

Wales Bill

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 26th October 2016, as follows –

| | |
|-------------------|-------------------|
| Clauses 1 and 2 | Schedules 1 and 2 |
| Clause 4 | Clauses 23 to 53 |
| Schedule 3 | Schedule 5 |
| Clauses 5 to 20 | Clause 54 |
| Schedule 4 | Schedule 6 |
| Clauses 21 and 22 | Clauses 55 and 56 |
| Clause 3 | Title. |

[Amendments marked ★ are new or have been altered]

Amendment
No.

Schedule 1

LORD GRIFFITHS OF BURRY PORT
BARONESS MORGAN OF ELY

52 Page 54, line 3, at end insert –

“Exception

In the case of a betting premises licence under the Gambling Act 2005, other than one in respect of a track, the number of gaming machines authorised for which the maximum charge for use is more than £10 (or whether such machines are authorised).”

LORD BOURNE OF ABERYSTWYTH

52A Page 55, line 11, at end insert –

“Interpretation

“Business association” has the same meaning as in Section C1.”

Schedule 1 - continued

BARONESS MORGAN OF ELY

53 Page 56, line 16, at end insert –

“Section C5A

C5A Sea fishing

69A Regulation of sea fishing outside the Welsh zone (except in relation to Welsh fishing boats).

Interpretation

“Welsh fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Wales as the port to which the vessel is to be treated as belonging.”

LORD BOURNE OF ABERYSTWYTH

53A Page 56, line 40, at end insert –

“Agricultural and horticultural produce, animals and animal products, seeds, animal feeding stuffs, fertilisers and pesticides (including anything treated as if it were a pesticide by virtue of an enactment).”

BARONESS RANDERSON

53B Page 56, line 40, at end insert –

“Fares and ticketing systems for bus services.”

LORD BOURNE OF ABERYSTWYTH

53C Page 57, line 19, leave out “fish and fish products” and insert “animals and animal products”

53D Page 59, line 7, leave out from “The” to end of line 8 and insert “Export Credits Guarantee Department.”

LORD WIGLEY

BARONESS MORGAN OF ELY

54 Page 59, leave out lines 9 to 27

BARONESS MORGAN OF ELY

LORD WIGLEY

55 Page 59, leave out lines 28 to 31

BARONESS MORGAN OF ELY

55A Page 60, line 4, at end insert –

“Exception

Consent for –

- (a) the construction, extension or operation of devolved generating stations, and

Schedule 1 - continued

- (b) the installation of devolved associated lines, or keeping such lines installed.

Interpretation

“Devolved generating station” means an electricity generating station that is or (when constructed or extended) is expected to be –

- (a) in Wales and –
- (i) generates or is to generate electricity from wind, or
 - (ii) has or is to have a maximum capacity of 350 megawatts or less; or
- (b) in Welsh waters and has or is to have a maximum capacity of 350 megawatts or less.

“Welsh waters” means so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Wales, and the Welsh zone.

“Devolved associated line” means an overhead electric line that –

- (a) is associated with a devolved generating station, and
- (b) has or is (when installed) to have a nominal voltage no greater than 132 kilovolts.”

BARONESS MORGAN OF ELY
LORD THOMAS OF GRESFORD
BARONESS RANDEKSON
LORD WIGLEY

56 Page 61, leave out lines 7 to 21

BARONESS MORGAN OF ELY

57 Page 61, leave out lines 22 to 27

BARONESS RANDEKSON

57A Page 61, line 37, leave out “(including training, testing and certification)”

BARONESS MORGAN OF ELY

57B Page 62, line 32, at end insert –

“Registration and regulation of bus services.”

LORD WIGLEY

58 Page 62, line 41, at end insert “other than the Wales and Borders franchise.”

59 Page 63, line 2, at end insert –

“Rail infrastructure”

60 Page 63, line 12, at end insert –

““Rail infrastructure” includes the specifying and funding of Network Rail operations in Wales.”

BARONESS MORGAN OF ELY

61 Page 63, line 26, leave out “Reserved trust ports and”

Schedule 1 - continued

- 62 Page 63, line 33, leave out “reserved trust ports or”
- BARONESS MORGAN OF ELY
LORD WIGLEY
- 63 Page 64, line 3, leave out “that is not a reserved trust port”
- BARONESS MORGAN OF ELY
- 64 Page 64, leave out lines 10 and 11
- BARONESS MORGAN OF ELY
LORD WIGLEY
- 65 Page 65, line 25, at end insert –
“Council Tax Reduction Schemes funded by the Welsh Government.”
- LORD BOURNE OF ABERYSTWYTH
- 65A Page 65, line 34, leave out “or liabilities for local taxes”
- LORD HAIN
LORD MURPHY OF TORFAEN
BARONESS RANDEKSON
LORD KINNOCK
- 66 Page 69, line 3, at end insert –
“Terms and conditions of employment and industrial relations in Welsh public authorities and services contracted out or otherwise procured by such authorities.”
- BARONESS RANDEKSON
- 66A Page 69, line 17, at end insert “, including those aspects of job searches which are part of the normal provision of careers services.”
- LORD WIGLEY
- 67 Page 71, line 20, at end insert –
“Exception
Welsh language broadcasting and other Welsh language media.”
- BARONESS RANDEKSON
- 67A Page 71, leave out lines 32 to 34
- LORD BOURNE OF ABERYSTWYTH
- 67B Page 74, line 6, leave out “or training” and insert “, training or libraries”
- BARONESS RANDEKSON
- 67C Page 74, line 18, leave out “and adoption”

Schedule 1 - continued

LORD BOURNE OF ABERYSTWYTH

- 67D** Page 74, leave out lines 20 to 22 and insert –
“176 Proceedings and orders under Part 4 or 5 of the Children Act 1989 or otherwise relating to the care or supervision of children.”

BARONESS MORGAN OF ELY
LORD WIGLEY

- 68** Page 74, line 36, leave out “, deaths and places of worship” and insert “and deaths”
- 69** Page 74, line 37, leave out “and of places of worship”
- 70** Page 75, leave out line 25

BARONESS MORGAN OF ELY

- 71** Page 75, leave out line 28
- 72** Page 75, leave out line 29
- 73** Page 75, leave out lines 30 to 34

BARONESS HUMPHREYS
LORD THOMAS OF GRESFORD
BARONESS MORGAN OF ELY
LORD BOURNE OF ABERYSTWYTH

- 74** Page 78, leave out lines 7 to 13

Schedule 2

BARONESS MORGAN OF ELY

- 75** Page 81, line 17, at end insert –
“1A Paragraph 1 does not apply to a modification that is ancillary to a provision made (whether by the Act in question or another enactment) which does not relate to reserved matters if it is a modification of the law on the reserved matters in paragraph 6 or 7 of Schedule 7A.”

- 76** Page 81, line 18, leave out “a” and insert “any other”

LORD ELIS-THOMAS

- 77** Page 81, line 21, leave out from “matters” to end of line 26
- 78** Page 82, leave out lines 2 to 33 and insert –
“4 (1) A provision of an Act of the Assembly cannot make modifications of, or confer powers by subordinate legislation to make modifications of, the criminal law.

Schedule 2 - continued

- (2) Sub-paragraph (1) does not apply to a modification that has a purpose (other than a modification of the criminal law) which does not relate to a reserved matter.
- (3) This paragraph applies to civil penalties as it applies to offences; and references in this paragraph to the criminal law are to be read accordingly.”

LORD BOURNE OF ABERYSTWYTH

- 78A** Page 82, line 40, leave out “Sections 144(7) and 146A(1)” and insert “Section 144(7)”
- 78B** Page 83, leave out lines 1 to 38 and insert –
- “(2) A provision of an Act of the Assembly cannot, unless it is an oversight provision, make modifications of –
 - (a) section 146A(1) of the Government of Wales Act 1998, or
 - (b) sections 2(1) to (3), 3(2) to (4) or 6(2) and (3) of the Public Audit (Wales) Act 2013 (anaw 3),
 or confer power by subordinate legislation to do so.
 - (3) A provision of an Act of the Assembly cannot, unless it is an oversight provision and also a non-governmental committee provision –
 - (a) make modifications of section 8(1) of the Public Audit (Wales) Act 2013 so far as that section relates to the Auditor General’s exercise of functions free from the direction or control of the Assembly or Welsh Government, or
 - (b) confer power by subordinate legislation to do so.
 - (4) An “oversight provision” is a provision of an Act of the Assembly that –
 - (a) relates to the oversight or supervision of the Auditor General or of the exercise of the Auditor General’s functions, or
 - (b) is ancillary to a provision falling within paragraph (a).
 - (5) A “non-governmental committee provision” is a provision conferring functions on a committee of the Assembly that –
 - (a) does not consist of or include members of the Welsh Government, and
 - (b) is not chaired by an Assembly member who is a member of a political group with an executive role,
 or a provision conferring power by subordinate legislation to do so.
 - (6) A person designated under section 46(5) to exercise the functions of the First Minister is treated as a member of the Welsh Government for the purposes of sub-paragraph (5)(a).”
- 78C** Page 85, line 20, after “Part 5” insert “not listed in sub-paragraph (2)(d),”
- 78D** Page 85, line 24, leave out from “taxes” to end of line 25
- 79** Page 86, line 32, at end insert –
- “(d) the Joint Committee on Vaccination and Immunisation;
 - (e) the Human Tissue Authority;

Schedule 2 - continued

- (f) the NHS Business Services Authority or Awdurdod Gwasanaethau Busnes y GIG;
- (g) NHS Blood and Transplant or Gwaed a Thrawsblaniadau'r GIG.”

80 Page 87, line 22, at end insert –

- “(h) the Joint Committee on Vaccination and Immunisation;
- (i) the Human Tissue Authority;
- (j) the NHS Business Services Authority or Awdurdod Gwasanaethau Busnes y GIG;
- (k) NHS Blood and Transplant or Gwaed a Thrawsblaniadau'r GIG.”

80A Page 88, line 5, at end insert –

- “(f) any function of the Treasury under section 138(2) or 141(4),”

BARONESS MORGAN OF ELY

81 Page 88, line 6, at end insert “or the provision is incidental to, or consequential on, any other provision contained in the Act of the Assembly.”

LORD WIGLEY

82 Page 88, line 46, at end insert –

- “12A The requirement for consent by the appropriate Minister under –
 - (a) paragraph 8, in relation to a reserved authority,
 - (b) paragraph 10, in relation to a public authority (other than Wales public authorities), or
 - (c) paragraph 11, in relation to functions of a Minister of the Crown or any power of the Secretary of State under section 6 of the Railways Act 2006,
 does not apply where the provision of an Act of the Assembly relates to a Welsh language function.”

After Clause 26

LORD WIGLEY

83 Insert the following new Clause –

“Assignment of VAT

- (1) The Government of Wales Act 2006 is amended as follows.
- (2) In section 117 (Welsh Consolidated Fund), after subsection (2) insert –
 - “(2A) The Secretary of State shall in accordance with section 117A pay into the Fund out of money provided by Parliament any amounts payable under that section.”
- (3) After that section insert –
 - “117A Assignment of VAT**

After Clause 26 - continued

- (1) Where there is an agreement between the Treasury and the Welsh Ministers for identifying an amount agreed to represent the standard rate VAT attributable to Wales for any period (“the agreed standard rate amount”), the amount described in subsection (3) is payable under this section in respect of that period.
- (2) Where there is an agreement between the Treasury and the Welsh Ministers for identifying an amount agreed to represent the reduced rate VAT attributable to Wales for that period (“the agreed reduced rate amount”), the amount described in subsection (4) is payable under this section in respect of that period.
- (3) The amount payable in accordance with subsection (1) is the amount obtained by multiplying the agreed standard rate amount by –

$$\frac{10}{SR}$$

where SR is the number of percentage points in the rate at which value added tax is charged under section 2(1) of the Value Added Tax Act 1994 for the period.

- (4) The amount payable in accordance with subsection (2) is the amount obtained by multiplying the agreed reduced rate amount by –

$$\frac{2.5}{RR}$$

where RR is the number of percentage points in the rate at which value added tax is charged under section 29A(1) of the Value Added Tax Act 1994 for the period.

- (5) The payment of those amounts under section 64(2A) is to be made in accordance with any agreement between the Treasury and the Welsh Ministers as to the time of the payment or otherwise.”
- (4) The Commissioners for Revenue and Customs Act 2005 is amended as follows.
- (5) In subsection (2) of section 18 (confidentiality: exceptions) omit “or” after paragraph (j), and after paragraph (k) insert “, or
 - (l) which is made in connection with (or with anything done with a view to) the making or implementation of an agreement referred to in section 117A(1) or (2) of the Government of Wales Act 2006 (assignment of VAT).”
- (6) After that subsection insert –
 - “(2A) Information disclosed in reliance on subsection (2)(l) may not be further disclosed without the consent of the Commissioners (which may be general or specific).”
- (7) In section 19 (wrongful disclosure) in subsections (1) and (8) after “18(1)” insert “or (2A).”

Clause 27

LORD BOURNE OF ABERYSTWYTH

- 83A** Page 24, line 11, leave out “subsection (9)(g), (i) and (j)” and insert “subsections (2), (3) and (9)”
- 83B** Page 24, line 13, at end insert –
- “() In section 6A (applications for registration etc where restrictions are in force), after subsection (12) insert –
- “(13) The power to make regulations under subsection (11), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”
- () In section 6B (applications for registration where quality contracts scheme in force), after subsection (8) insert –
- “(9) The power to make regulations under subsections (5) and (7), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).”

Clause 29

LORD BOURNE OF ABERYSTWYTH

- 83C** Page 25, line 12, leave out “sections 11 and 43(1)” and insert “section 11”
- 83D** Page 25, line 27, at end insert –
- “() section 1 of the Harbours (Loans) Act 1972;”

BARONESS MORGAN OF ELY
LORD WIGLEY

- 84** Page 25, line 41, leave out “, other than harbours that are reserved trust ports”

BARONESS MORGAN OF ELY

- 85** Page 26, line 1, leave out subsection (4)

- 86** Page 26, leave out line 16

Clause 30BARONESS MORGAN OF ELY
LORD WIGLEY

- 87** Page 26, line 23, leave out “, other than a reserved trust port,”

BARONESS MORGAN OF ELY

- 88** Page 26, line 27, leave out “, other than reserved trust ports”

- 89** Page 26, line 31, leave out “or a reserved trust port”

- 90** Page 26, line 35, leave out “other than a reserved trust port”

Clause 30 - continued

LORD BOURNE OF ABERYSTWYTH

90A Page 26, line 35, at end insert –

- “() In section 43 (provisions with respect to loans made by Minister) –
- () after subsection (1) insert –
 - “(1A) Any loans which the Welsh Ministers make under section 11 of this Act shall be repaid to them at such times and by such methods, and interest thereon shall be paid to them at such rates and at such times, as they may from time to time direct.”;
 - () after subsection (2) insert –
 - “(2A) Such sums as are necessary to enable the Welsh Ministers to make loans under section 11 of this Act may be issued to them out of the Welsh Consolidated Fund.”;
 - () after subsection (4) insert –
 - “(4A) Any sums received by the Welsh Ministers under subsection (1A) of this section shall be paid into the Welsh Consolidated Fund.”;
 - () after subsection (5) insert –
 - “(6) The Welsh Ministers shall, as respects each financial year, prepare an account of sums issued to them under this section and of the sums to be paid into the Welsh Consolidated Fund under subsection (4A) and of the disposal by them of those sums respectively, and send it to the Auditor General for Wales not later than the end of November following the year; and the Auditor General for Wales shall examine, certify and report on the account and lay copies of it, together with his report, before the National Assembly for Wales.”;
 - () in the heading, at the end insert “or the Welsh Ministers”.

BARONESS MORGAN OF ELY

91 Page 26, line 36, leave out subsection (5)**92** Page 26, line 41, leave out “other than a reserved trust port”**Clause 32**

BARONESS MORGAN OF ELY

Baroness Morgan of Ely gives notice of her intention to oppose the Question that Clause 32 stand part of the Bill.

Clause 33BARONESS MORGAN OF ELY
LORD WIGLEY**93** Page 28, leave out lines 2 to 7 and insert –

- “(a) will be wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, and”.

Clause 33 - continued

BARONESS MORGAN OF ELY

- 94 Page 28, leave out lines 9 to 14 and insert –
 ““(a) the harbour facilities are wholly or partly in England or in waters adjacent to England up to the seaward limits of the territorial sea, and”.”
- 95 Page 28, line 15, leave out subsection (4)

After Clause 36

LORD ROWE-BEDDOE
 LORD WIGLEY
 BARONESS RANDERSON
 BARONESS MORGAN OF ELY

- 96 Insert the following new Clause –
“Tax on carriage of passengers by air
 In Part 4A of the Government of Wales Act 2006, after Chapter 4 insert –
“CHAPTER 5
TAX ON CARRIAGE OF PASSENGERS BY AIR
116O Tax on carriage of passengers by air
 (1) A tax charged on the carriage of passengers by air from airports in Wales is a devolved tax.
 (2) Tax may not be charged on the carriage of passengers boarding aircraft before the date appointed under subsection (6).
 (3) Chapter 4 of Part 1 of The Finance Act 1994 (air passenger duty) is amended as follows.
 (4) In section 28(4) (a chargeable passenger is a passenger whose journey begins at an airport in the United Kingdom), for “England, Wales or Northern Ireland” substitute “England or Northern Ireland”.
 (5) In section 31(4B) (exception for passengers departing from airports in designated region of the United Kingdom) for “England, Wales or Northern Ireland” substitute “England or Northern Ireland”.
 (6) Subsections (3) to (5) have effect in relation to flights beginning on or after such date as the Treasury appoint by regulations made by statutory instrument.””

LORD WIGLEY

- 97 Insert the following new Clause –
“Wales and Borders rail franchise
 (1) Executive rail franchising functions are devolved to the Welsh Government.
 (2) The Welsh Government must consult the Secretary of State on details of the devolved franchise, including how cross-border routes are procured and managed.

After Clause 36 - continued

- (3) The Welsh Government must maintain the existing Wales and Borders franchise until it expires in 2018.
- (4) The Welsh Government is solely responsible for letting and managing the new Wales and Borders franchise to take effect after the expiry of the current franchise in 2018.”

BARONESS MORGAN OF ELY
LORD WIGLEY

98 Insert the following new Clause—

“Maritime and Coastguard Agency

- (1) After section 1(4) of the Coastguard Act 1925 (transfer of the coastguard to the Board of Trade) insert—
 - “(5) The Secretary of State must consult the Welsh Ministers about the strategic priorities of the Secretary of State in exercising functions under subsection (1) in relation to activities of Her Majesty’s Coastguard in Wales.
 - (6) In subsection (5) “Wales” has the same meaning as in the Government of Wales Act 2006.”
- (2) After section 292(4) of the Merchant Shipping Act 1995 (general functions of the Secretary of State) insert—
 - “(5) The Secretary of State must consult the Welsh Ministers about the strategic priorities of the Secretary of State in exercising functions under subsection (1) in relation to the safety standards of ships in Wales and protecting the health and safety of persons on them.
 - (6) In subsection (5) “Wales” has the same meaning as in the Government of Wales Act 2006.””

Clause 37

LORD WIGLEY

99 Page 31, leave out line 31

BARONESS MORGAN OF ELY

100 Page 31, line 31, leave out “350” and insert “2000”

LORD WIGLEY

101 Page 31, leave out line 35

BARONESS MORGAN OF ELY

102 Page 31, line 35, leave out “350” and insert “2000”

After Clause 45

LORD WIGLEY
LORD ELYSTAN-MORGAN

103 Insert the following new Clause –

“Water: legislative competence

The National Assembly for Wales shall have legislative competence for water up to the geographical boundary with England.”

BARONESS MORGAN OF ELY

104 Insert the following new Clause –

“Water services regulation authority

- (1) In section 27 of the Water Industry Act 1991 (general duty of the authority to keep matters under review) –
 - (a) in subsection (3), after “may” insert “, subject to subsection (3A),”;
 - (b) after subsection (3), insert –
 - “(3A) The Secretary of State must obtain the consent of the Welsh Ministers before giving general directions under subsection (3) connected with –
 - (a) matters in relation to which functions are exercised by water or sewage undertakers whose area is wholly or mainly in Wales,
 - (b) licensed activities carried out by water supply licensees that use the supply system of a water undertaker whose area is wholly or mainly in Wales, or
 - (c) licensed activities carried on by sewerage licensees that use the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales.”;
 - (c) in subsection (4), in both places where it appears, after “Secretary of State” insert “, the Welsh Ministers”.
- (2) In section 192B of the Water Industry Act 1991 (annual and other reports) –
 - (a) in subsection (1), after “Secretary of State” insert “and the Welsh Ministers”;
 - (b) in subsection (2)(d), for “as the Assembly” substitute “, or activities in Wales, as the Welsh Ministers”;
 - (c) in subsection (4), for “Assembly” substitute “Welsh Ministers”;
 - (d) after subsection (5) insert –
 - “(5A) The Welsh Ministers shall –
 - (a) lay a copy of each annual report before the Assembly;
 - (b) arrange for the report to be published in such manner as they consider appropriate.”; and
 - (e) in subsection (7), omit “the Assembly,”.
- (3) In Schedule 1A to the Water Industry Act 1991 (the Water Services Regulation Authority) –
 - (a) in paragraph 1 –
 - (i) in sub-paragraph (1), after “Secretary of State” insert “and the Welsh Ministers acting jointly”;

After Clause 45 - continued

- (ii) in sub-paragraph (2), omit paragraph (a);
- (b) in paragraph 2(2), after “Secretary of State” insert “and the Welsh Ministers acting jointly”;
- (c) in paragraph 3 –
 - (i) in sub-paragraph (2)(a), after “Secretary of State” insert “and the Welsh Ministers”;
 - (ii) in sub-paragraph (2)(b), after “Secretary of State” insert “and the Welsh Ministers acting jointly”;
 - (iii) omit sub-paragraph (3);
- (d) in paragraph 4 –
 - (i) in sub-paragraphs (1) and (2), in each place where it appears, after “Secretary of State” insert “and the Welsh Ministers acting jointly”;
 - (ii) in sub-paragraph (3), for “determines” substitute “and the Welsh Ministers acting jointly determine” and at the end insert “and the Welsh Ministers acting jointly”;
- (e) in paragraph 9(3)(b), for “Assembly” substitute “Welsh Ministers”.

LORD WIGLEY
LORD ELYSTAN-MORGAN
LORD THOMAS OF GRESFORD
BARONESS RANDERSON

105 Insert the following new Clause –

“Extraction of water

The extraction of water from Welsh reservoirs shall require the legislative consent of the National Assembly for Wales.”

Clause 46

BARONESS MORGAN OF ELY

106 Page 38, line 30, leave out from “(1)” to end of line 32 and insert “omit paragraph (b).”

107 Page 38, line 33, leave out subsection (2) and insert –

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

LORD WIGLEY

107A Leave out Clause 46 and insert the following new Clause –

“Removal of Secretary of State’s power to intervene

In the Government of Wales Act 2006 omit sections 114 (power to intervene in relation to Assembly Bills) and 152 (intervention in case of functions relating to water etc).”

After Clause 48

LORD BOURNE OF ABERYSTWYTH

107B Insert the following new Clause –

“Financial assistance for inland waterway and sea freight

- (1) Section 272 of the Transport Act 2000 (financial assistance for inland waterway and sea freight) is amended as follows.
- (2) For subsection (4) substitute –
 - “(4) So far as it relates to inland waterways that are wholly in Wales, the power conferred by this section is a power of the Welsh Ministers.
 - (4A) So far as it relates to –
 - (a) the carriage of goods by an inland waterway that is partly in Wales, or
 - (b) the carriage of goods by sea where the carriage concerned is wholly or partly by sea adjacent to Wales,
 the power conferred by this section may be exercised concurrently or jointly by the Secretary of State and the Welsh Ministers.”
- (3) For subsection (6) substitute –
 - “(6) In this section –
 - “inland waterway” includes both a natural and an artificial inland waterway;
 - “sea adjacent to Wales” means the sea adjacent to Wales out as far as the seaward boundary of the territorial sea.
 - (7) An order under section 158(3) of the Government of Wales Act 2006 determining, or making provision for determining, any boundary between waters which are to be treated as parts of the sea adjacent to Wales and those which are not applies for the purposes of the definition of “sea adjacent to Wales” in this section as it applies for the purposes of the definition of “Wales” in that Act.”

107C Insert the following new Clause –

“PART 2A

WELSH TRIBUNALS

The Welsh tribunals

- (1) In this Part “Welsh tribunal” means –
 - (a) the Agricultural Land Tribunal for Wales or Tribiwnlys Tir Amaethyddol Cymru;
 - (b) the Mental Health Review Tribunal for Wales;
 - (c) a rent assessment committee constituted in accordance with Schedule 10 to the Rent Act 1977 (including a leasehold valuation tribunal and a residential property tribunal);
 - (d) the Special Educational Needs Tribunal for Wales or Tribiwnlys Anghenion Addysgol Arbennig Cymru;
 - (e) a tribunal constituted in accordance with Schedule 3 to the Education Act 2005 (registration of inspectors in Wales: tribunals hearing appeals under section 27);

After Clause 48 - continued

- (f) a tribunal drawn from the Adjudication Panel for Wales or Panel Dyfarnu Cymru;
 - (g) the Welsh Language Tribunal or Tribiwnlys y Gymraeg.
- (2) Her Majesty may by Order in Council amend subsection (1) –
- (a) so as to remove or revise a paragraph,
 - (b) so as to add or substitute a tribunal whose functions –
 - (i) are exercisable only in relation to Wales, and
 - (ii) do not relate to reserved matters (within the meaning of the Government of Wales Act 2006), or
 - (c) so as to make amendments (to provisions of this Part or other enactments) that are consequential on an amendment within paragraph (a) or (b).
- (3) No recommendation is to be made to Her Majesty in Council to make an Order in Council under this section unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (4) Subsection (3) does not apply to a statutory instrument containing an Order in Council that only makes –
- (a) provision for the omission of a paragraph in subsection (1) where the tribunal concerned has ceased to exist,
 - (b) provision for the variation of a paragraph in consequence of a change of name or transfer of functions, or
 - (c) amendments within subsection (2)(c).

Such an Order in Council is subject to annulment in pursuance of a resolution of the Assembly.”

107D [Withdrawn]

[In substitution for Amendment 107D]

107DA Insert the following new Clause –

“President of Welsh Tribunals

- (1) The Lord Chief Justice of England and Wales may appoint a person to the office of President of Welsh Tribunals or Llywydd Tribiwnlysoedd Cymru.
- (2) The President of Welsh Tribunals is not a Wales public authority for the purposes of the Government of Wales Act 2006.
- (3) Schedule (*President of Welsh Tribunals*) makes further provision about the President of Welsh Tribunals and about appointments under subsection (1).
- (4) A holder of the office of President of Welsh Tribunals must, in carrying out the functions of that office, have regard to –
 - (a) the need for the Welsh tribunals to be accessible;
 - (b) the need for proceedings before those tribunals –
 - (i) to be fair, and
 - (ii) to be handled quickly and efficiently;

After Clause 48 - continued

- (c) the need for members of those tribunals to be experts in the subject-matter of, or the law to be applied in, cases in which they decide matters;
 - (d) the need to develop innovative methods of resolving disputes that are of a type that may be brought before those tribunals.
- (5) The President of Welsh Tribunals is responsible –
- (a) for the maintenance of appropriate arrangements for the training, guidance and welfare of members of the Welsh tribunals within the resources made available by the Welsh Ministers;
 - (b) for representing the views of members of the Welsh tribunals to the Welsh Ministers and to other members of the National Assembly for Wales.”

107E [Withdrawn]

[In substitution for Amendment 107E]

107EA Insert the following new Clause –

“Directions as to practice and procedure

- (1) The President of Welsh Tribunals may give directions as to the practice and procedure to be followed by the Welsh tribunals.
- (2) The president or chairman of a Welsh tribunal may give directions as to the practice and procedure to be followed by that tribunal.
- (3) A power under this section to give directions includes –
 - (a) power to vary or revoke directions made in the exercise of the power;
 - (b) power to make different provision for different purposes (including different provision for different areas);
 - (c) (in the case of directions by the President of Welsh Tribunals) power to make different provision for different tribunals.
- (4) Directions under this section may not be given without the approval of the Welsh Ministers.
- (5) Subsection (4) does not apply to directions to the extent that they consist of guidance about any of the following –
 - (a) the application or interpretation of the law;
 - (b) the making of decisions by members of the Welsh tribunals.
- (6) Subsection (4) does not apply to directions to the extent that they consist of criteria for determining which members of the Welsh tribunals may be chosen to decide particular categories of matter; but the directions may, to that extent, be given only after consulting the Welsh Ministers.
- (7) Before the President of Welsh Tribunals gives directions under this section he or she must consult the president or chairman of each Welsh tribunal to which the directions relate.
- (8) Before the president or chairman of a Welsh tribunal gives directions under this section he or she must consult the President of Welsh Tribunals.

After Clause 48 - continued

- (9) A person giving, varying or revoking directions under this section must publish the directions, or the variation or revocation, in whatever way the person thinks appropriate.”

107F [Withdrawn]

[In substitution for Amendment 107F]

107FA Insert the following new Clause –

“Cross-deployment of members of the Welsh tribunals

- (1) In Schedule 9 to the Agriculture Act 1947 (Agricultural Land Tribunal etc), in paragraph 15A, after sub-paragraph (1) insert –
- “(1A) A member of a tribunal listed in section (*The Welsh tribunals*) of the Wales Act 2016 (the Welsh tribunals) who is not a member of the Agricultural Land Tribunal may, at the request of the Chairman of the Agricultural Land Tribunal and with the approval of the President of Welsh Tribunals, act as a member of the Agricultural Land Tribunal.”
- (2) In Schedule 10 to the Rent Act 1977 (rent assessment committees), after paragraph 5A insert –
- “5B A member of a tribunal listed in section (*The Welsh tribunals*) of the Wales Act 2016 (the Welsh tribunals) who is not a member of a rent assessment committee in Wales may, at the request of the president or vice-president of the panel and with the approval of the President of Welsh Tribunals, act as a member of such a committee.”
- (3) In Schedule 2 to the Mental Health Act 1983 (Mental Health Review Tribunal for Wales), in paragraph 5 –
- (a) after sub-paragraph (1) insert –
- “(1A) A member of a tribunal listed in section (*The Welsh tribunals*) of the Wales Act 2016 (the Welsh tribunals) who is not a member of the Tribunal but who is eligible to decide any matter in a case under this Act may, at the request of the President of the Mental Health Review Tribunal for Wales and with the approval of the President of Welsh Tribunals, act as a member of the Mental Health Review Tribunal for Wales.”
- (b) in sub-paragraph (3), after “sub-paragraph (1)” insert “or (1A)”.
- (4) In section 333 of the Education Act 1996 (Special Educational Needs Tribunal for Wales), after subsection (4) insert –
- “(4A) A member of a tribunal listed in section (*The Welsh tribunals*) of the Wales Act 2016 (the Welsh tribunals) who is not a member of the Tribunal may, at the request of the President and with the approval of the President of Welsh Tribunals, serve as a member of the Tribunal.”
- (5) In section 75 of the Local Government Act 2000 (Adjudication Panel for Wales), at the end insert –

After Clause 48 - continued

- “(12) A member of a tribunal listed in section (*The Welsh tribunals*) of the Wales Act 2016 (the Welsh tribunals) who is not a member of the Adjudication Panel for Wales may, at the request of the president or the deputy president (if any) and with the approval of the President of Welsh Tribunals, act as a member of a tribunal drawn from the Panel.”
- (6) In Schedule 3 to the Education Act 2005 (registration of inspectors in Wales: tribunals hearing appeals under section 27), in paragraph 1, after subparagraph (3) insert—
- “(3A) A member of a tribunal listed in section (*The Welsh tribunals*) of the Wales Act 2016 (the Welsh tribunals) who is not a member of a tribunal constituted to hear an appeal under section 27 may act as a member of such a tribunal at the request of its chairman and with the approval of the President of Welsh Tribunals.”
- (7) In Schedule 11 to the Welsh Language (Wales) Measure 2011 (nawm 01) (the Welsh Language Tribunal), after Part 2 insert—

“PART 2A**CROSS-DEPLOYMENT OF TRIBUNAL MEMBERS**

- 9A A member of the tribunal listed in section (*The Welsh Tribunals*) of the Wales Act 2016 (the Welsh Tribunals) who is not a member of the Tribunal may, at the request of the President and with the approval of the President of Welsh Tribunals, act as a member of the Tribunal.””

107G [Withdrawn]

[In substitution for Amendment 107G]

107GA Insert the following new Clause—

“Cross-deployment of tribunal members and judges

- (1) A member of a Welsh tribunal may act as a member of the First-tier Tribunal if—
- (a) the Senior President of Tribunals asks the member to do so, and
 - (b) the President of Welsh Tribunals agrees to the request being made.
- (2) A judge or other member of—
- (a) the First-tier Tribunal, or
 - (b) the Upper Tribunal,
- may act as a member of a specified Welsh tribunal if the President of Welsh Tribunals asks the member to do so and the Senior President of Tribunals agrees to the request being made.
- (3) Subsection (2) does not apply to a tribunal member who is a relevant judge.
- (4) A relevant judge may act as a member of a specified Welsh tribunal if—
- (a) the President of Welsh Tribunals asks the judge to do so, and
 - (b) the Lord Chief Justice of England and Wales agrees to the request being made.
- (5) In subsections (2) and (4) “specified” means specified in the request.

After Clause 48 - continued

- (6) In this section “relevant judge” means –
- (a) a judge of the Senior Courts;
 - (b) a deputy judge of the High Court;
 - (c) a Circuit judge;
 - (d) a deputy Circuit judge;
 - (e) a recorder;
 - (f) a district judge;
 - (g) a deputy district judge;
 - (h) a District Judge (Magistrates’ Courts);
 - (i) a Deputy District Judge (Magistrates’ Courts);
 - (j) the holder of an office listed in –
 - (i) the first column of the table in section 89(3C) of the Senior Courts Act 1981 (senior High Court Masters etc), or
 - (ii) column 1 of Part 2 of Schedule 2 to that Act (High Court Masters etc).
- (7) A reference in this section to –
- (a) the President of Welsh Tribunals,
 - (b) the Senior President of Tribunals, or
 - (c) the Lord Chief Justice of England and Wales,
- includes a reference to an individual designated by that person to exercise the person’s functions under this section.
- (8) A designation made by a person under subsection (7) that is in force immediately before the person ceases to hold the office in question continues in force until varied or revoked by a subsequent holder of that office.”

107H Insert the following new Clause –

“Power to amend section (*Cross-deployment of tribunal members and judges*)

- (1) The Lord Chancellor may by regulations amend subsection (2) of section (*Cross-deployment of tribunal members and judges*) –
- (a) so as to add a tribunal to those listed,
 - (b) so as to remove or revise a reference to a tribunal added under paragraph (a), or
 - (c) so as to make amendments (to provisions of this Part or other enactments) that are consequential on an amendment within paragraph (a) or (b).
- (2) Regulations under this section may not add a tribunal whose functions –
- (a) are exercisable only in relation to Wales, and
 - (b) do not relate to reserved matters (within the meaning of the Government of Wales Act 2006).
- (3) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

After Clause 48 - continued

- (4) Subsection (3) does not apply to a statutory instrument containing regulations that only make—
- (a) provision for the omission of a reference to a tribunal that has ceased to exist,
 - (b) provision for the variation of a reference in consequence of a change of name or transfer of functions, or
 - (c) amendments within subsection (1)(c).

Such an instrument is subject to annulment in pursuance of a resolution of either House of Parliament.”

LORD WIGLEY
LORD THOMAS OF GRESFORD

108 Insert the following new Clause—

“Youth justice

- (1) Youth justice is a devolved matter.
- (2) The Assembly may establish a non-departmental body accountable to the Assembly to be called Youth Justice Board Cymru to carry out all the existing functions of the Youth Justice Board in relation to youth justice in Wales.
- (3) The Assembly may make provision in relation to youth justice in Wales concerning any of the subject matter of—
 - (a) sections 8 to 16, 37 to 42, 47, 48, 65 to 79, 97 and 98 of the Criminal Disorder Act 1998, and
 - (b) the Youth Justice and Criminal Evidence Act 1999.”

BARONESS MORGAN OF ELY

109 Insert the following new Clause—

“Rail: franchising of passenger services

- (1) Section 25 of the Railways Act 1993 (England and Wales: public sector operators not to be franchisees) is amended as follows.
- (2) In the heading, omit “and Wales”.
- (3) At the end of subsection (2A) insert “or a franchise agreement in respect of services that are or include Wales-only services.”
- (4) After subsection (2A) insert—

“(2B) For the purposes of this section a “Wales-only service” has the same meaning as in section 57 of the Railways Act 2005.”
- (5) This section does not have effect in relation to any invitation to tender under section 26(2) of the Railways Act 1993 issued before the day on which this section comes into force.”

110 Insert the following new Clause—

“Gaming machines on licensed betting premises

- (1) The Gambling Act 2005 is amended as follows.

After Clause 48 - continued

- (2) After section 172(12)(a) (gaming machines) insert—
- “(aa) the Welsh Ministers, so far as, in the case of a betting premises licence in respect of premises in Wales and not in respect of a track, the order varies—
- (i) the number of gaming machines authorised for which the maximum charge for use is more than £10, or
- (ii) whether such machines are authorised,”.
- (3) In section 355 (regulations, orders and rules) —
- (a) in subsection (1) for “or the Scottish Ministers” substitute “, the Scottish Ministers or the Welsh Ministers”;
- (b) after subsection (11) insert—
- “(12) An order made by the Welsh Ministers under section 172 shall not be made unless a draft of the Order has been laid before and approved by a resolution of the National Assembly for Wales.”
- (4) The amendments made by this section do not apply in relation to a betting premises licence issued before this section comes into force.”

Clause 53

LORD ROWLANDS
BARONESS MORGAN OF ELY
LORD WIGLEY

111 Page 42, line 38, at end insert —

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

LORD ELIS-THOMAS

112 Page 42, line 40, leave out “primary legislation” and insert “an Act of Parliament”

BARONESS MORGAN OF ELY
LORD ROWLANDS

113 Page 42, line 42, at end insert —

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

Clause 53 - continued

LORD ELIS-THOMAS

114 Page 42, line 42, at end insert –

“() A statutory instrument containing regulations under subsection (2) that includes provision amending or repealing any provision of a Measure or Act of the National Assembly for Wales may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament and the National Assembly.”

115 Page 43, line 1, at beginning insert “Subject to subsection (7A),”BARONESS MORGAN OF ELY
LORD ROWLANDS**116** Page 43, line 3, leave out from “Parliament” to end of line 4 and insert “or the Assembly, is subject to annulment in pursuance of a resolution of –

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

LORD ELIS-THOMAS

117 Page 43, line 4, at end insert –

“(7A) A statutory instrument containing regulations under subsection (2) that includes provision amending or revoking subordinate legislation made by –

- (a) the Welsh Ministers, or
- (b) the National Assembly for Wales, as constituted by the Government of Wales Act 1998, if made without a draft having been approved by a resolution of each House of Parliament and the National Assembly,

is subject to annulment in pursuance of a resolution of either House of Parliament or the Assembly.”

BARONESS MORGAN OF ELY
LORD WIGLEY
LORD ROWLANDS**118** Page 43, line 4, at end insert –

“(7B) A statutory instrument containing regulations under subsection (2) that includes –

- (a) provision within devolved competence modifying any provision of primary legislation, or
- (b) provision modifying any devolution enactment in primary legislation,

may not be made unless a draft of the instrument has been laid before and approved by a resolution of the Assembly.”

Clause 53 - continued

BARONESS MORGAN OF ELY
LORD ROWLANDS

119 Page 43, line 7, at end insert –

- “() In this section “devolution enactment” means a provision contained in –
- (a) the Government of Wales Act 2006 or an instrument made under or having effect by virtue of that Act;
 - (b) the Wales Act 2014 or an instrument made under or having effect by virtue of that Act.
- () For the purposes of this section –
- “modifying” includes amending, repealing and revoking;
- “within devolved competence” is to be read in accordance with subsections (7) and (8) of section 58A of the Government of Wales Act 2006, but no account is to be taken of the requirement to consult the appropriate Minister in paragraph 11(2) of Schedule 7B to the Government of Wales Act 2006.”

Before Schedule 5

119A [Withdrawn]

LORD BOURNE OF ABERYSTWYTH
[In substitution for Amendment 119A]

119AA Insert the following new Schedule –

“PRESIDENT OF WELSH TRIBUNALS

PART 1

APPOINTMENT

Duty to fill vacancies

- 1 (1) If there is a vacancy in the office of President of Welsh Tribunals, the Lord Chief Justice must appoint a person to that office.
- (2) Sub-paragraph (1) does not apply to a vacancy while the Lord Chief Justice, the Lord Chancellor and the Welsh Ministers all agree that it may remain unfilled.
- (3) In this Schedule “the Lord Chief Justice” means the Lord Chief Justice of England and Wales.

The two routes to appointment: agreement under this paragraph or selection under Part 2

- 2 (1) The Lord Chief Justice, before he or she may appoint a person to the office of President of Welsh Tribunals, must consult –
- (a) the Lord Chancellor, and
 - (b) the Welsh Ministers.
- (2) Sub-paragraphs (3) and (4) apply if –
- (a) the outcome of consultation under sub-paragraph (1) is agreement between the Lord Chief Justice, the Lord Chancellor and the Welsh Ministers as to the person to be appointed, and
 - (b) the person holds or has held office as –

Before Schedule 5 - continued

- (i) an ordinary judge of the Court of Appeal in England and Wales,
or
 - (ii) a puisne judge of the High Court.
- (3) The Lord Chief Justice must appoint the person to the office of President of Welsh Tribunals, subject to sub-paragraph (4).
- (4) Where the person –
- (a) declines to be appointed, or does not agree within a time specified to him or her for that purpose, or
 - (b) is otherwise not available within a reasonable time to be appointed,
- the Lord Chief Justice must, instead of appointing the person, consult afresh under sub-paragraph (1).
- (5) If the Lord Chief Justice has consulted under sub-paragraph (1) but sub-paragraphs (3) and (4) do not apply following that consultation, he or she must make a request to the Judicial Appointments Commission (“the Commission”) for a person to be selected for appointment to the office of President of Welsh Tribunals.

PART 2

SELECTION BY THE JUDICIAL APPOINTMENTS COMMISSION

Eligibility for selection

- 3 A person is eligible for selection in pursuance of a request under paragraph 2(5) only if he or she satisfies the judicial-appointment eligibility condition on a 7-year basis.

The selection process

- 4 (1) On receiving a request from the Lord Chief Justice under paragraph 2(5) the Commission must appoint a selection panel.
- (2) The panel must have an odd number of members not less than five.
- (3) The members of the panel must include –
- (a) at least two who are non-legally-qualified,
 - (b) at least two judicial members, and
 - (c) at least two members of the Commission.
- Contributions to meeting more than one of the requirements may be made by the same person’s membership of the panel.
- (4) The panel must –
- (a) determine the selection process to be applied;
 - (b) apply the selection process;
 - (c) make a selection accordingly.
- (5) As part of the selection process the panel must consult –
- (a) the Lord Chancellor;
 - (b) the Welsh Ministers.
- (6) One person only must be selected for the appointment to which a request relates.

Before Schedule 5 - continued

- (7) Sub-paragraph (4) applies to selection under this paragraph and to selection under regulations made under paragraph 7.
- (8) A selection panel is a committee of the Commission.

Merit and good character

- 5 (1) This paragraph applies to any selection by a selection panel appointed under paragraph 4.
- (2) Selection must be solely on merit.
- (3) A person must not be selected unless the selection panel body is satisfied that he or she is of good character.
- (4) Neither “solely” in sub-paragraph (2), nor Part 5 of the Equality Act 2010 (public appointments etc), prevents the selection panel, where two persons are of equal merit, from preferring one of them over the other for the purpose of increasing diversity within –
 - (a) the group of persons who hold offices for which there is selection by panels appointed by the Commission, or
 - (b) a sub-group of that group.

Encouragement of diversity

- 6 (1) A selection panel appointed under paragraph 4, in performing its functions under this Part, must have regard to the need to encourage diversity in the range of persons available for selection.
- (2) This paragraph is subject to paragraph 5.

Regulations about selection

- 7 (1) The Lord Chancellor must by regulations made with the agreement of the Lord Chief Justice and the Welsh Ministers –
 - (a) make further provision about the process to be applied in a case where the Commission receives a request under paragraph 2(5);
 - (b) make further provision about –
 - (i) membership of selection panels appointed under paragraph 4, and
 - (ii) the process that is to be applied in a case where a selection panel is required to be appointed under that paragraph;
 - (c) secure, subject to paragraph 8 and any provision within paragraph (2)(d) that is included in the regulations, that in every case referred to paragraph (a) or (b)(ii) there will come a point in the process when a selection has to be accepted, either unconditionally or subject only to matters such as the selected person’s willingness and availability, by or on behalf of the Lord Chief Justice.
- (2) The regulations may in particular –
 - (a) provide for process additional to the selection process applied under paragraph 4(4), including post-acceptance process;
 - (b) make provision as to things that are, or as to things that are not, to be done –
 - (i) as part of the selection process applied under paragraph 4(4), or
 - (ii) in determining what that process is to be;

Before Schedule 5 - continued

- (c) provide for paragraph 4(4)(c) not to apply where, or to the extent that, the Commission decides that the selection process applied under paragraph 4(4) has not identified candidates of sufficient merit for it to comply with paragraph 4(4)(c);
 - (d) give powers to the Lord Chief Justice, including—
 - (i) power to require a selection panel to reconsider a selection under paragraph 4(4) or any subsequent selection,
 - (ii) power to reject a selection under paragraph 4(4) or any subsequent selection, and
 - (iii) power to require the reconsideration of a decision mentioned in paragraph (c);
 - (e) provide for particular action to be taken by the Commission or a selection panel after the panel has complied with paragraph 4;
 - (f) provide for the dissolution of a selection panel appointed under paragraph 4;
 - (g) provide for a person to cease to be a member of such a panel where the person's membership of the panel ceases to contribute to meeting a requirement about the panel's members;
 - (h) provide for a person to become a member of such a panel where another person ceases to be a member of the panel or where another person's membership of the panel ceases to contribute to meeting a requirement about the panel's members;
 - (i) make provision for or in connection with assessments, whether pre-acceptance or post-acceptance, of the health of persons selected;
 - (j) provide for the Lord Chief Justice to nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise functions given to the Lord Chief Justice by the regulations;
 - (k) make provision as to the meaning of "non-legally-qualified" and "judicial member" in paragraph 4(3).
- (3) Regulations under this paragraph—
- (a) may make different provision for different purposes;
 - (b) may make transitory, transitional or saving provision.
- (4) The power to make regulations under this paragraph is exercisable by statutory instrument.

A statutory instrument containing regulations under this paragraph may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

- (5) This paragraph is subject to paragraph 8.

Withdrawal and modification of requests

- 8 (1) The Lord Chief Justice may withdraw a request under paragraph 2(5)—
- (a) with the agreement of the Welsh Ministers, or
 - (b) if, after consulting Welsh Ministers, the Lord Chief Justice considers the selection process determined by the selection panel is not satisfactory, or has not been applied satisfactorily.

Before Schedule 5 - continued

- (2) The Lord Chief Justice may modify a request under paragraph 2(5) with the agreement of the Welsh Ministers.
- (3) If a request is withdrawn in part or modified, the selection panel may, if it thinks it appropriate because of the withdrawal or modification, change any selection already made pursuant to the request, except a selection already accepted.
- (4) The Lord Chief Justice may not withdraw a request under sub-paragraph (1)(b) if a selection made pursuant to the request –
 - (a) has been accepted unconditionally or subject only to matters such as the selected person’s willingness and availability, or
 - (b) in exercise of power conferred by regulations under paragraph 7, has been rejected or required to be reconsidered.
- (5) Any withdrawal or modification of a request must be by notice in writing to the Commission.
- (6) In the case of a withdrawal of a request, the notice must state whether it is under sub-paragraph (1)(a) or (b).
- (7) In the case of a withdrawal under sub-paragraph (1)(b), the notice must state why the Lord Chief Justice considers the selection process determined by the selection panel is not satisfactory, or has not been applied satisfactorily.
- (8) If or to the extent that a request is withdrawn –
 - (a) the preceding provisions of this Part of this Schedule cease to apply in relation to it;
 - (b) any selection made on it is to be disregarded.
- (9) Withdrawal of a request to any extent does not affect the power of the Lord Chief Justice to make another request in the same or different terms.

Effect of acceptance of selection

- 9 (1) Subject to the following provisions of this paragraph, where the Lord Chief Justice accepts a selection made under paragraph 4(4) he or she must appoint the person selected.
- (2) Before making the appointment the Lord Chief Justice may direct the Commission to make arrangements in accordance with the direction –
 - (a) for any assessment of the health of the person selected that the Lord Chief Justice considers appropriate, and
 - (b) for a report of the assessment to be made to the Lord Chief Justice.
- (3) Sub-paragraph (4) applies in any of the following circumstances –
 - (a) the Lord Chief Justice notifies the Commission that he or she is not satisfied on the basis of a report under sub-paragraph (2)(b), having consulted the Welsh Ministers, that the health of the person selected is satisfactory for the purposes of the appointment;
 - (b) the person selected declines to be appointed, or does not agree within a time specified to him for that purpose;
 - (c) the person selected is otherwise not available within a reasonable time to be appointed.

Before Schedule 5 - continued

- (4) Where this sub-paragraph applies –
- (a) the selection accepted and any previous selection for the appointment are to be disregarded;
 - (b) the request pursuant to which the selection was made continues to have effect;
 - (c) any subsequent selection pursuant to that request may be made in accordance with the same or a different selection process.

PART 3

TERMS OF OFFICE

Tenure, removal, resignation etc

10 (1) If –

- (a) a person is appointed to the office of President of Welsh Tribunals on terms that provide for him or her to retire from the office at a particular time specified in those terms (“the end of the fixed term”), and
- (b) the end of the fixed term is earlier than the time at which the person is required by the 1993 Act to retire from the office,

the person shall, if still holding the office at the end of the fixed term, vacate the office at the end of the fixed term.

- (2) Subject to sub-paragraph (1) (and to the 1993 Act), a person appointed to the office of President of Welsh Tribunals holds that office during good behaviour, subject to a power of removal by Her Majesty on an address presented to Her by both Houses of Parliament.
- (3) It is for the Lord Chancellor to recommend to Her Majesty the exercise of the power of removal under sub-paragraph (2).
- (4) In this paragraph “the 1993 Act” means the Judicial Pensions and Retirement Act 1993.

11 A person who holds the office of President of Welsh Tribunals may at any time resign that office by giving the Lord Chief Justice notice in writing to that effect.

12 (1) The Lord Chief Justice, if satisfied by means of a medical certificate that a person holding the office of President of Welsh Tribunals –

- (a) is disabled by permanent infirmity from the performance of the duties of the office, and
- (b) is for the time being incapacitated from resigning the office,

may, subject to sub-paragraph (2), by instrument under his or her hand declare the person to have vacated the office; and the instrument has the equivalent effect for all purposes as if the person had on the date of the instrument resigned the office.

- (2) A declaration under sub-paragraph (1) with respect to a person is of no effect unless it is made with the concurrence of –
 - (a) the Lord Chancellor, and
 - (b) the Welsh Ministers.

Remuneration, allowances and expenses

Before Schedule 5 - continued

- 13 The Welsh Ministers may pay to the President of Welsh Tribunals whatever amounts they determine in respect of—
- (a) remuneration;
 - (b) allowances;
 - (c) expenses.

Oaths

- 14 (1) A person appointed to the office of President of Welsh Tribunals must take the required oaths in the presence of—
- (a) the Lord Chief Justice, or
 - (b) another holder of high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005) who is nominated by the Lord Chief Justice for the purpose of taking the oaths from the person.
- (2) Sub-paragraph (1) applies whether or not the person has previously taken the required oaths after accepting another office.
- (3) In this paragraph “the required oaths” means—
- (a) the oath of allegiance, and
 - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868.”

Schedule 5

LORD BOURNE OF ABERYSTWYTH

- 119B** Page 101, line 9, at end insert—
- “6A In section 116M (duty to disclose information on Welsh land transactions to HMRC), in subsection (1), for “A person who is a member of the Welsh Government” substitute “The Welsh Revenue Authority”.”
- 119C** Page 111, line 34, leave out “6(9)(g), (i) and (j)” and insert “6(2), (3) and (9)”
- 119D** Page 111, line 34, at end insert—
- “() section 6A(11);
 - () section 6B(5) and (7);”
- 119E** Page 112, line 13, leave out “6(9)(g), (i) and (j)” and insert “6(2), (3) and (9)”
- 119F** Page 112, line 13, at end insert—
- “() section 6A(11);
 - () section 6B(5) and (7);”
- 119G** Page 112, line 33, leave out “or 37”
- 119H** [*Withdrawn*]

Schedule 5 - continued*[In substitution for Amendment 119H]***119HA** Page 113, line 31, at end insert –*“Judicial Pensions and Retirement Act 1993 (c. 8)*

48A In Schedule 5 to the Judicial Pensions and Retirement Act 1993 (retirement provisions: the relevant offices), after the entry for the Senior President of Tribunals insert –

“President of Welsh Tribunals”.”

119HB Page 114, line 6, at end insert –

“52A In section 77 of that Act (adjudications) omit subsection (5).”

119J *[Withdrawn]**[In substitution for Amendment 119J]***119JA** Page 114, line 39, at end insert –*“Constitutional Reform Act 2005 (c. 4)*

55A In section 109 of the Constitutional Reform Act 2005 (disciplinary powers: interpretation), in subsection (5), after paragraph (da) insert –

“(db) President of Welsh Tribunals;”.”

119K Page 115, line 3, at end insert –*“Commissioners for Revenue and Customs Act 2005 (c. 11)*

56A In section 18 of the Commissioners for Revenue and Customs Act 2005 (confidentiality), in subsection (2)(j), for “the Welsh Ministers” substitute “the Welsh Revenue Authority”.”

119L *[Withdrawn]**[In substitution for Amendment 119L]***119M** Page 115, line 30, at end insert –*“Tribunals, Courts and Enforcement Act 2007 (c. 15)*

59A(1) Section 47 of the Tribunals, Courts and Enforcement Act 2007 (co-operation in relation to judicial training, guidance and welfare) is amended as follows.

(2) In subsection (4)(a) and (b), after “the Senior President of Tribunals” insert “or the President of Welsh Tribunals”.

(3) In subsection (5)(c)–

(a) omit “or” at the end of sub-paragraph (iii);

(b) at the end insert “, or

(v) a judge, or other member, of a tribunal listed in section (*The Welsh tribunals*) of the Wales Act 2016 (the Welsh tribunals).”

Schedule 5 - continued

- 119N** Page 119, line 16, at end insert –
“Welsh Language (Wales) Measure 2011 (nawm 1)
 82A In the Welsh Language (Wales) Measure 2011 omit section 124 (practice directions).”

- 119P** Page 119, line 24, at end insert –
“The Special Educational Needs Tribunal for Wales Regulations 2012 (S.I. 2012/322 (W.53))
 83AA In the Special Educational Needs Tribunal for Wales Regulations 2012 omit regulation 28 (general powers).”

Clause 55

LORD HAIN
 LORD MURPHY OF TORFAEN
 BARONESS RANDESON
 LORD KINNOCK

- 120** Page 43, line 32, at end insert –
 “(1A) Subsections (2) to (7) are subject to subsection (1B).
 (1B) The following provisions may not come into force until the Welsh Assembly has passed a legislative consent motion in respect of this Act –
 (a) sections 1 to 52,
 (b) section 53(1), and
 (c) Schedules 1 to 5.”

LORD HAIN
 LORD MURPHY OF TORFAEN

- 120A** Page 43, line 32, at end insert –
 “(1C) Subsections (2) to (7) are subject to subsection (1D).
 (1D) The following provisions may not come into force until the Treasury has laid before each House of Parliament a document which sets out a fiscal framework for Wales, agreed by the United Kingdom Government and the Welsh Government –
 (a) sections 1 to 52,
 (b) section 53(1), and
 (c) Schedules 1 to 5.”

LORD BOURNE OF ABERYSTWYTH

- 121** Page 43, line 39, at end insert –
 “(e) section 41, and sections 37(4) and (6) and 40(4) for the purposes of section 41.”

In the Title

LORD BOURNE OF ABERYSTWYTH

122

Line 2, after “Ministers” insert “and about Welsh tribunals”

Wales Bill

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

11 November 2016
