility of Welsh law by:

        i. repealing, amending and otherwise disapplying in relation to Wales enactments that are no longer of practical utility or benefit;

        ii. making amendments to the Legislation (Wales) Act 2019.

3. The Welsh Government consulted on a draft Bill relating to repeals in October 2022, the responses to which were considered in developing the Act.

4. The Act forms part of the Welsh Government's wider programme of improving the accessibility of Welsh law and clarifying and simplifying the operation of Welsh legislation.

COMMENTARY ON SECTIONS

PART 1 – PROCEDURE FOR MAKING WELSH SUBORDINATE LEGISLATION

5. Part 1 of the Act amends the Legislation (Wales) Act 2019 (anaw 4) ('the 2019 Act') to make provision about Senedd procedures for making Welsh subordinate legislation. Part 2 of the Act amends the 2019 Act to make provision about the publication and preservation of Welsh legislation. The 2019 Act currently makes provision about the interpretation and operation of Welsh legislation as well as placing duties upon the Counsel General and the Welsh Ministers to improve the accessibility of Welsh law.

6. Part 1 of the Act amends the 2019 Act by inserting a new Part 2A (and Schedules 1A, 1B and 1C). New Part 2A of the 2019 Act places on a statutory basis the concept of a "Welsh statutory instrument"; it also sets out and gives a name to certain types of procedure that Welsh subordinate legislation required to be made by statutory instrument is required to follow in the Senedd.

7. After new Part 2A comes into effect, if an enactment (such as an Act of Senedd Cymru or an Act of the UK Parliament, but see Schedule 1 to the 2019 Act for the definition of "enactment") provides that a particular piece of such subordinate legislation is subject to a particular procedure named in Part 2A, the requirements of that procedure will apply to the making of that subordinate legislation. This means that enactments will be able to apply the named procedures set out in Part 2A without having to describe the detail of those procedures each time.

8. Part 2A also makes provision in respect of new Welsh subordinate legislation to be made under enactments that were enacted or made before Part 2A comes into effect. In such cases most subordinate legislation will now be made as a Welsh statutory instrument (rather than as a statutory instrument within the meaning of section 1 of the Statutory Instruments Act 1946 (c. 36)). It will be subject to one of the Senedd procedures set out in Part 2A, even though the enactment the subordinate legislation is made under did not use one of the terms used to describe that procedure.

9. Instruments that are made by the Welsh Ministers acting with, for example, a Secretary of State in the UK Government, or instruments made as Orders in Council, are subject to modified versions of the new Senedd procedures.

10. Part 1 of the Act also amends the Highways Act 1980 (c. 66) and the Road Traffic Regulation Act 1984 (c. 27) to no longer require temporary road traffic orders to be made by statutory instrument (or Welsh statutory instrument).

Section 1 – New Part 2A of the Legislation (Wales) Act 2019

11. This section amends the 2019 Act by inserting a new Part 2A and three new Schedules. New Part 2A contains sections 37A to 37H and Schedules 1A, 1B and 1C, information on which is set out below.

Section 37A – Welsh statutory instruments

12. Section 37A contains the definition of a "Welsh statutory instrument". It is a document that contains "Welsh subordinate legislation". The term "subordinate legislation" by itself is defined in Schedule 1 to the 2019 Act and means things such as orders, regulations and rules. However, for such things to fall within the meaning of the term "Welsh subordinate legislation" the legislation must be made by the Welsh Ministers or a devolved Welsh authority. This requirement means that if the Welsh Ministers are acting with another person who is not a devolved Welsh authority to make the subordinate legislation (for example, a Secretary of State) then the resulting instrument will continue to be made as a statutory instrument. Similarly, an Order in Council made solely in relation to Wales would continue to be made as a statutory instrument.

13. The Government of Wales Act 2006 (c. 32) ('the 2006 Act') provides the meaning of the "Welsh Ministers" (see section 48). However, for the purposes of defining a "Welsh statutory instrument" the term "Welsh Ministers" includes the National Assembly for Wales established under the Government of Wales Act 1998 (c. 38) (see section 37A(4)). Under the 1998 Act that National Assembly had a range of powers to make subordinate legislation, most of which were then transferred to the Welsh Ministers by the 2006 Act. The inclusion of instruments containing subordinate legislation made by that National Assembly in the definition of "Welsh statutory instrument" is relevant to some of the provisions about Welsh statutory instruments in the new Part 2B of the 2019 Act, but not to the procedural provisions in Part 2A.

14. The 2006 Act also defines "devolved Welsh authority" (see section 157A). A devolved Welsh authority includes bodies such as the Welsh Language Tribunal.

15. One of the effects of section 37A is that all existing statutory instruments that have been made by the Welsh Ministers or a devolved Welsh authority, where they have not made the legislation with another person, will become Welsh statutory instruments. Although in practice this changes very little, it places on a statutory footing the classification that the King's Printer of Acts of Parliament had been using to identify statutory instruments made by the Welsh Ministers (and previously the National Assembly for Wales) since 1999.

16. Another effect is that the Statutory Instruments Act 1946 (c. 36) ('the 1946 Act') will no longer apply to the existing instruments that fall within the definition of "Welsh statutory instrument" (or indeed future Welsh statutory instruments), but instead new Part 2B in the 2019 Act will apply. Paragraph 1 of Schedule 3 to the Act disapplies the 1946 Act to instruments made by the Welsh Ministers.

17. Existing requirements for the Welsh Ministers and devolved Welsh authorities to make particular pieces of subordinate legislation as a statutory instrument are 'converted' to requirements to make that legislation as a Welsh statutory instrument. This is the effect of section 37H and Schedule 1A (see below).

18. Instead of providing that a particular piece of subordinate legislation is to be made as a "statutory instrument" (and attract the requirements of the 1946 Act), future Acts of the Senedd will provide that particular piece of subordinate legislation is to be made as a "Welsh statutory instrument". This will then attract the relevant aspects of Part 2B as to the numbering, publication and preservation of such instruments. If a future Act of the UK Parliament confers powers on the Welsh Ministers or another devolved Welsh authority to make subordinate legislation (to be exercised acting alone rather than, say, jointly with a Secretary of State), those Acts should also provide it will be made as a "Welsh statutory instrument".

Section 37B – Interpretation

19. This section sets out the meaning of the term "responsible authority" that is used in both Parts 2A and 2B. It means the body or person who made the subordinate legislation in question, except in the case of subordinate legislation that was also confirmed or approved by the Welsh Ministers, the First Minister or the Counsel General. In such a case the "responsible authority" is the Welsh Ministers.

20. A person who is a "responsible authority" has certain functions under both Parts. For example, if a particular piece of subordinate legislation made by the Welsh Ministers is subject to "Senedd annulment procedure" and is annulled, the Welsh Ministers (as the "responsible authority" for that legislation) must revoke the subordinate legislation (see section 37E(4)).

21. As another example, under section 37N the responsible authority for a Welsh statutory instrument must send a certified copy of that instrument to the National Library of Wales (so it may be preserved) and to the King's Printer for Wales (so it may be published).

22. This section also explains how a decision by the responsible authority to classify a Welsh statutory instrument as a "local instrument" is to be made. Local instruments tend to be limited in their application to a particular area or particular individuals or persons and therefore are unlikely to be of general application or interest. Local instruments do not need to be laid before the Senedd (under section 37F) or sent to the National Library of Wales for preservation (under section 37N).

Section 37C – Senedd approval procedure

23. Section 37C defines what it means when an enactment provides that subordinate legislation that is to be made as a Welsh statutory instrument is subject to the "Senedd approval procedure".

24. Such subordinate legislation can only be made if a draft of the Welsh statutory instrument has been laid before the Senedd and subsequently approved by it. Approval is by way of a resolution (in this case, a decision following debate in Plenary).

25. New section 12A of the 2019 Act explains what is meant by laying a document before Senedd Cymru (see also paragraph 215 below).

26. For the application of this procedure to new subordinate legislation made by a responsible authority under enactments that were made or enacted before Part 2A comes into effect, see section 37H and Schedule 1A. For such subordinate legislation made by the Welsh Minsters acting with another person (not a devolved Welsh authority) or as an Order in Council, see Schedules 1B and 1C respectively.

Section 37D – Senedd confirmation procedure

27. Section 37D defines what is meant when an enactment provides that subordinate legislation that is to be made as a Welsh statutory instrument is subject to the "Senedd confirmation procedure".

28. This procedure is the equivalent of the so-called 'made affirmative' procedure found in certain existing legislation. Parliaments (including Senedd Cymru) have enacted legislation which permits subordinate legislation to be made under this procedure where there is an expectation that the maker of the subordinate legislation would need to take urgent action, but such action needs to be confirmed by the legislature for those arrangements to become permanent. For example, in relation to a health protection emergency such as the recent coronavirus pandemic or to swiftly make changes to tax thresholds or exemptions.

29. Subordinate legislation made subject to the Senedd confirmation procedure is made by the person who has the power to make the legislation and the Welsh statutory instrument is then laid before the Senedd, as soon as possible after the subordinate legislation is made. The subordinate legislation cannot continue to have effect or come into force at a future point, unless the Senedd subsequently confirms it through a resolution.

30. Enactments that prescribe that a particular piece of subordinate legislation is to be made by the Senedd confirmation procedure will usually also prescribe the point in time by which confirmation of the Senedd must be given. Alternatively, the enactment may specify a particular event by which confirmation of the Senedd must be given. For example, the enactment may prescribe that confirmation of the Senedd must be given within 28 days of the subordinate legislation being made, not counting any time when the Senedd is in recess or dissolved. Or, by way of further example, the enactment could prescribe that the Senedd must give its confirmation before a budget resolution is passed.

31. Subordinate legislation made under the Senedd confirmation procedure therefore ceases to have effect if the Senedd does not confirm it because it does not agree that the subordinate legislation should continue (the resolution is not passed) or the passage of time for which it can remain in force expires or the situation relating to the prescribed event occurs (meaning the Senedd cannot be asked to confirm it).

32. Subsection (4) provides that where the subordinate legislation ceases to have effect, if it is not already in force it will not come into force (and if it is partly in force it will not fully come into force). Where the subordinate legislation was already in force or partly in force at the point it ceased to have effect, nothing further can be done or relied upon under it. The responsible authority must, by an order made under section 37D(4)(c) then revoke it. Revocation will help to avoid confusion for future readers of the legislation who may not otherwise realise the subordinate legislation no longer has effect. The order that revokes the subordinate legislation must laid before the Senedd in accordance with section 37F and be made by Welsh statutory instrument.

33. Where subordinate legislation ceases to have effect, anything that was done under it remains valid and further subordinate legislation can still be made (see subsection (5)).

34. New section 12A of the 2019 Act explains what is meant by laying a document before Senedd Cymru (see also paragraph 215 below).

35. For the application of this procedure to new subordinate legislation made by a responsible authority under enactments that were made or enacted before Part 2A comes into effect, see section 37H and Schedule 1A. For such subordinate legislation made by the Welsh Minsters acting with another person (not a devolved Welsh authority) see Schedule 1B.

Section 37E – Senedd annulment procedure

36. Section 37E defines what is meant when an enactment provides that subordinate legislation that is to be made as a Welsh statutory instrument is subject to the "Senedd annulment procedure".

37. Under this procedure the legislation is made by the person with the power to make it, laid before the Senedd and comes into force. However, if the Senedd decides (through a resolution), before the end of 40 days beginning with the date on which the subordinate legislation was laid before it, that the legislation should not continue in effect, the legislation no longer has effect.

38. As such section 37E provides that:

    a. the subordinate legislation must be laid before the Senedd as soon as practicable after it is made (subsection (2)). Furthermore, it should be laid at least 21 days before it comes into force. If it comes into force in less than 21 days after being laid, then the responsible authority must write to the Senedd's Presiding Officer, known as the Llywydd, to explain why (see subsections (6) and (7)).

    b. beginning with the date on which the subordinate legislation was laid, the Senedd has 40 days in which to consider whether it wishes to resolve that the legislation be annulled (subsection (3)). In practice this would mean a Member of the Senedd laying a motion before the Senedd that the legislation be annulled, this being debated by the Senedd and a majority of voting members agreeing with the motion.

c. if the subordinate legislation is annulled, if it is not already in force it will not come into force or if it is partly in force it will not come fully into force (subsection (4)); or where the subordinate legislation was already in force (or partly in force) at the point or it was annulled, nothing further can be done or relied upon under it. The responsible authority must, by order, then revoke the subordinate legislation. That order must be laid before the Senedd in accordance with section 37F and must be made by Welsh statutory instrument.

d. where subordinate legislation is annulled, anything that was done under it remains valid and further subordinate legislation can still be made (subsection (5)).

39. The periods of 21 and 40 days in this section are to be calculated ignoring any time that the Senedd is in recess for more than four days or is dissolved (subsection (8)).

40. New section 12A of the 2019 Act explains what is meant by laying a document before Senedd Cymru (see also paragraph 215 below).

41. For the application of this procedure to new subordinate legislation made by a responsible authority under enactments that were made or enacted before Part 2A comes into effect, see section 37H and Schedule 1A. For such subordinate legislation made by the Welsh Minsters acting with another person (not a devolved Welsh authority) or as an Order in Council, see Schedules 1B and 1C respectively.

Section 37F – Other Welsh statutory instruments to be laid before Senedd Cymru

42. Section 37F provides a 'default' position for what is to happen in relation to all subordinate legislation made by Welsh statutory instrument that is not subject to one of the procedures set out in sections 37C, 37D or 37E. In such cases it must be laid before the Senedd.

43. The instrument must be laid before the Senedd as soon as practicable after it is made. If that is after the subordinate legislation has come into force the responsible authority must explain to the Llywydd, in writing, why the subordinate legislation was not laid before it came into force (subsections (4) and (5)).

44. New section 12A of the 2019 Act explains what is meant by laying a document before Senedd Cymru (see also paragraph 215 below).

45. Although section 37F provides this default provision, by virtue of subsection (2) it does not include subordinate legislation made in a Welsh statutory instrument that has been classified by the responsible authority as a local instrument (for which see section 37B(4)), one made under the special Senedd procedure (for which see subsection (6) and the Senedd's Standing Order 28) or one made under an enactment listed in future regulations made by the Welsh Ministers under section 37F(2)(c). Any such regulations must be made subject to the Senedd approval procedure set out in section 37C (see section 43 of the 2019 Act, as substituted by Schedule 3 of this Act).

46. For the application of this requirement to new subordinate legislation made by a responsible authority under enactments that were made or enacted before Part 2A comes into effect, see section 37H and Schedule 1A. For such subordinate legislation made by the Welsh Minsters acting with another person (not a devolved Welsh authority) or as an Order in Council, see Schedules 1B and 1C respectively. In such cases, this will mean that in cases where subordinate legislation made by statutory instrument (or now as a Welsh statutory instrument) would not have had to be laid before the Senedd, it will now be laid.

47. The result is that all subordinate legislation made by Welsh statutory instrument (as well as certain statutory instruments and Orders in Council) and not subject to a Senedd procedure will, unless subsection (2) or its equivalent in the relevant Schedule applies, be laid before the Senedd.

Section 37G – Combining subordinate legislation subject to different Senedd procedures

48. Section 37G makes provision about the combination in a single Welsh statutory instrument of subordinate legislation made by a responsible authority using different powers to which different Senedd procedures apply. It ensures that the instrument is subject to the most stringent of the procedures that would otherwise apply. For example, if a statutory instrument contains some provisions that would attract the Senedd approval procedure and some provisions that would attract the Senedd annulment procedure, this section means that the Senedd approval procedure applies to the whole instrument (and that the Senedd annulment procedure does not apply).

49. Many Acts already contemplate the combination in a single instrument of subordinate legislation made under different powers within the same Act, even where those powers would normally attract different procedures. For example, an Act may provide that any instrument containing regulations under certain powers in the Act would be subject to (or read as being subject to) the Senedd approval procedure (whether or not it also contains regulations under other powers), and that the Senedd annulment procedure applies to any other instrument containing regulations under the Act (i.e. any instrument that does not contain regulations under the powers that attract the Senedd approval procedure).

50. However, provisions about Senedd procedure for Welsh statutory instruments do not always deal with this issue, and they do not usually cater for the combination in the same instrument of provisions subject to different procedures that are made under different Acts. The purpose of section 37G is to facilitate the combination in a single statutory instrument of provisions that are subject to different procedures, whether they are made under powers in the same Act or different Acts, and to avoid any procedural difficulties that would be caused by combining provisions in this way.

51. Subsection (2) achieves this by providing that, where more than one Senedd procedure would apply, it is only whichever of those procedures is mentioned first in subsection (3) that applies. Subsection (3) then lists the different types of Senedd procedure from the most stringent to the least stringent, starting with the Senedd approval procedure in paragraph (a) and ending with no procedure in paragraph (d).

52. Subsection (4) makes clear that making subordinate legislation in a combined statutory instrument to which this section applies does not prevent the responsible authority making subordinate legislation in separate instruments in the future, or affect the procedure that applies to the subordinate legislation contained in any separate instruments they make. For example, if regulations under a power that would normally attract the Senedd annulment procedure have been included in a Welsh statutory instrument that is subject to the Senedd approval procedure, the Welsh Ministers may make further regulations under that power in a separate Welsh statutory instrument that is subject to the Senedd annulment procedure.

53. This section was originally section 40 of the 2019 Act, but has been restated within the 2019 Act as section 37G and modified to:

    a. firstly, reflect the simplified and codified Senedd procedures,

    b. secondly, extend the power from simply being available to the Welsh Ministers to all responsible authorities who may make a Welsh statutory instrument, and

    c. thirdly, reflect the fact that most Welsh statutory instruments will not require to be laid before the Senedd.

54. The power to combine subordinate legislation subject to different Senedd procedures applies both to legislation made under future enactments as well as to legislation made under pre-commencement enactments (by virtue of section 37H and Schedule 1A).

Section 37H – Application of this Part in different circumstances

55. Section 37H introduces Schedules 1A, 1B and 1C that apply the provisions in Part 2A (in some cases with modifications) to subordinate legislation made under existing and future enactments in particular circumstances.

Schedule 1A - Application of Part 2A to pre-commencement enactments

56. This Schedule applies the provisions of Part 2A to Welsh subordinate legislation made by statutory instrument under "pre-commencement enactments", in other words enactments that were enacted or made before Part 2A comes into effect.

57. Schedule 1A has the effect that where existing powers of the Welsh Ministers or a devolved Welsh authority provide that subordinate legislation made under those powers is to be made as a "statutory instrument" (within the meaning given by section 1 of the 1946 Act), it will instead be made as a Welsh statutory instrument. Schedule 1A also provides that where an existing enactment prescribes a particular procedure by which subordinate legislation is to be made, the procedure will instead be one of the new codified procedures set out in section 37C, 37D or 37E. Where an existing enactment does not prescribe a procedure, the Welsh statutory instrument containing

the subordinate legislation must be laid under section 37F. This is summarised in Table A below:

Table A – Effect of Schedule 1A on pre-commencement enactments

Pre-commencement enactment provisions	Effect of Schedule 1A
A draft of the statutory instrument containing the subordinate legislation is laid before, and approved by resolution of, Senedd Cymru (known as a '*draft affirmative*' instrument) – see paragraph 3(1)(a) of Schedule 1A	Subordinate legislation is made as a Welsh statutory instrument under the Senedd approval procedure – paragraph 3(2) of Schedule 1A
The subordinate legislation is made but cannot come into force unless the statutory instrument containing it is laid before, and approved by resolution of, Senedd Cymru (known as an '*affirmative*' instrument) – see paragraph 3(1)(b) of Schedule 1A	
The subordinate legislation is made but ceases to have effect unless the statutory instrument containing it is approved by resolution of Senedd Cymru before— (a) the end of a period specified in the enactment, or (b) an event specified in the enactment occurs (known as a '*made affirmative*' instrument) – see paragraph 4(1) of Schedule 1A	Subordinate legislation is made as a Welsh statutory instrument under the Senedd confirmation procedure – see paragraph 4(2) of Schedule 1A
The subordinate legislation is made as a statutory instrument but is subject to annulment in pursuance of a resolution of Senedd Cymru (known as a '*negative*' instrument) – see paragraph 5(1)(a) of Schedule 1A	Subordinate legislation is made as a Welsh statutory instrument under the Senedd annulment procedure – see paragraph 5(2) of Schedule 1A
The statutory instrument may be laid before Senedd Cymru in draft but the subordinate legislation cannot be made if Senedd Cymru resolves that it should not be made within 40 days of it being laid (known as a '*draft negative*' instrument) – see paragraph 5(1)(b) of Schedule 1A	

Pre-commencement enactment provisions	Effect of Schedule 1A
The subordinate legislation is not subject to any procedure but the statutory instrument containing it must be laid before the Senedd (known as '*no procedure but laid*') – see paragraph 6(1) of Schedule 1A	Subordinate legislation is made as a Welsh statutory instrument and laid before the Senedd – see paragraph 6(2), and note exceptions at paragraph 6(3), of Schedule 1A
The subordinate legislation is not subject to any procedure and no requirement to lay the statutory instrument before the Senedd (known as '*no procedure*') – see paragraph 6(1) of Schedule 1A	

58. The Welsh Ministers may, by regulations, amend enactments to reflect the effect of Schedule 1A (see paragraph 7 of this Schedule). This could be used, for example, to replace existing references to "instruments being subject to annulment in pursuance of a resolution of Senedd Cymru", with a reference to the Welsh statutory instrument being made "under the Senedd annulment procedure".

Schedule 1B - Application of Part 2A to joint or composite legislation

59. This Schedule applies the provisions of Part 2A to subordinate legislation made by the Welsh Ministers and another person (other than a devolved Welsh authority) by statutory instrument. Some enactments require the Welsh Ministers to make subordinate legislation jointly with another person, for example a Secretary of State (the result is known as a "joint instrument"). Sometimes the Welsh Ministers and Secretary of State may choose to exercise their powers to make subordinate legislation in a single instrument (this is known as a "composite instrument"). Schedule 1B applies Part 2A to joint or composite instruments made under "pre-" and "post-commencement enactments", in other words enactments that were enacted or made before and after Part 2A comes into force.

60. In relation to pre-commencement enactments Schedule 1B has the effect that the subordinate legislation will continue to be made as a "statutory instrument" (rather than as a Welsh statutory instrument) but that where an existing enactment prescribes a particular procedure by which subordinate legislation is to be made, the procedure will instead be a modified version of one of the new procedures set out in sections 37C, 37D or 37E. Where an existing enactment does not prescribe a procedure, the statutory instrument containing the subordinate legislation must be laid under a modified section 37F. This is summarised in Table B below:

Table B – Effect of Schedule 1B for pre-commencement enactments (joint or composite instruments)

Pre-commencement enactment provisions	Effect of Schedule 1B
A draft of the statutory instrument containing the subordinate legislation is laid before, and approved by resolution of, Senedd Cymru (known as a '*draft affirmative*' instrument) – see paragraph 3(1)(a) of Schedule 1B	Subordinate legislation is made as a statutory instrument under the modified Senedd approval procedure set out at paragraph 12 of Schedule 1B
The subordinate legislation is made but cannot come into force unless the statutory instrument containing it is laid before, and approved by resolution of, Senedd Cymru (known as an '*affirmative*' instrument) – see paragraph 3(1)(b) of Schedule 1B	
The subordinate legislation is made but ceases to have effect unless the statutory instrument containing it is approved by resolution of Senedd Cymru before— (a) the end of a period specified in the enactment, or (b) an event specified in the enactment occurs (known as a '*made affirmative*' instrument) – see paragraph 4(1) of Schedule 1B	Subordinate legislation is made as a statutory instrument under the modified Senedd confirmation procedure set out at paragraph 13 of Schedule 1B
The subordinate legislation is made as a statutory instrument but is subject to annulment in pursuance of a resolution of Senedd Cymru (known as a '*negative*' instrument) – see paragraph 5(1)(a) of Schedule 1B	Subordinate legislation is made as a statutory instrument under the modified Senedd annulment procedure set out at paragraph 14 of Schedule 1B
The statutory instrument may be laid before Senedd Cymru in draft but the subordinate legislation cannot be made if Senedd Cymru resolves that it should not be made within 40 days of it being laid (known as a '*draft negative*' instrument) – see paragraph 5(1)(b) of Schedule 1B	
The subordinate legislation is not subject to any procedure but the statutory instrument containing it must be laid before the Senedd (known as '*no procedure but laid*') – see paragraph 6(1) of Schedule 1B	Subordinate legislation is made as a statutory instrument and laid before the Senedd under section 37F as modified (see paragraph 15 of Schedule 1B)

Pre-commencement enactment provisions	Effect of Schedule 1B
The subordinate legislation is not subject to any procedure and there is no requirement to lay the statutory instrument before the Senedd (known as '*no procedure*') – see paragraph 6(1) of Schedule 1B	

61. In relation to post-commencement enactments the subordinate legislation will be made as a "statutory instrument" (rather than as a Welsh statutory instrument) and if the enactment prescribes a Senedd procedure (in respect of the powers of the Welsh Ministers to make subordinate legislation), the subordinate legislation will be made under a modified version of section 37C, 37D or 37E respectively (or laid under modified section 37F). This is summarised in Table C below:

Table C – Effect of Schedule 1B for post-commencement enactments (joint or composite instruments)

Post-commencement enactment provisions	Effect of Schedule 1B
Subordinate legislation subject to "Senedd approval procedure" – see paragraph 8(1) of Schedule 1B	Subordinate legislation is made as a statutory instrument under the modified Senedd approval procedure set out at paragraph 12 of Schedule 1B
Subordinate legislation subject to "Senedd confirmation procedure" – see paragraph 9(1) of Schedule 1B	Subordinate legislation is made as a statutory instrument under the modified Senedd confirmation procedure set out at paragraph 13 of Schedule 1B
Subordinate legislation subject to "Senedd annulment procedure" – see paragraph 10(1) of Schedule 1B	Subordinate legislation is made as a statutory instrument under the modified Senedd annulment procedure set out at paragraph 14 of Schedule 1B
The subordinate legislation is not subject to a Senedd procedure – see paragraph 11(1) of Schedule 1B	Subordinate legislation is made as a statutory instrument and laid before the Senedd under section 37F as modified (see paragraph 15 of Schedule 1B)

62. The Welsh Ministers may, by regulations, amend enactments to make provision to reflect the effect of Schedule 1B (see paragraph 16 of this Schedule).

Schedule 1C - Application of Part 2A to Orders in Council

63. This Schedule applies the provisions of Part 2A to subordinate legislation made as an Order in Council when the statutory instrument must be laid before the Senedd. Schedule 1C applies Part 2A to Orders in Council made under "pre-" and "post-commencement enactments", in other words enactments that were enacted or made before and after Part 2A comes into force.

64. In relation to pre-commencement enactments Schedule 1C ensures that the Order in Council will continue to be made as a "statutory instrument" (rather than as a Welsh statutory instrument) but that where an existing enactment prescribes a particular procedure by which the Order in Council is to be made, the procedure will instead be a modified version of either the Senedd approval procedure (section 37C) or the Senedd annulment procedure (section 37E). Where an existing enactment does not prescribe a Senedd procedure, the Order in Council must be laid under a modified section 37F. This is summarised in Table D below:

Table D – Effect of Schedule 1C for pre-commencement enactments (Orders in Council)

Pre-commencement enactment provisions	Effect of Schedule 1C
A draft of the statutory instrument containing the Order in Council is laid before, and approved by resolution of, Senedd Cymru (known as a '*draft affirmative*' instrument) – see paragraph 3(1)(a) of Schedule 1C	Subordinate legislation is made as a statutory instrument under the modified Senedd approval procedure set out at paragraph 10 of Schedule 1C
The Order in Council may be made but cannot come into force unless the statutory instrument containing it is laid before, and approved by resolution of, Senedd Cymru (known as an '*affirmative*' instrument) – see paragraph 3(1)(b) of Schedule 1C	
The Order in Council is made as a statutory instrument but is subject to annulment in pursuance of a resolution of Senedd Cymru (known as a '*negative*' instrument) – see paragraph 4(1) of Schedule 1C	Subordinate legislation is made as a statutory instrument under the modified Senedd annulment procedure set out at paragraph 11 of Schedule 1C

Pre-commencement enactment provisions	Effect of Schedule 1C
The Order in Council is not subject to any procedure but the statutory instrument containing it must be laid before the Senedd (known as '*no procedure but laid*') – see paragraph 5(1) of Schedule 1C	Subordinate legislation is made as a statutory instrument and laid before the Senedd under section 37F as modified (see paragraph 12 of Schedule 1C)
The Order in Council is not subject to any procedure and there is no requirement to lay the statutory instrument before the Senedd (known as '*no procedure*') – see paragraph 5(2) of Schedule 1C	

65. In relation to post-commencement enactments the Order in Council will be made as a "statutory instrument" (rather than as a Welsh statutory instrument) and where an enactment prescribes a Senedd procedure Schedule 1C modifies sections 37C, 37E and 37F accordingly. This is summarised in Table E below:

Table E – Effect of Schedule 1C for post-commencement enactments (Orders in Council)

Post-commencement enactment provisions	Effect of Schedule 1C
Order in Council subject to "Senedd approval procedure" – see paragraph 7(1) of Schedule 1C	Order in Council made as a statutory instrument under the modified Senedd approval procedure set out at paragraph 10 of Schedule 1C
Order in Council subject to "Senedd annulment procedure" – see paragraph 8(1) of Schedule 1C	Order in Council made as a statutory instrument under the modified Senedd annulment procedure set out at paragraph 11 of Schedule 1C
The Order in Council is not subject to any procedure but the statutory instrument containing it must be laid before the Senedd – see paragraph 9(1) of Schedule 1C	Order in Council made as a statutory instrument and laid before the Senedd under section 37F as modified (see paragraph 12 of Schedule 1C)
The Order in Council is not subject to any procedure and there is no requirement to lay the statutory instrument before the Senedd – see paragraph 9(2) of Schedule 1C	

66. The Welsh Ministers may, by regulations, amend enactments to reflect the effect of Schedule 1C (see paragraph 13 of this Schedule).

Section 2 – Road traffic orders not required to be made by Welsh statutory instrument

67. Section 2 amends the Highways Act 1980 (c. 66) and the Road Traffic Regulation Act 1984 (c. 27) to no longer require certain road traffic orders to be made by Welsh statutory instrument (or statutory instrument).

68. These orders are localised in nature, in other words they apply to a particular road, or part thereof, for a particular purpose and for a specified duration. They are not of wider application or interest. They may, for example, be used to close a road to enable an event to be held. By way of further example, such orders could also be used to temporarily reduce the maximum permitted speed limit on a particular road or roads whilst repair works are undertaken.

69. The Welsh Government currently publishes all such road traffic orders on its website (www.gov.wales), alongside other subordinate legislation that can be used for similar purposes but is already not required to be made as a statutory instrument.

70. These amendments to the Highways Act 1980 and the Road Traffic Regulation Act 1984 do not apply to orders and other subordinate legislation that are of general application and interest (or not temporary) – such subordinate legislation would, by virtue of new Part 2A of the 2019 Act, be made as a Welsh statutory instrument.

PART 2 – PUBLICATION ETC. OF WELSH LEGISLATION

Section 3 – New Part 2B of the Legislation (Wales) Act 2019

71. Part 2 of the Act consists of section 3, which amends the 2019 Act by inserting a new Part 2B. This new Part deals with the publication, preservation, numbering and classification of Acts of Senedd Cymru, Welsh statutory instruments and other subordinate legislation made by the Welsh Ministers (not as a Welsh statutory instrument). New Part 2B contains sections 37I to 37Z2, information on which is set out below.

Section 37I – The King's Printer for Wales

72. The history of publishing legislation in Britain and subsequently the United Kingdom reaches back into the 18th century. His Majesty's Stationery Office (HMSO) was founded in 1786. It is the holder of Crown copyright and has been the official printer and publisher of all Acts of Parliament since 1889. Between 2003 and 2006, HMSO was one of four government bodies that came together to form The National Archives, the official government archive for Wales, England and the United Kingdom.

73. Publishing all UK legislation today is a core part of the remit of the Keeper of Public Records (in his capacity as the King's Printer of Acts of Parliament and Government Printer of Northern Ireland) and the King's Printer for Scotland. The Keeper is also the Controller of HMSO and the Chief Executive of The National Archives. The existing legislation is silent on the King's Printer's role in the publishing of Welsh legislation, but in practice this is also undertaken by and on behalf of the King's Printer.

74. The original (as enacted) and revised versions of legislation on the legislation.gov.uk website are published by and under the authority of the Controller of HMSO. The website is managed by The National Archives who are also responsible for The Gazette, the UK's official public record. The Gazette is managed by The Stationery Office, under the superintendence of The National Archives.

75. Part 2B makes provision to formalise the process for publishing Welsh legislation by conferring functions on a King's Printer for Wales. The functions of the King's Printer for Wales to publish Acts of Senedd Cymru, Welsh statutory instruments and related documents are to be exercised by the King's Printer of Acts of Parliament.

Preservation and publication of Acts of Senedd Cymru

76. The Assembly (now Senedd) Act provisions in Part 4 of the 2006 Act were commenced on 5 May 2011 by the *Government of Wales Act 2006 (Commencement of Assembly Act Provisions, Transitional and Saving Provisions and Modifications) Order 2011* (S.I. 2011/1011 (W. 250) (C. 42)). That Order also amended section 115 of the 2006 Act to make provision for the preservation of the Letters Patent and Acts, certified copies of official prints of Acts and numbering of Acts. The provisions about Acts of the Senedd that were inserted by the Order are now restated in the 2019 Act as sections 37J to 37M (and paragraph 5 of Schedule 3 to the Act repeals those provisions from section 115 of the 2006 Act).

Section 37J – Numbering of Acts of Senedd Cymru

77. Section 37J deals with the numbering of Acts of Senedd Cymru by restating the effect of sections 115(5A) and (5B) of the 2006 Act. Additionally, it makes clear for the first time how the prefix and number of an Act of Senedd Cymru is determined. The current method of numbering Acts of the UK Parliament was established in 1962 and replaced the system of citing Acts by session and chapter, which was considered inconvenient. The arrangements for numbering Measures of the National Assembly for Wales adopted a similar numbering convention to the current arrangements for Acts of Parliament (using the prefix "nawm"); this was continued when Acts of the National Assembly for Wales began (but using the prefix "anaw") and now the prefix "asc" is used to denote Acts of Senedd Cymru.

Section 37K – Official prints and certified copies of Acts of Senedd Cymru

78. The process of publishing and promulgating a piece of legislation begins with the production of the text that is to be published. This must be an authoritative record of the legislation. The authoritative record of an Act of the Senedd is the "official print" that is created currently under section 115(5C) of the 2006 Act, but in future will be done so under section 37K, which also incorporates the requirements currently set out in sections 115(5D) and (5E) of the 2006 Act.

79. As a result the official print of an Act of the Senedd contains not just the text of the Bill that was passed by the Senedd and received Royal Assent, but also the date on and year in which such Assent was notified to the Clerk of the Senedd, the "asc" prefix and number. The Clerk makes a copy of the official print of the Act and certifies it as a true copy (which then becomes known as the "certified copy of the official print"). The official print is sent to the National Library of Wales, see below, and the certified copy is sent to the King's Printer for Wales.

Section 37L – Preservation of Acts of Senedd Cymru

80. Since 2011, section 115(4A) and (5E) of the 2006 Act have required that the Letters Patent and original print of every Act be sent to the National Library of Wales. This has the effect of creating a permanent preservation of these important records.

81. This requirement to send the original prints of Acts of Senedd Cymru is continued in section 37L. The existing requirement for the Letters Patent remains in section 115(4A) of the 2006 Act.

Section 37M – Publication of Acts of Senedd Cymru

82. Prior to this Act there was no express obligation upon the King's Printer to publish Acts of Senedd Cymru. Section 37M makes clear that the King's Printer for Wales must publish the certified copy of the official print of an Act, and must also publish documents related to the Act if asked to do so by either the Clerk of the Senedd or the Welsh Ministers. It is expected that such documents will include Explanatory Notes, and that for consolidation Acts they will include tables of origins and destinations and drafters' notes; but they could in the future also include impact assessments or other materials.

83. Subsection (3) recognises that most people access legislation online rather than in print now. At present all Acts of the Senedd and Measures of the National Assembly for Wales are available on the legislation.gov.uk website. This is free to access and all the content on there is available under the Open Government Licence (unless where stated). This means that users are encouraged to use and re-use the information freely and flexibly, with only a few conditions. More information is available at: www.nationalarchives.gov.uk/doc/open-government-licence/version/3/

84. The King's Printer for Wales may also print and sell copies of Acts of Senedd Cymru and must provide printed copies on request if any charges for doing so are paid (see section 37Y).

Preservation and publication of Welsh statutory instruments

85. Prior to the coming into force of this Act, subordinate legislation that is required to be made as a "statutory instrument" attracts the numbering, classification and publication requirements set out in the 1946 Act and the Statutory Instruments Regulations 1947 (S.I. 1948/1) ('the 1947 Regulations'). The 1946 Act applies to the Welsh Ministers, and instruments made by them, by virtue of sections 1(1A) and 11A of that Act.

86. As a result of Part 1 of this Act, subordinate legislation made by a responsible authority (see section 37B), which includes the Welsh Ministers, will be made as a Welsh statutory instrument, rather than as a statutory instrument to which the 1946 Act applies. The requirements for numbering, classifying, publishing and preserving Welsh statutory instruments are set out in new sections 37N to 37S of the 2019 Act, which are described below.

Section 37N – Official versions and certified copies of Welsh statutory instruments

87. In the same way as for Acts of Senedd Cymru, the process of publishing and promulgating a Welsh statutory instrument begins with the production of the text that is to be published. This must be an authoritative record of the legislation. With Acts of the Senedd, at present, there is a physical document upon which the Clerk must write certain information (see section 37K(2)). This is not necessarily the case with Welsh statutory instruments, which may be made electronically and as such the considerations for ensuring there is an authoritative record differ slightly.

88. Section 37N(1) requires the responsible authority to make certified copies of the instrument that has been made: one certified copy is sent to the National Library for Wales and a further certified copy is sent to the King's Printer for Wales. Subsection (3)(b) provides that a certified copy may be in electronic form. The only exception to this rule is if the Welsh statutory instrument has been classified as a local instrument (for which see section 37B); in such a case a certified copy of the instrument is not sent to the National Library of Wales (subsection (4)). Local instruments are still sent to the King's Printer for Wales to enable the publication requirements of section 37Q to be met.

89. When sending a certified copy of a Welsh statutory instrument to the King's Printer for Wales, the responsible authority is required to also provide the information set out in section 37N(2). This information will in turn be used to meet the publication requirements for Welsh statutory instruments.

Section 37O – Preservation of Welsh statutory instruments

90. To bring consistency with Acts of Senedd Cymru and ensure there is permanent preservation of important records, section 37O requires the National Library of Wales to hold and make available the certified copies of Welsh statutory instruments it receives from the responsible authority.

Section 37P – Numbering and classification of Welsh statutory instruments

91. Section 37P sets out the way the King's Printer for Wales must number Welsh statutory instruments. The effect is that for each calendar year such instruments will be consecutively numbered (starting from number 1). This follows the approach currently adopted for statutory instruments and other legislation (including Acts of the Senedd, Scottish statutory instruments, Northern Ireland Statutory Rules, etc.)

92. Subsection (3) permits the King's Printer for Wales to also use a subsidiary number alongside the number from the series of Welsh statutory instruments. The use of subsidiary numbers for instruments numbered under the 1946 Act and 1947 Regulations is a practice that began in the 1950s and has developed over time. For example, a subsidiary number prefixed by a "C" is applied to commencement orders or regulations. Statutory instruments made since 1999 by (originally) the National Assembly for Wales and (subsequently) the Welsh Ministers have been identified by giving them subsidiary numbers prefixed by "W." (in English) or "Cy." (in Welsh). In practice such numbering will likely not be required in future because all of those instruments will be made as, and numbered under the series of, Welsh statutory instruments.

Section 37Q – Publication of Welsh statutory instruments

93. Section 37Q continues the obligations established under the 1947 Regulations for the publication of statutory instruments and ensures that the King's Printer for Wales must publish Welsh statutory instruments. The King's Printer for Wales must also publish documents related to an instrument if asked to do so by the responsible authority. The current form in which statutory instruments are published includes the Explanatory Note to the instrument, and this is expected to continue. However, additional documents could include maps relating to an instrument, impact assessments or other materials.

94. Subsection (2) sets out certain information that must be included with the subordinate legislation when the King's Printer publishes the Welsh statutory instrument. Although the date the instrument was made is usually included at the end of the instrument (under the name of the person who made the subordinate legislation), it is also usually included at the front of the document in a helpful note under the title. Alongside this, subsection (2)(e) also requires the King's Printer to include the date or dates the instrument comes into force, or a description of how the instrument will come into force. This formulation reflects the position that different provisions of the subordinate legislation may come into force at different times and may be linked to specific events or arrangements. It also means that, where the position is complicated, the note may identify the provisions of the instrument that determine when it will come into force (for example, by saying that the instrument comes into force "in accordance with regulation 1"), rather than having to set out the details of those provisions in full.

95. Mirroring the arrangements for publishing Acts of the Senedd, subsection (4) recognises that most people access legislation online rather than in print. The King's Printer for Wales may also print and sell copies of Welsh statutory instruments (see section 37Y).

Section 37R – Publication of Welsh statutory instruments subject to Senedd confirmation procedure

96. When subordinate legislation is subject to the Senedd confirmation procedure (for which see section 37D and paragraphs 28 to 36 above), section 37R requires the responsible authority to notify the King's Printer for Wales if the subordinate legislation has been confirmed by the Senedd or has ceased to have effect (if not confirmed). This will enable the King's Printer for Wales to include information regarding the confirmation with the published instrument. Where an instrument has not been confirmed by the Senedd, section 37E(4)(c) requires the responsible authority to revoke the subordinate legislation. In practice this revocation will be recorded against the online version of the published instrument.

Section 37S – Proceedings for offence under unpublished Welsh statutory instrument: defence

97. Section 3(2) of the 1946 Act provides a defence to proceedings for an offence of contravening a statutory instrument, if that instrument had not been published by the King's Printer at the time of the offence. The UK Parliament's Joint Committee on Statutory Instruments considered this provision in their report *Transparency and Accountability in Subordinate Legislation*[1], noting:

> *The Committee believes that this provision – which represents a significant exception to the principle that ignorance of the law is no excuse – illustrates the importance attached by Parliament to prompt publication of law once made, and the inherent unfairness of expecting citizens to comply with law that has not been published.*

98. Section 37S makes similar provision in respect of subordinate legislation contained within a Welsh statutory instrument, albeit in a more modern form.

99. Section 37W (for which see below) requires the King's Printer for Wales to publish the date on which each Welsh statutory instrument was published. This may be used in proceedings when it is necessary to establish when an instrument was first published by the King's Printer for Wales (see section 37X).

Section 37T – Draft Welsh statutory instruments

100. Although copies of certain draft statutory instruments, Scottish statutory instruments and Northern Ireland statutory rules are published online at www.legislation.gov.uk, the Welsh Ministers do not usually ask for drafts of statutory instruments they intend to make to be published there. This is because all draft statutory instruments that are subject to the approval of the Senedd before they can be made are published on the Senedd's own website (www.senedd.wales). This provides a comprehensive record of draft instruments, with the legislation.gov.uk website providing a full record of all made statutory instruments.

[1] First Special Report of Session 2017–19 (2018), HL Paper No.151; HC Paper No.1158

101. Nonetheless, section 37T provides that if the responsible authority asks the King's Printer for Wales to publish a draft Welsh statutory instrument, the King's Printer for Wales must publish this online. The Welsh Ministers could, for example, ask for a particular draft instrument to be published if this was considered appropriate. Under section 37Y the King's Printer may print and sell hard copies of a draft Welsh statutory instrument (but is not required to do so).

Section 37U – Publication of effects of legislation

102. Under regulation 10 of the 1947 Regulations the Secretary of State must "cause to be prepared" a printed document known as the "annual edition". Regulation 10 also requires the King's Printer of Acts of Parliament and HMSO to print and publish the annual edition. Within the annual edition (and in accordance with regulation 10(d)) there are to be tables showing the effect on existing enactments of any amendments made to them, by the statutory instruments included in that annual edition (namely, the statutory instruments that have been made in the calendar year to which the annual edition relates).

103. The website operated by The National Archives (on behalf of the King's Printer of Acts of Parliament), www.legislation.gov.uk, provides access without charge to most (but not all) types of legislation and their accompanying explanatory documents. This includes statutory instruments made by the Welsh Ministers (and previously the National Assembly for Wales), Acts of the Senedd and Measures of the National Assembly.

104. Alongside copies of enactments as they were made or enacted, the website also publishes versions of the enactments in 'revised form'. 'Revised' in this context means that amendments made by subsequent legislation are incorporated into the text shown online. For each enactment, the website also includes a table listing each amendment that the enactment makes to earlier legislation, and a table listing each amendment that subsequent legislation makes to the enactment and showing the derivation of the amendment.

105. Section 37U therefore requires the King's Printer for Wales to publish online tables showing the effects made to enactments by Acts of the Senedd or Welsh statutory instruments. In practice this information will be published on the legislation.gov.uk website (currently this is shown on the "More Resources" tab of an Act or instrument).

Section 37V – Publication of Welsh legislation as amended

106. As noted above the legislation.gov.uk website publishes legislation in 'revised form'. This means that amendments made to legislation by subsequent legislation are shown as incorporated into the text. In other words, the legislation is published in up-to-date form.

107. A limited amount of legislation in revised form was first made available online to the public in December 2006 on the UK Statute Law Database. In July 2010, the legislation.gov.uk website was launched, incorporating both the revised legislation content from the Statute Law Database and the 'as enacted' legislation from the website of the Office of Public Sector Information (known as OPSI). Several sources were used to build the revised legislation records and for a number of years efforts were concentrated on incorporating amendments to primary legislation, so that Acts of the four UK legislatures in revised form are made available. More recently work has been underway to also make statutory instruments available in revised form. As well as reflecting new amendments to statutory instruments on the legislation.gov.uk website, a similar backlog of amendments previously made is also being worked through.

108. Section 37V requires the King's Printer for Wales to publish, online, Welsh legislation as it has been amended by any other enactment. In practice, this will be the revised form of Acts of the Senedd, Assembly Measures and Welsh statutory instruments, made available on the legislation.gov.uk website. This is to be done "so far as practicable" from the time an amendment comes into force. The extent to which this is practicable will depend on a number of factors, including the time between the legislation effecting the change being enacted or made and it coming into force, the (overall) amount of legislation that is published during that period, the complexity of the provisions and the extent to which older amendments also need to be reflected in order for an enactment to be up-to-date.

Section 37W – Record of Welsh legislation

109. Section 37W requires the King's Printer to maintain and publish an online record of basic information regarding each Act of the Senedd and Welsh statutory instrument. This includes the date upon which each was published. In practice this will be the date it was first published (information that is necessary to establish whether the defence of non-publication at section 37S may be relevant), together with the subsequent dates of any additional publication.

Section 37Y – Printing and selling Welsh legislation and related documents

110. Section 37Y provides for the King's Printer for Wales to print and sell Welsh legislation and documents associated with Welsh legislation. This includes legislation that has already been enacted or made by the Welsh Ministers, Senedd Cymru and formerly the National Assembly for Wales. It also provides the legislative basis for the printing and sale of future enactments (Acts of the Senedd and Welsh statutory instruments).

111. In accordance with the Legal Deposit Libraries Act 2003 (c. 28), the National Library of Wales and the other legal deposit libraries[2] currently receive copies of each printed statutory instrument made by the Welsh Ministers (in other words, all instruments that have not been classified as local instruments) and a copy of each Act of the Senedd. These are provided to them on behalf of the King's Printer. This arrangement will continue and is unaffected by section 37Y or Part 2B more widely.

Section 37Z – Welsh Ministers to publish subordinate legislation not made by statutory instrument

112. Occasionally provision is made in an Act of the Senedd regarding the publication of subordinate legislation that is not in the form of a statutory instrument. For example, under section 15 of the Tax Collection and Management (Wales) Act 2016, the Welsh Ministers must publish any general directions they give the Welsh Revenue Authority. Similarly, section 19 of Health and Social Care (Quality and Engagement) (Wales) Act 2020 makes provision for the publication of a Code of Practice.

113. More widely though there are no overarching requirements upon the Welsh Ministers to publish subordinate legislation made by them when it is not in the form of a statutory instrument (or Welsh statutory instrument). In practice most subordinate legislation not in the form of a statutory instrument is published on the Welsh Government's website: www.gov.wales

114. Nonetheless the Counsel General and Welsh Ministers have, in their programme to improve the accessibility of Welsh law (*The Future of Welsh Law* (revised 2023), Welsh Government), committed to strengthen the publication arrangements for subordinate legislation. Section 37Z places a duty on the Welsh Ministers to number, classify and publish online all subordinate legislation made by them when it is not in the form of a Welsh statutory instrument.

115. Section 37Z does not detail the arrangements for numbering and classification of subordinate legislation, but instead at subsection (2) requires the Welsh Ministers to prepare and publish a determination on these arrangements.

Section 37Z1 – References to Welsh statutory instruments

116. Section 37Z1 makes provision about how a Welsh statutory instrument may be referred to (this is sometimes known as 'cited' when the reference is in other legislation). Firstly it provides the Welsh statutory instrument may be referred to by its title in either Welsh or English. All statutory instruments currently include provision (usually in the first regulation, rule or article of the subordinate legislation) about the name of the instrument. Arguably however that provision does not come into force until the date specified in the commencement provision. Therefore any ambiguity as to whether the instrument may be referred to by its title before that provision is in force is removed and instead section 37Z1 ensures the instrument may be referred to by its title from the moment it is made.

[2] The British Library, the National Library of Scotland and the libraries of Oxford and Cambridge Universities and Trinity College Dublin: see section 14 of the 2003 Act.

117. Section 37Z1 also provides the Welsh statutory instrument may be referred to by its prefix, year and number. The example given in section 37Z1 is "W.S.I. 2026/1". There is no requirement or expectation that any subsidiary number applied to the instrument (see section 37P(3)) forms part of the reference by which an instrument may be referred.

Section 37Z2 – The King's Printer for Wales: delegation of functions

118. Section 37Z2 makes clear the King's Printer for Wales may delegate any of the functions conferred on him by Part 2B (whilst remaining responsible for carrying out the functions and anything done by the delegate is to be treated as if done by the King's Printer for Wales).

119. Section 37Z2 enables the King's Printer for Wales to contract out the printing and selling of Welsh statutory instruments, for example, as is done currently in relation to statutory instruments.

PART 3 – REPEALS OF WELSH LEGISLATION

Section 4 – Repeals and connected amendments

Schedule 1 – Repeals and connected amendments

120. Schedule 1 (introduced by section 4) contains repeals and amendments of various enactments.

Part 1 – Rural Development Boards

121. The aim of Part 3 of the Agriculture Act 1967 ('the 1967 Act') was to promote the better use of hill lands and provided Ministers with powers to set up Rural Development Boards that could draw up programmes to deal with the "*special problems … of rural areas of hills and uplands, and the special needs of such areas*" (section 45(1)). Schedule 5 to the 1967 Act prescribes the mechanism for establishing such a Board and its constitution. The functions of establishing Rural Development Boards in relation to Wales now sit with the Welsh Ministers.

122. No Rural Development Boards have been established in relation to Wales under the 1967 Act.

123. Paragraph 1 of this Schedule to the Act amends the 1967 Act to disapply provisions in Part 3 of that Act in relation to Wales, including amending the relevant interpretation provisions to remove references to Wales that would no longer be required. Schedule 5 to the 1967 Act is introduced by section 45(5) of that Act. As it will no longer be possible to establish a Rural Development Board for an area in Wales, Schedule 5 will not apply in Wales.

124. The Act also makes consequential amendments to the Local Government (Wales) Act 1994 and to Schedule 3A to the 2006 Act.

Part 2 – Enterprise zone areas

125. The Local Government, Planning and Land Act 1980 ('the 1980 Act') introduced powers to establish 'enterprise zones' to see how the relaxation of planning control, exemption from non-domestic rates and certain other fiscal incentives could help with the regeneration of run-down and derelict urban areas. In the following decades, some 35 orders were made, between them designating just over 100 zones. Of those, four orders designated 15 zones in Wales[3].

126. Paragraph 4 of this Schedule to the Act amends Schedule 32 to the 1980 Act to disapply these provisions in relation to Wales. This has the effect of removing the Welsh Ministers' power to designate enterprise zones. The Act also makes consequential amendments to the Local Government (Wales) Act 1994 and Mobile Homes (Wales) Act 2013.

127. A second type of enterprise zone was subsequently provided for in the Capital Allowances Act 2001, as amended by the Finance Act 2012; these aim to encourage economic growth and investment. There are currently eight enterprise zones operational in Wales, each specialising in a specific business sector. The Act does not affect this second type of enterprise zone.

Part 3 – Housing action trusts

128. Part 3 of the Housing Act 1988 ('the 1988 Act') makes provision about 'housing action trust areas'. These are areas where the Welsh Ministers (or in England, the Secretary of State) consider that living conditions of local residents, social conditions and general environment could be improved by the creation of a housing action trust. Between 1991 and 1994 six areas were designated housing action trust areas, all of which were in England. No housing action trust areas have been designated in Wales.

129. Such a trust could be designated as the local planning authority in its area (under section 8 of the Town and Country Planning Act 1990). None of the trusts were designated a local planning authority. All of the trusts established for areas in England were wound up at various dates between 1999 and 2005.

130. Paragraph 7 of this Schedule to the Act amends Part 3 of the 1988 Act so that it does not apply in relation to Wales. This will mean that housing action trusts can only be established for, and exercise functions in, areas in England. In consequence of the proposed changes to the 1988 Act, amendments are required to various other Acts.

[3] Swansea (under S.I. 1981/757), 13 on the shores of the Milford Haven Waterway (S.I. 1984/443 and S.I. 1984/444) and the Lower Swansea Valley (S.I. 1985/137).

Part 4 – Local plans, structure plans and unitary development plans

131. The planning system in Wales is 'development plan-led', which means development plans are the starting point when making planning decisions. Once a development plan has been adopted, decisions on planning applications are made in accordance with the development plan, unless other material considerations indicate otherwise. The development plan system in Wales is made up of three tiers with plans prepared at national, regional and local levels.

132. The primary legislation on the formulation of development plans used to be in Part 2 of the Town and Country Planning Act 1990 ('the 1990 Act'). Part 2 provided that generally there should be for each area a structure plan (usually prepared by the council for a whole county) and a series of local plans (each prepared by the relevant district council, covering all or part of its area). The 1990 Act also provided, where there was a single-tier system of borough councils, for unitary development plans (UDPs). When the current single-tier system of local government was introduced in Wales under the Local Government (Wales) Act 1994 ('the 1994 Act'), the new unitary authorities were required to prepare UDPs for their areas.

133. Part 6 of the Planning and Compulsory Purchase Act 2004 ('the 2004 Act') then introduced for Wales a new nation-wide Wales Spatial Plan, to be prepared by the (then) National Assembly for Wales. It also introduced a requirement for local planning authorities to produce local development plans (LDPs) that, when adopted, would replace plans adopted under the previous systems.

134. The Planning (Wales) Act 2015 amended the 2004 Act by introducing the National Development Framework for Wales (NDF), which became part of the development plan and replaced the Wales Spatial Plan (as of 24 February 2021). It also provided for strategic development plans (SDPs) to be produced at a regional level, with the Local Government and Elections (Wales) Act 2021 requiring their production by corporate joint committees.

135. Essentially therefore the progression over time has been local/structure plans (up to 1996); UDPs (1996 to 2005); LDPs, SDPs and the NDF (2005 onwards). Each time the system has changed the amending legislation has provided for transitional arrangements. These allowed authorities preparing plans under one system to continue to do that and only move to the new system once the old plan had been completed. When the 2004 Act came into force there were still authorities in Wales with local or structure plans under the pre-1996 system as well as those with UDPs under the pre-2004 system.

136. The 1994 Act made amendments to Part 2 of the 1990 Act to apply the provisions about UDPs to Wales, and to provide for transitional arrangements about the status of local and structure plans until authorities adopted UDPs. The last UDP in Wales was adopted in 2011, and therefore those transitional provisions are spent and can be repealed. The Act therefore omits:

    a. Part 1A of Schedule 2 to the 1990 Act; and

    b. section 20(2) and (3)(b) and (c) together with Parts 2 and 3 of Schedule 5 and paragraphs 16 and 17 of Schedule 17 to the 1994 Act.

137. The Planning and Compulsory Purchase Act 2004 (Commencement No 6, Transitional Provisions and Savings) Order 2005[4] brought into force provisions of the 2004 Act giving effect to LDPs and repealing Part 2 of the 1990 Act. The 2005 Order included provisions preserving the effect of existing plans during the transitional period before each local planning authority had adopted its LDP. Section 204 of the Planning Act 2008 made further transitional provisions to ensure that the blight notice procedure continued to apply to land affected by plans adopted under the previous systems. So far as they applied to areas that still had local or structure plans when the 2004 Act came into force, these transitional provisions are no longer needed; the Act amends the 2005 Order and section 204 of the Planning Act 2008 to remove them.

138. The Act also omits section 186 of the Planning Act 2008 (at paragraph 20(2) of this Schedule to the Act), which has never been brought into force. It relates to the powers of the High Court in relation to legal challenges to UDPs adopted under Part 2 of the 1990 Act. Legal challenges to UDPs would have to have been brought within a matter of weeks after their adoption, so any prospect of such a challenge had disappeared by 2012.

Part 5 – Energy policies in development plans

139. The aim of the Planning and Energy Act 2008 ('the 2008 Act'), originally a Private Members Bill, was to encourage micro-generation and more energy efficient buildings, rather than to introduce a requirement for bodies to implement new obligations. The Law Commission considered whether such provisions should be set out in guidance *"as they encourage and permit the inclusion of such policies, rather than to impose any stricter obligations on planning authorities."*[5]

[4] S.I. 2005/2847.

[5] Law Commission (2020) *Planning Law in Wales* (Law Com 383), at paragraph 6.13.

140. Planning Policy Wales (which sets out the land use planning policies of the Welsh Government) states that these matters are specific considerations for the preparation of strategic development plan and a local development plan. Planning Policy Wales sets out the Welsh Government's expectations in relation to planning authorities for:

    a. setting policies for development to use energy from local renewable and low carbon sources;

    b. including policies to set energy efficiency standards to exceed the requirements in building regulations for strategic development sites[6].

141. There is little difference in policy effect between the aims behind the 2008 Act and what is set out in Planning Policy Wales. However, planning authorities and corporate joint committees must have regard to the policies in Planning Policy Wales, so this places a greater requirement on them than the 2008 Act by requiring them to have regard to these matters in preparing their local development plans and strategic development plans.

142. Part 5 of this Schedule to the Act amends the 2008 Act so that it will no longer apply in relation to Wales and makes consequential amendments to the Planning (Wales) Act 2015 and the Local Government and Elections (Wales) Act 2021.

Part 6 – Offence of removal of soil without consent

143. The Agricultural Land (Removal of Surface Soil) Act 1953 ('the 1953 Act') was intended to tackle the problem of topsoil being stripped off agricultural land, for commercial gain, leaving the land unable to be used for further cultivation. Under section 1 it is an offence to remove more than five cubic yards (which is 3.822 cubic metres) of soil from agricultural land in any three-month period with a view to sale, but only where such an activity constitutes "development" under the Town and Country Planning Act 1990[7] ('the 1990 Act') and has not received planning permission. A person committing an offence under the 1953 Act can be prosecuted and, on summary conviction, punished by a fine of up to Level 3 or even by imprisonment[8] (see section 2), but a prosecution can only be brought with the consent of the Attorney-General or the Director of Public Prosecutions (see section 3)[9].

[6] Welsh Government (2021) *Planning Policy Wales* (ed 11), paragraphs 5.9.11 and 5.8.5 respectively

[7] Originally it was the Town and Country Planning Act 1947, but this was subsequently amended to the 1990 Act by the Planning (Consequential Amendments) Act 1990.

[8] The Criminal Justice Act 2003 will amend the 1953 Act to abolish the liability to imprisonment (see paragraph 34 of Schedule 34 and Part 9 of Schedule 37 to that Act), but that amendment has not yet been brought into force.

[9] The Law Commission recommended the abolition of the requirement for consent to be obtained for prosecution (see para 6.58 of *Consents to Prosecution* (1998) (Law Com 255). This recommendation has not yet been implemented.

144. Where a person is undertaking development without planning permission, it can be dealt with by the relevant planning authority by undertaking enforcement action under the 1990 Act. Breaches of enforcement action can result in prosecution under the 1990 Act and conviction may result in an unlimited fine, but not imprisonment. Powers to quickly stop unauthorised development were originally introduced in the Town and Country Planning Act 1968, with effect from 1 January 1969. It is understood that very few, if any, prosecutions have been brought under the 1953 Act since 1969. Certainly, practice today is to tackle breaches of the requirements for planning permission through the 1990 Act.

145. As a result, the 1953 Act, so far as it applies in Wales, is no longer of any practical utility. The Act therefore disapplies the 1953 Act in relation to land in Wales.

Part 7 – Domestic Fire Safety (Wales) Measure 2011

146. The Domestic Fire Safety (Wales) Measure 2011 ('the 2011 Measure') provides that the Welsh Ministers may make automatic fire suppression systems – commonly referred to as sprinkler systems – compulsory in all new and converted residences.

147. Following consultation in 2012 on implementation of the 2011 Measure and the transfer of the system of building control (most notably the Building Regulations) to the Welsh Ministers, only section 1 of the 2011 Measure was brought into force[10]. The fact that the enforcement provisions of the Measure have not been brought into force mean that, as things stand, it has no practical effect. Section 1 was only brought into force to a limited extent, and does not apply to a range of buildings, including listed buildings, buildings in conservation areas, and buildings with a planned time of use of two years or less.[11]

148. Section 1(3)(b) of the 2011 Measure states that it does not apply *"if building regulations imposing requirements as to the provision of automatic fire suppression systems apply to that work, or would apply but for a direction under section 8 of the [Building Act 1984] dispensing with such requirements"*. Regulation 37A of the Building Regulations 2010 requires that automatic fire suppression systems are provided in certain buildings while section 6 of the 2011 Measure sets out the residences to which it applies.

149. In practice, the requirements around the installation of fire suppression systems are set out in, and enforced through, the Building Regulations. Paragraph 26 of this Schedule to the Act therefore repeals the 2011 Measure in full.

Part 8 – Reorganisation of local government

150. All 22 Welsh councils are unitary authorities as a result of the Local Government (Wales) Act 1994 ('the 1994 Act') that abolished the eight local government counties and 37 districts that had been formed in 1974.

[10] This is in addition to regulation-making powers, etc. that were brought into force on the day after Royal Assent.

[11] Art 2(3) of S.I. 2013/2727.

151. The Act deals with four matters associated with the reorganisation of local government in Wales:

a. Social services committees - section 101(10A) of the Local Government Act 1972 ('the 1972 Act'), which made provision in relation to social services committees, cross-refers to a provision that was repealed by the Children's Act 2004 and should also have been repealed at that time. The Act therefore omits section 101(10A) of the 1972 Act, and the provision in the 1994 Act that originally inserted subsection (10A) into section 101 of the 1972 Act.

b. Residuary Body for Wales – the 1994 Act established the Residuary Body for Wales to hold the assets of abolished authorities that could not easily be transferred to a new authority as part of the 1994 Act reorganisation of local government in Wales. The Residuary Body disposed of those assets by 1998, and the Body itself has since been abolished[12], so these provisions are now spent. Paragraph 29 of this Schedule to the Act omits the spent provisions in the 1994 Act and paragraphs 30 to 37 omits references to the Residuary Body in the:

i. Rent Act 1977;
ii. Local Government (Miscellaneous Provisions) Act 1982;
iii. Housing Act 1988;
iv. Town and Country Planning Act 1990;
v. Local Government Finance Act 1992;
vi. Environment Act 1995;
vii. Housing Act 1996; and the
viii. Government of Wales Act 1998.

c. Transitional provision under the 1994 Act – spent transitional provisions in the 1994 Act and an amendment of those provision in the Local Government Act 2003 are omitted.

d. Decentralisation schemes and joint working – under Part 3 of the 1994 Act new principal councils could establish area committees to discharge functions of the council by way of a 'decentralisation scheme', and the Secretary of State could give certain directions relating to joint working arrangements and related information to principal councils. Applications for decentralisation schemes had to be made by 1 January 1996 (and approved by the Secretary of State no later than 1 July 1996), and joint working directions could only be made by the Secretary of State until 31 March 1999 – so each of these arrangements is now spent.[13] The Act therefore omits Part 3 of the 1994 Act and makes a consequential amendment to the Education Act 1996.

[12] See the Residuary Body for Wales (Winding Up) Order 1998 (SI 1998/2859)

[13] Equivalent arrangements are now provided for, in respect of Corporate Joint Committees, by the Local Government and Elections (Wales) Act 2021.

Part 9 – Statements of special educational needs

152. Section 5 of the Disabled Persons (Services, Consultation and Representation) Act 1986 ('the 1986 Act') makes provision in respect of people with a disability leaving full-time education under the age of nineteen years and eight months where they have previously received a statement of special educational needs (which was, but no longer is, the system in Wales) or an education, health and care plan (which is the system in England).

153. Section 5 of the 1986 Act no longer has any substantive effect in Wales. The Additional Learning Needs and Education Tribunal (Wales) Act 2018 effectively repealed, in relation to Wales, the provisions in the Education Act 1996 concerning statements of special educational needs, and replaced them with a new system. There are no longer any people in Wales with statements under the 1996 Act, or under older systems set out in the Education Acts of 1981 and 1993. As a result, the various references in section 5 to statements of special education needs do not have any meaningful effect in Wales.

154. The assessment system in section 5 has also been superseded by other legal developments in Wales. That section requires a local authority that has been notified about the person's departure from full-time education to assess the person's need for services from the authority under "the welfare enactments". Section 5 also contains notification duties. In Wales, "the welfare enactments" means Parts 4 and 6 of the Social Services and Well-being (Wales) Act 2014 ('the 2014 Act').

155. The 2014 Act places duties on local authorities to assess the needs of adults and children where it appears those adults or children may need care and support. Section 19 of that Act contains the duty relating to adults and section 21 contains the duty relating to children.

156. These assessment duties apply more widely than the assessment duties in section 5 of the 1986 Act, as they are not limited to persons with disabilities who have received a statement of special needs and who are under a certain age. The special position of children with disabilities is specifically recognised by section 21 of the 2014 Act, as an assessment under that section must start from the presumption that children with disabilities need care and support (see section 21(7)). The Code of Practice relating to assessing the needs of individuals under the 2014 Act[14] sets out a process for assessing the needs of an individual for care and support and a process of review and re-assessment that will apply to assessments.

[14] Welsh Government (2015) *Social Services and Well-being (Wales) Act. Part 3 Code of Practice (assessing the needs of individuals)*.

157. When an assessment of a person's needs has been carried out under section 19 or section 21 of the 2014 Act, Part 4 of that Act and regulations made under it govern the next steps. Part 6 of the 2014 Act deals with the duties of a local authority towards a child who is in its care or accommodated by it.

158. The Act amends section 5 of the 1986 Act to expressly restrict its application to England and remove redundant references to the National Assembly, and makes related consequential amendments.

Part 10 – National Park Planning Boards

159. There are three National Parks in Wales: Brecon Beacons (Bannau Brycheiniog), Pembrokeshire Coast (Arfordir Penfro) and Snowdonia (Eryri). These, and the 10 in England, are designated under Part 2 of the National Parks and Access to the Countryside Act 1949. Since the National Parks in Wales were first designated in the 1950s, there have been several changes to the administrative arrangements for managing the Parks, including those made by the Countryside Act 1968, Local Government Act 1972, Local Government (Wales) Act 1994 and the Environment Act 1995 ('the 1995 Act'). Before the changes made by the 1995 Act, each National Park in Wales had a National Park Committee[15]. There were also powers to establish joint planning boards or special planning boards for National Parks[16], but those powers had not been used in Wales.

160. Section 63 of the 1995 Act gave the Secretary of State the power to make an order establishing a National Park authority where there was an existing authority for a National Park or in connection with designating an area as a new National Park. An existing authority in this context meant a joint or special planning board or a National Park Committee. The National Park Authorities (Wales) Order 1995[17] ('the 1995 Order') established National Park authorities for the Parks in Wales with effect from 23 November 1995. The authorities assumed their substantive functions, and the National Park Committees ceased to exist on 1 April 1996.

161. Section 64 of the 1995 Act, which only applies to Wales, is mainly about the transition from joint or special planning boards to National Park authorities. Subsections (1) to (5) dealt with the situation where a board had already been established for a National Park, but they never had any effect because no such boards were ever established in Wales. The Act therefore repeals these provisions, as they are redundant.

[15] Established under paragraph 5 of Schedule 17 to the Local Government Act 1972.
[16] In paragraphs 1 to 3A of Schedule 17 to the Local Government Act 1972 and section 2 of the Town and Country Planning Act 1990.
[17] 1995/2803

162. Section 64(6) and (7) dealt with the situation where steps had been taken towards establishing a board but had not been concluded, and where a National Park authority was instead to be established before 31 March 1997. The Act therefore repeals those subsections, since they would have applied to things done during a period that ended long ago and are now spent.

163. Subsection (9) of section 64 defined terms used in subsections (1) to (7), and section 75(2) made provision for orders under section 64. The Act therefore also repeals these provisions, which become obsolete on the repeal of the substantive powers.

164. In section 65 of the 1995 Act, subsection (3) makes provision about the functions of a National Park authority during any period between the authority being established and becoming a local planning authority. Subsection (4) modified subsection (3) for Wales, but only in relation to things done before 1 April 1996. Subsection (4) is now spent and is also repealed.

165. The definition of an "existing authority" in section 79(1) contains references to powers to establish joint and special planning boards for National Parks in Wales that were never used and are no longer available. The Act therefore repeals these provisions as they are redundant.

166. In Schedule 7 to the 1995 Act, paragraph 14(2)(b) and 14(4) refer to things done by a joint or special planning board for a National Park in Wales. The Act repeals these provisions as they never had any effect and can no longer have any effect.

167. In Schedule 10 to the 1995 Act, paragraph 30 amended a provision in Schedule 8 to the Electricity Act 1989. That provision was also amended by paragraph 22 of Schedule 6 to the Local Government (Wales) Act 1994 ('the 1994 amendment'), which was not in force when the 1995 Act was enacted. Paragraph 30 of Schedule 10 therefore contained different amendments for the situations where it came into force before, after or at the same time as the 1994 amendment. In fact, paragraph 30 came into force before the 1994 amendment, so the amendments for the other situations were never needed[18]. The Act therefore repeals these provisions, contained in paragraph 30(4) and (5) of Schedule 10.

168. In Schedule 23 to the 1995 Act, paragraphs 7, 11 and 15 were transitional provisions for cases where joint and special planning boards had been established for National Parks in Wales. Those paragraphs were not brought into force. The situation to which they applied never arose, and even if it had arisen the paragraphs would now be spent, so the Act repeals them.

[18] Paragraph 30 was brought into force by article 2(1) of SI 1995/2950 on 23 November 1995; the 1994 amendment was brought into force by article 3 of SI 1996/396 on 1 April 1996.

Part 11 – Welsh Development Agency

169. The Welsh Development Agency (WDA) was established under the Welsh Development Agency Act 1975 and was responsible for encouraging business development and investment in Wales, clearing derelict land and encouraging the growth of local businesses. The Welsh Development Agency Act 1997 increased the financial limits of the WDA.

170. The WDA was abolished in 2006 and its functions were transferred to the Welsh Ministers[19] and the Welsh Government is now responsible for supporting and encouraging business development and investment in Wales.

171. The Welsh Development Agency Act 1997 is redundant, and therefore paragraph 48 of this Schedule to the Act repeals that Act.

172. The Industry Act 1979 ('the 1979 Act') raised the borrowing limits of the National Enterprise Board, the Scottish Development Agency and the WDA. Along with the WDA, the other two bodies have also ceased to exist. The 1979 Act has been repealed already insofar as it applies to the National Enterprise Board and the Scottish Development Agency. It remains unrepealed only in relation to the WDA. Since this body no longer exists, the 1979 Act is also now obsolete. Paragraph 46 of this Schedule to the Act therefore also repeals the 1979 Act.

173. The Act amends the Industry Act 1980, which was enacted to reduce the powers of the WDA, the Scottish Development Agency and the National Enterprise Board. These three bodies were to cease to hold shares in companies, in accordance with the (then) Government's policy of shrinking the public sector. The provisions of the Industry Act 1980 repealed by the Act contain amendments of other enactments that are all now redundant.

174. The Act also (at paragraph 49) amends the Government of Wales Act 1998 ('the 1998 Act') in relation to the abolition of the WDA:

    a. firstly, omitting redundant provisions from Part 1 of Schedule 14 to that Act that had amended the Welsh Development Agency Act 1975;

    b. secondly, omitting spent provisions from Part 2 of Schedule 14 that amended other enactments in relation to the WDA.

Part 12 – Development Board for Rural Wales

175. Through the Development of Rural Wales Act 1976 ('the 1976 Act') it was intended that the economic and social wellbeing of the people of rural Wales would be promoted, particularly the welfare of mid-Wales. The 1976 Act established the Development Board for Rural Wales that, amongst other matters, took over the work of the Mid-Wales Development Corporation and the Development Commission.

[19] This transfer was effected by the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (SI 2005/3226), and subsequently to the Welsh Ministers through the Government of Wales Act 2006

176. Most of the provisions of the 1976 Act are already repealed (mostly by the 1998 Act'), leaving only sections 23, 26 and 35. As the Development Board for Rural Wales ceased to exist in 1998, these last remaining provisions are now spent. It therefore appears appropriate to remove them from the statute book, together with the provisions in the 1998 Act that abolished the Development Board.

177. Paragraph 50 of this Schedule therefore repeals the 1976 Act (which has the effect of repealing the last remaining provisions) and paragraph 51 amends the 1998 Act to:

a. omit sections 129(1), 130(1) and (3) to (5), 131(2) to (4) and section 133, which relate to the cessation of the Development Board;

b. amend section 154 to remove the redundant references to sections 130 and 133; and

c. omit now spent amendments made by the 1998 Act to the Parliamentary Commissioner Act 1967 and the 1976 Act.

Part 13 – Land Authority for Wales

178. The Land Authority for Wales was established in 1976 under the Common Land Act 1975. Its role was to buy land on behalf of the UK Government for industrial or other forms of development to encourage economic growth. Its functions for Wales were transferred to the WDA in 1998 and then it was abolished. The functions of the WDA were subsequently transferred to the Welsh Ministers following the abolition of the WDA.

179. The transfer of its functions and the cessation of the operation of the Land Authority for Wales was achieved through the 1998 Act. Some of the provisions in the 1998 Act are no longer required. Therefore paragraph 52 of Schedule 1 amends that Act because:

a. section 134 ended the operation of the Land Authority and as that has now happened this provision is spent and is therefore omitted;

b. section 135(1) describes a connection between sections 134 and 135. The Act omits this as it has the potential to mislead once section 134 is omitted;

c. section 136 made provision about the transfer of staff, property, etc. from the Land Authority for Wales to the WDA. Now that the Land Authority for Wales and WDA have both ceased to exist, most of the section is spent. The Act therefore omits section 136(1) and (3) to (5). Section 136(2) is retained as it provides assistance in establishing evidence of property transfers;

d. section 137 deals with savings and transitional provisions. The cross-reference to section 134 in subsection (1) is omitted as the Act is repealing section 134, and subsections (2) to (4) are spent transitional provisions that can now also be omitted;

e. section 139 provided a power to the Secretary of State to direct the Land Authority ceased to exist. This power has been exercised[20] and therefore this section is spent. It is omitted by the Act; and

f. the Secretary of State exercised the power under section 139 (Abolition etc.) to direct that the Land Authority for Wales ceased to exist so this section is spent and is omitted. The references to section 139(3) in section 154 of the 1998 Act (which makes provision regarding how orders and directions under the Act may be exercised) are also omitted, as are references to powers in section 136(4).

Part 14 – Amendment of Schedule 9 to the Wildlife and Countryside Act 1981

180. Invasive non-native species are generally managed using powers under the Wildlife and Countryside Act 1981 ('the 1981 Act'). Schedule 9 to the 1981 Act lists certain plant and animal invasive non-native species that have become established in the wild in Great Britain, but that the law seeks to prevent spreading further. Section 14(1) of the 1981 Act makes it an offence to release or allow to escape into the wild any animal that is not ordinarily resident in Great Britain and is not a regular visitor to Great Britain in a wild state, or that is listed in Part 1, 1A or 1B of Schedule 9 to the 1981 Act. It is also an offence under section 14(2) to plant or otherwise cause to grow in the wild any plant listed in Part 2 of Schedule 9 to the 1981 Act.

181. Additional powers are available under the Invasive Alien Species Regulation 1143/2014 (the 'retained regulation', i.e. the retained EU law version of Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species) and the Invasive Alien Species (Enforcement and Permitting) Order 2019 (S.I. 2019/527) ('the 2019 Order') to help manage invasive species that are considered higher risk (known as "species of Union concern" under the EU Regulation or "species of special concern" under the retained regulation).

182. The retained regulation imposes strict restrictions on anything in the list of "species of special concern". These are species of animals and plants whose potential adverse impacts across Great Britain are such that concerted action is required. The restrictions on these species mean they cannot be intentionally imported, kept, bred, transported, sold, or released into the environment. The 2019 Order provides for the enforcement regime for the retained regulation.

[20] see the Land Authority for Wales (Abolition) Order 1999 (SI 1999/372)

183. Some invasive non-native species formerly controlled under the 1981 Act were removed in 2019 from Schedule 9 to be regulated under the Invasive Alien Species Regulation. This was for the purposes of consistency, preventing overlap of similar offences and reducing the potential for confusion amongst users of the legislation. Schedule 4 to the 2019 Order included provision to remove species from Schedule 9 to the 1981 Act that are also species of special concern. The offences within section 14 of 1981 Act relating to release or allowing the escape of these species into the wild were replicated in the 2019 Order to ensure there was no reduction in protection.

184. In July 2019 Commission Implementing Regulation (EU) 2019/1262 updated the list of species of Union concern including the addition of three species that are also listed in Schedule 9 to the 1981 Act (New Zealand flatworm (*arthurdendyus triangulatus*, which is also known as *artiposthia triangulata*), pumpkinseed (*lepomis gibbosus*) and giant salvinia (*salvinia molesta*)).

185. In 2021 Defra introduced the Wildlife and Countryside Act 1981 (Variation of Schedule 9) (England) Order 2021 (S.I. 2021/236) ('the 2021 Order') to remove these three species from Schedule 9 to the 1981 Act in relation to England, so that they were only regulated under the Invasive Alien Species Regulation. No similar tidying up provision has been made in relation to Wales to date, which means these species are listed in Schedule 9 to the 1981 Act and regulated by the Invasive Alien Species Regulation.

186. Paragraph 53 of this Schedule to the Act now amends Schedule 9 to the 1981 Act to remove the three species in relation to Wales.

Part 15 – Unrecorded public rights of way

187. The Countryside and Rights of Way Act 2000 ('the 2000 Act') was enacted, in part, to improve public access to the open countryside and registered common land while recognising the legitimate interests of those who own and manage the land concerned, including by amending the law relating to rights of way.

188. Sections 53 to 56 of the 2000 Act have never been commenced by the Welsh Ministers and are therefore not in force in relation to Wales. They prescribe a cut-off date (1 January 2026) for the recording on definitive maps[21] of footpaths and bridleways created before 1949 (with certain exceptions). The provisions provide that public rights of way over such footpaths and bridleways that have not been recorded by the cut-off date would be extinguished. Section 56 of the 2000 Act provides that the cut-off date can be extended in relation to Wales by regulations made by the Welsh Ministers. No such regulations have been made by the Welsh Ministers as sections 53 to 56 have never been brought into force.

[21] Surveying authorities (in Wales this means the 22 county and county borough councils) are required to prepare and keep under review their definitive map and statement(s). These form the legal record of public rights of way in their area. For more information on definitive maps and statements see Natural Resources Wales / Definitive Map and Statement

189. The Wildlife and Countryside Act 1981 ('the 1981 Act') requires, among other things, that definitive maps and statements be kept under review. The surveying authority for an area may make, by order, such modifications to a definitive map and statement as it considers are required. If paragraph 4 of Schedule 5 to the 2000 Act were in force it would insert a new section 54A into the 1981 Act, and that section would prevent a surveying authority making an order after the cut-off date (1 January 2026) that modified a definitive map and statement for the purpose of recording a byway open to all traffic (known as a "BOAT"), except where the BOAT is recorded in the place of any other way already recorded in the map and statement. As paragraph 4 of Schedule 5 to the 2000 Act has not been brought into force in relation to Wales, new section 54A of the 1981 Act is also not in force. As such there is no cut-off date for surveying authorities to make orders for the inclusion of BOATs on definitive maps and statements.

190. Since 2001 the Welsh Government has been implementing provisions under the 2000 Act, but certain provisions have yet to be implemented, particularly those that are no longer pertinent or considered in keeping with the Welsh Government's priorities for access. These include provisions that are no longer necessary or are resource intensive for local authorities.

191. Paragraph 54 of this Schedule therefore amends sections 53, 54, 55 and 56 of the 2000 Act, so those provisions apply to land in England only. Therefore there will not be a cut-off date by which historic footpaths and bridleways in Wales must be included on definitive maps, nor for the extinguishment of certain rights of way in Wales that have not been claimed by the cut-off date. This is the current position in law (as the 2000 Act provisions have not been commenced) and the change made by this Act removes the prospect of the current position changing without new legislative provision being made.

192. Paragraph 55 of this Schedule amends paragraph 4 of Schedule 5 to the 2000 Act, so that new section 54A of the 1981 Act (if brought into force) would apply to land in England only. Therefore, there will not be a cut-off date by which BOATs in Wales must be included on definitive maps and statements.

Part 16 – Miscellaneous amendments relating to the Government of Wales Act 1998

193. The 1998 Act provided for the establishment of the National Assembly for Wales. Unlike the devolution arrangements put in place at the same time in Scotland and Northern Ireland, the 1998 Act did not provide for a separation between the legislature and the executive. Instead, the National Assembly was established as a single corporate body, which exercised its functions on behalf of the Crown. This meant that one organisation, the National Assembly, was responsible for discharging both legislative and executive functions.

194. The Assembly assumed the statutory powers and duties that the Secretary of State for Wales had previously exercised. Provision was made for Orders in Council to transfer these mostly executive responsibilities to the Assembly and subsequent Acts of Parliament conferred additional powers on the Assembly.

195. The Assembly could only make secondary legislation, such as orders and regulations, in devolved areas. It could not make primary legislation for Wales, which remained the UK Parliament's responsibility in both devolved and reserved areas.

196. In June 2005, the Secretary of State for Wales published a White Paper, *Better Governance for Wales*[22], which included proposals to effect a formal separation between the executive and legislative branches of the Assembly, reform existing electoral arrangements and increase the legislative powers of the Assembly. The 2006 Act gave effect to the broad policy objectives contained in the White Paper proposals. Although it repealed the majority of the 1998 Act, certain provisions continued to be in force.

197. As noted elsewhere in these Explanatory Notes the Act makes several changes to the remaining provisions of the 1998 Act. Part 16 of this Schedule to the Act also makes a number of miscellaneous amendments to the 1998 Act to remove references to obsolete bodies, remove spent transitional provisions, update certain references to other bodies and remove certain amendments that the 1998 Act made to other enactments because these are no longer needed as a result of repeals and substitutions by later Acts. In particular:

a. Reform of other Welsh public bodies:
    i. section 28 of the 1998 Act provides a power to the Welsh Ministers to order the transfer of one or more of the functions of bodies listed in Schedule 4 to the 1998 Act. Section 28 is therefore amended to remove reference to Part 2 of Schedule 4, because advisory committees for Wales were provided for by the National Health Service Act 1977, which was repealed with effect from 1 March 2007. Part 2 of Schedule 4 itself is also omitted, for the same reason.
    ii. Part 1 of Schedule 4 to the 1998 Act is amended to omit public bodies that no longer exist or, in the case of the reference to the Care Council for Wales, to reflect the change in name of that body to Social Care Wales[23].

b. Schedule 10 to the 1998 Act makes consequential amendments to the Health Service Commissioners Act 1993. Most of these amendments have been superseded, and the Act will omit them.

[22] Available at: https://www.gov.uk/government/publications/better-governance-for-wales

[23] Section 67(1) of the Regulation and Inspection of Social Care (Wales) Act 2016 provides that section 54 of the Care Standards Act 2000 is repealed. Section 67(2) provides that the body corporate called the Care Council for Wales (established by section 54) is to continue in existence; section 67(3) provides that it is to be renamed, and is to be known as, Social Care Wales.

c. Schedule 12 to the 1998 Act deals with minor and consequential amendments to legislation relating to the Public Audit (Wales) Act 2004:

   i. the amendment by the Act to paragraph 17 omits provision amending the Local Government Act 1974 because the amended provision in that Act was repealed by the Public Services Ombudsman (Wales) Act 2005;
   ii. the words inserted by paragraph 22 into section 134(3) of the Mental Health Act 1983 were substituted by Public Services Ombudsman (Wales) Act 2005, and paragraphs 21 and 22 are therefore omitted;
   iii. similarly, the words inserted by paragraph 36(b) were substituted by the Public Services Ombudsman (Wales) Act 2005 and can now be omitted.

d. Schedule 16 to the 1998 Act deals with amendments that arise in consequence of the abolition of Housing for Wales. The Act omits:
   i. paragraph 1 because it amends the Friendly and Industrial and Provident Societies Act 1968, which was repealed by the Co-operative and Community Benefit Societies Act 2014;
   ii. paragraph 12 because it amends section 157(4) of the Housing Act 1985 but this subsection was omitted by virtue of the Housing Act 2004;
   iii. paragraphs 56 and 57 because they amend the Income and Corporation Taxes Act 1988. The relevant provisions of the 1988 Act were repealed by the Corporation Tax Act 2010;
   iv. paragraph 68 because it amends the Housing Act 1988 but the relevant provision was omitted by the Regulation of Registered Social Landlords (Wales) Act 2018;
   v. paragraph 84 because it amends section 9 of the Housing Act 1996 but this was substituted by the Regulation of Registered Social Landlords (Wales) Act 2018;
   vi. paragraph 96 because it amends various provisions in Schedule 1 to the Housing Act 1996, which have since been substituted or repealed.
   vii. paragraphs 98 to 100 because they amend the Audit Commission Act 1998. That Act was repealed by the Local Audit and Accountability Act 2014.

198. Paragraph 57 of this Schedule to the Act also repeals certain paragraphs in Schedule 10 to the 2006 Act. Those paragraphs amended the 1998 Act to provide for the transfer of certain functions in relation to forestry and the environment from the (then) National Assembly to the Welsh Ministers. Those functions subsequently fell away upon the creation of the Natural Resources Body for Wales, and the underlying provisions of the 1998 Act were repealed[24]. The provisions being omitted by the Act are therefore spent.

[24] See the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755) and the Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821)

Part 17 – Transitional provision relating to the Government of Wales Act 2006

199. Under the 2006 Act, the powers and functions of the Assembly, including the power to make subordinate legislation, were transferred to the Welsh Ministers, who became accountable to the Assembly.

200. The 2006 Act created a system for granting the Assembly the ability to pass Assembly Measures in 20 defined areas through Legislative Competence Orders, which required the consent of both Houses of Parliament and the Secretary of State for Wales.

201. It also granted the Assembly the power to make Acts, subject to a referendum. This referendum was held in 2011 and, following the affirmative referendum result, the Assembly assumed new powers to pass primary legislation (Acts of the National Assembly for Wales) without recourse to Parliament in specified areas.

202. The Wales Act 2014 transferred further powers to the National Assembly for Wales, and the subsequent Wales Act 2017 made further changes to the 2006 Act and the Wales Act 2014, notably moving from a "conferred" to a "reserved" model of devolution in Wales. On 6 May 2020 the National Assembly for Wales became "Senedd Cymru" or "the Welsh Parliament" following changes introduced by section 2 of the Senedd and Elections (Wales) Act 2020.

203. Over and above the amendments to the 2006 Act that have already been set out in these Explanatory Notes, Part 16 of this Schedule to the Act makes changes to Schedule 11 to the 2006 Act. Schedule 11 contains transitional provisions to cover the transfer in May 2007, when the first Assembly election took place after the 2006 Act, from the legal and governmental regime created by the 1998 Act to the regime set out in the 2006 Act. It sets out detailed provisions dealing with the arrangements necessary to ensure an effective transition. As the transition has happened a number of those provisions are no longer required, and the Act will remove these from the statute book.

204. The amendments to Schedule 11 are to:

a. Paragraphs 3 to 7 (dealing with elections) –
    i. paragraph 3 provides for the date of the first meeting of the National Assembly returned after the 2007 election to be set by order made by the 'old Assembly' (which had been constituted under the 1998 Act). This is spent now that the first meeting after the 2007 election has taken place;
    ii. paragraph 4 provides for the date of the first ordinary Welsh general election held after 2007 to be calculated by reference to the 2007 election, which had the effect that the next general election would be held in 2011. This is spent now that the 2011 election has taken place;
    iii. paragraphs 5 and 6 are also spent because they amended sections 5 and 7 of the 1998 Act, which were both repealed by Schedule 12 to the 2006 Act;

iv. paragraph 7 is spent because it modified section 11 of the 2006 Act until the first general election and related to Senedd by-elections before the 2011 election.

b. Paragraph 9, which made transitional provision about the term of office of Assembly Members returned at the 2007 election and is therefore now spent.

c. Paragraph 11 disqualifies a Lord of Appeal in Ordinary from being a member of the Senedd. Lords of Appeal in Ordinary, or Law Lords, were judges appointed under the now-repealed Appellate Jurisdiction Act 1876 to the Appellate Committee of the House of Lords. They exercised the House of Lords' judicial functions, which included acting as the highest court of appeal for most domestic matters. The House of Lords lost its judicial functions on the establishment of the Supreme Court of the United Kingdom in October 2009. Lords of Appeal in Ordinary then in office automatically became judges of the Supreme Court of the United Kingdom[25]. Section 16 of the 2006 Act (as amended by the Senedd and Elections (Wales) Act 2020) disqualifies the office holders set out in the table in Part 2 of Schedule 1A to the 2006 Act from being a Member of the Senedd and from being a candidate to be a Member of the Senedd. These include the holders of certain judicial offices including a Justice of the Supreme Court. Paragraph 11 is therefore no longer required.

d. Paragraphs 14 to 19 – these are spent provisions relating to arrangements following the 2007 general election to the National Assembly, and the 'initial period'. That is, the period beginning at the start of polling day 2007 (when all members of the existing Assembly, including Assembly Ministers, would normally cease to be able to exercise those functions) and ending with the appointment of a First Minister.
    i. Paragraph 14 ensured that the Assembly (constituted under the 2006 Act) was responsible for publication of information about remuneration of Assembly members in relation to the financial year 2006-07 (i.e. relating to the last year of the 'old Assembly' and its members).
    ii. Paragraph 15 ensured that a determination made under section 34A of the 1998 Act, which was in force immediately before the repeal of that section, continued to have effect in relation to the Assembly.
    iii. Paragraph 16 ensured that the holding of the 2007 election triggered the duty of the Assembly to elect a Presiding Officer and Deputy Presiding Officer.
    iv. Paragraph 17 ensured that the person who was the Clerk to the 'old' Assembly became the Clerk of the Assembly for the purpose of functions under the 2006 Act.
    v. Paragraph 18 provided that paragraphs 5 and 6 of Schedule 2 (which authorise the Assembly Commission to promote awareness of the election system and devolved government either directly or by financial support for the Electoral Commission) have effect until the end of the initial period as if the reference to the Assembly Commission were a reference to the 'old Assembly'.

[25] see section 24 of the Constitutional Reform Act 2005

vi. Paragraph 19 ensured that, until the end of the initial period, if Her Majesty made an Order in Council under paragraph 12(1) of Schedule 2 providing for the Assembly Commission to be treated as a Crown body for the purposes of an enactment, the statutory instrument containing the Order may be annulled only by either House of Parliament.

e. Paragraphs 22 to 25, which ensured that governmental functions of the 'old Assembly' could continue to be exercised during the initial period. These are spent because they make provision about membership and functions of the Assembly constituted by the 1998 Act during "the initial period", which ended on 25 May 2007.

f. Paragraph 28(1), which provided for the continuation of powers conferred upon the "old Assembly" to implement certain European legislation. This is no longer required because of the European Union (Withdrawal) Act 2018.

g. Paragraph 29, which refers to the first nomination of the First Minister in respect of the Assembly term following the holding of the poll at the 2007 election. This provision is now spent.

h. Paragraphs 35(3) and 35(4), which deal with procedures for making subordinate legislation and are amended to remove references to subordinate legislation-making powers that have been repealed.

i. Paragraphs 50 and 51, which deal with the process for making Legislative Competence Orders. The power to make Legislative Competence Orders has been repealed.

j. Paragraphs 53, 53A and 53B, which are spent provisions relating to payments into the Welsh Consolidated Fund.

k. Paragraphs 54, 55, 56, 58, 59, 62 and 63, which contain modifications that apply only to the end of the initial period, which ended on 27 May 2007.

l. Paragraphs 60 and 61, which modify provisions in their application for only the financial year beginning on 1 April 2007, so they are spent.

m. Paragraphs 64, 64B, 64C, 64F and 64G, provisions relating to the Auditor General and Public Services Ombudsman for Wales, which are time-limited and spent.

n. Paragraph 65 makes provision necessary for the period before the coming into force of section 27(1) the Justice (Northern Ireland) Act 2002. This is spent because section 27 of that Act came into force on 12 April 2010.

o. Paragraphs 66 and 67 make provision necessary for the period before the coming into force of section 23(1) of the Constitutional Reform Act 2005. These are spent because section 23(1) of that Act came into force on 1 October 2009.

205. The Act also repeals paragraph 10 of Schedule 3 to the National Health Service (Consequential Provisions) Act 2006 because it applied only during the initial period, within the meaning of the 2006 Act, which ended on 25 May 2007. The provision is spent as the initial period has ended.

206. In consequence of the amendments made to Table 2 in paragraph 35 of Schedule 11, the Act also repeals paragraph (c) of paragraph 22 of the Schedule to Learning and Skills (Wales) Measure 2009.

Part 18 – Welsh Elections (Coronavirus) Act 2021

207. The Welsh Elections (Coronavirus) Act 2021 ('the 2021 Act') was enacted to provide for measures relating to protection against coronavirus to apply to Senedd Cymru elections and local government elections due to be held in 2021.

208. The 2021 Act made provision enabling the postponement of the Senedd Cymru general election scheduled for 6 May 2021. The procedure for postponement could only be activated by a proposal of the First Minister setting out that he considered the postponement to be necessary or expedient for reasons relating to coronavirus. The proposal would then be subject to various processes before it would be rejected or approved by the Senedd. These powers were not exercised, and the general election took place, as scheduled on 6 May 2021.

209. The 2021 Act also made provision enabling Senedd or local government by-elections for vacancies that might have arisen to be postponed up to (but not later than) 5 November 2021. Those powers were not exercised, and no by-elections were postponed under the Act.

210. The 2021 Act only applied to the ordinary general election held in 2021 and does not apply to any subsequent elections to Senedd Cymru. Further the Act does not permit by-elections to be postponed past 5 November 2021. Therefore, the Act is now entirely spent.

211. Paragraph 60 of this Schedule to the Act therefore repeals the 2021 Act in full.

Part 19 – Local Government Finance

212. Part 2 of the Local Government Finance (Wales) Act 2024 ('the 2024 Act') makes amendments to the Local Government Finance Act 1992 ('the 1992 Act') in relation to council tax.

213. As originally introduced into the Senedd the Bill (which became the 2024 Act) sought, at draft section 20, to change the arrangements in sections 12A, 12B and 38 of the 1992 Act for the publication of notices by council tax billing authorities. The 1992 Act requires billing authorities to publish notices relating to council tax levels or council tax premiums in newspapers. Section 20 of the Bill proposed replacing those requirements with a requirement to publish the same information electronically and make suitable alternative arrangements for access by individuals who are unable to access information online.

214. The Senedd did not agree with draft section 20, and at Stage 3 proceedings, voted to remove that draft section from the Bill.

215. Draft section 16 of the Bill provided an overview of Part 2, and at subsection (8) included an overview of draft section 20. When the Senedd omitted draft section 20 a consequential amendment to remove draft section 16(8) was not made. As such section 16(8) in the 2024 Act continues to refer to a provision not in the Act and amendments being made to the 1992 Act. This is unnecessary and does not benefit the reader of the 2024 Act or, more widely, support clarity of the law.

216. Paragraph 61 of this Schedule to the Act now omits section 16(8) of the 2024 Act and renumbers subsection (9) as subsection (8) to further avoid confusion for a reader of the 2024 Act.

PART 4 – GENERAL

Section 5 – Post-legislative scrutiny

217. This section inserts a new section 42A into the 2019 Act. That new section has the effect of requiring the Counsel General to undertake a review of the first two years of operation of new Parts 2A and 2B of the 2019 Act, and lay a report on the findings before the Senedd. Consultation with the Llywydd, the Clerk of the Senedd and other persons with an interest is required as part of the review.

Section 6 – Activities to improve accessibility of Welsh law

218. Section 6 of this Act amends section 2 of the 2019 Act. That section requires the Welsh Ministers and the Counsel General to develop a programme of work designed to improve the accessibility of Welsh law in each Senedd term.

219. Although the specific content of a programme is a matter for the Welsh Ministers and the Counsel General, section 2(3) requires each programme to make provision to consolidate and codify Welsh law, maintain codified law, promote awareness and understanding of Welsh law, and to facilitate use of the Welsh language.

220. The amendment made by section 6 of this Act to section 2(3) of the 2019 Act means that each programme must also make provision correcting any errors and resolving any ambiguities in Welsh law. Section 2(7) of the 2019 Act requires the Counsel General to make an annual report to Senedd Cymru on progress against the programme. Once the amendment made to section 2(3) of the 2019 Act is in force, future reports will need to include updates on the measures taken on correcting any errors or resolving ambiguities. To date the Counsel General's reports have been written papers published on the Welsh Government's website, but as noted in the Explanatory Notes to the 2019 Act, the report could be made as a statement to the Senedd.

Section 7 – Minor amendments to the Legislation (Wales) Act 2019
Schedule 2 – Minor amendments to the Legislation (Wales) Act 2019

221. Schedule 2 – which is introduced by section 7 – contains minor amendments to Part 2 of the 2019 Act.

222. Part 2 of the 2019 Act makes provision about the interpretation and operation of legislation made by the Senedd or under powers it has conferred, and other subordinate legislation made by the Welsh Ministers and other devolved Welsh authorities.

223. Paragraph 2 of this Schedule amends section 3 of the 2019 Act. Section 3 sets out the legislation to which Part 2 of the 2019 Act applies: namely, to the Act itself and to Senedd Acts that are enacted and Welsh subordinate instruments that are made after 1 January 2020. The amendments made to section 3 make clear that Part 2 applies to the subordinate legislation contained within a Welsh subordinate instrument (reflecting the approach taken in new Parts 2A and 2B of the 2019 Act).

224. Paragraph 3 of this Schedule inserts a new section 12A (Meaning of references to laying documents before Senedd Cymru) into Part 2 of the 2019 Act. The first step in parliamentary control is the requirement that a document be laid before a parliament (in Wales, this means laying before Senedd Cymru). What constitutes laying must be a matter for the decision *of* the Senedd and the Senedd's rules and procedures are laid out in its Standing Orders. As such new section 12A makes clear that where an Act of the Senedd or Welsh subordinate instrument requires a document to be laid before the Senedd, then that means taking the actions specified in the Senedd's Standing Orders in relation to laying (see for example, Standing Order 15).

225. Section 16 of the 2019 Act provides that powers and duties under provisions of Acts of the Senedd and Welsh subordinate instruments may in certain circumstances be exercised before those provisions come into force. Paragraph 4 of this Schedule to the Act amends section 16 in two respects:

a. firstly, to address a practical difficulty that has arisen from the effect of current section 16(1)(a), which excludes powers and duties from the scope of the section if the provisions conferring or imposing them are to be brought into force by order or regulations. This means that provisions have to be commenced separately for the purposes of being able to make subordinate legislation in anticipation of the provisions coming into force for other purposes, leading to multiple and sometimes complex commencement orders being made. Substituted subsection (1)(a) addresses this and extends section 16 to cover all powers that are to be brought into force by order or regulations, not just powers to make subordinate legislation. Additionally new subsection (3A) ensures that subordinate legislation can be made ahead of the power to make it coming into force so long as either:
    i. it does not come into force before the power itself is in force, or
    ii. if it does come into force before the power, it is necessary or expedient for it to do so for the purpose of giving full effect to the Act (or a provision of it) when it does come into force.

b. secondly, to put beyond doubt that section 16 authorises the anticipatory exercise of a power or duty where an amending Act or subordinate instrument inserts the power or duty into another enactment, and to make clear that in such a case the purposes and other provisions that are relevant to the power or duty include those of both the amending Act or instrument and the enactment that it amends (new subsections (6) and (7)).

226. Paragraphs 5 to 7 of this Schedule to the Act bring "Church Measures" within the meaning of "enactment" for the purposes of sections 21, 25 and 32 to 35 of the 2019 Act. Church Measures (or more fully, Measures of the Church Assembly or of the General Synod of the Church of England) are legislation relating to the administration and organisation of the Church. They have the same effect as an Act of Parliament and may also confer powers to make subordinate legislation (see the Church of England Assembly (Powers) Act 1919 (c. 76)). The Church in Wales cannot make legislation of this kind, but Church Measures are sometimes relevant to part of Wales, in particular because there are 18 Church of England parishes partly in Wales. It may therefore be necessary for Acts of the Senedd or Welsh subordinate instruments to refer to Church Measures or amend them. The amendments to the 2019 Act in paragraphs 5 to 7 ensure that references and amendments to Church Measures have the same effect as references and amendments to other enactments.

227. Paragraph 8 of this Schedule amends section 35 of the 2019 Act. Section 35(3) provides that subordinate legislation made under provisions that have been repealed and re-enacted (for example in a consolidation of law) is to have effect as if made under the re-enacted provisions. Section 28 creates the default position that subordinate legislation made under an Act of Senedd Cymru binds the Crown so far as the Act enables it to do so, which is different from the default position for subordinate legislation to which Part 2 of the 2019 Act does not apply. The amendment in paragraph 6 is aimed at the situation where subordinate legislation to which section 28 did not originally apply now has effect under section 35(3) as if it had been made under an Act of the Senedd. It clarifies that section 35(3) does not cause section 28 to apply to subordinate legislation to which it did not previously apply (which could change whether the subordinate legislation binds the Crown).

228. Finally, paragraph 9 of this Schedule amends section 36 of the 2019 Act. Section 36 has the effect of preserving the validity of references to an Act by its short title even after the Act has been repealed. New subsection (2) makes equivalent provision preserving the validity of references to Welsh subordinate instruments by their titles even when those instruments have been revoked.

Section 8 – Consequential amendments
Schedule 3 – Consequential amendments

229. Schedule 3 contains various amendments to existing enactments that are necessary in consequence of new Parts 2A and 2B of the 2019 Act. This includes further minor amendments to the 2019 Act itself.

Section 9 – Coming into force

230. Section 9 makes provision about when and how the Act comes into force.

231. This section provides for sections 2, 4 and 7, together with Schedules 1 and 2, to come into force two months after Royal Assent (in other words, on 10 September 2025). However, this is subject to section 9(3). Paragraph 22(2) of Schedule 1 to this Act amends section 1(1) of the Planning and Energy Act 2008, which is also amended by paragraph 29(2) of Schedule 8 to the Levelling-up and Regeneration Act 2023, which is not yet in force[26]. The amendment to section 1(1) in paragraph 22(2)(a)(i) of Schedule 1 of this Act will only be needed once the 2023 Act amendment is in force. Therefore, for the legislation to work correctly, section 7(3) of this Act provides that the amendment made by paragraph 22(2)(a)(i) will only come into force with the rest of Schedule 1 if the 2023 Act amendment is already in force at that time. Otherwise, the amendment made by the Act will come into force at the same time as the 2023 Act amendment.

232. This section (section 9) and section 10 came into force on 11 July 2025, the day after the Act received Royal Assent.

[26] The amendments in Schedule 8 to the 2023 Act relate to Chapter 2 of Part 3 of that Act, which introduce a new development plan system in England. The UK Government has said that it intends to implement the new system "from summer or autumn 2025": see Ministry of Housing, Communities and Local Government consultation, "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" (30 July 2024), Chapter 12, paragraph 11.

233. The remaining provisions of the Act will be brought into force by one or more orders to be made by the Welsh Ministers. It is expected that the order will bring Parts 1 and 2 fully into force at the start of a calendar year, so that it is possible to tell from the year included in the title of an instrument whether it is a Welsh statutory instrument made in accordance with Part 2A of the 2019 Act (and the numbering and publication requirements of Part 2B of the 2019 Act apply to it) or a statutory instrument to which the 1946 Act applies. It will also ensure there is not a year in which there are two different series of instruments made by the Welsh Ministers (statutory instruments forming part of the series of UK statutory instruments, and Welsh statutory instruments forming part of the Welsh statutory instrument series). As such the first and subsequent series of Welsh statutory instruments will each begin at the start of a calendar year and will cover complete years.

234. It is also expected that section 5 will be brought into force at the same time as Parts 1 and 2, and that section 6 will be brought into force for the start of the next Senedd (in May 2026).

Section 10 – Short title

235. Section 10 sets out the short title of the Act, by which it may be known and referred. Either the Welsh or the English language title of the Act may be used, including as a citation in other enactments.

RECORD OF PROCEEDINGS IN THE SENEDD

236. The following table sets out the dates for each stage of the Act's passage through the Senedd. The Record of Proceedings and further information on the passage of this Act can be found on Senedd Cymru's website at: **Legislation (Procedure, Publication and Repeals) (Wales) Bill**.

Stage	**Date**
Introduced	21 October 2024
Stage 1 – Debate	4 March 2025
Stage 2 Scrutiny Committee – consideration of amendments	31 March 2025
Stage 3 Plenary – consideration of amendments	13 May 2025
Stage 4 – approval by the Senedd	20 May 2025
Royal Assent	10 July 2025