

Wales Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 12th December 2016, as follows –

Clauses 1 and 2	Clause 3
Clause 4	Schedules 1 and 2
Schedule 3	Clause 20
Clauses 5 to 16	Schedule 4
Clauses 18 and 19	Schedule 6
Clauses 21 to 51	Clause 61
Schedule 5	Schedule 7
Clauses 52 to 60	Clauses 62 and 63
Clause 17	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 1

LORD BOURNE OF ABERYSTWYTH

1 Page 2, line 5, leave out “There is” and insert “The law that applies in Wales includes”

BARONESS MORGAN OF ELY
BARONESS HUMPHREYS
LORD WIGLEY

2 Page 2, line 9, at end insert –

“PART A2

JUSTICE IN WALES COMMISSION

A3 Justice in Wales Commission

- (1) There is to be a body of commissioners to be known as the Justice in Wales Commission (“the Commission”).
- (2) The Commission must review –
 - (a) the functioning of the justice system in relation to Wales, and
 - (b) whether the single legal jurisdiction of England and Wales should be divided into a jurisdiction for Wales and a jurisdiction for England.

Clause 1 - continued

- (3) The Commission must have regard to—
- (a) divergence in the law and its administration as between England and Wales,
 - (b) the need to treat the Welsh and English languages on the basis of equality, and
 - (c) any other circumstances in Wales affecting operation of the justice system.
- (4) The Commission is to be a body corporate consisting of five commissioners appointed jointly by the Lord Chancellor and the Welsh Ministers after consultation with the Lord Chief Justice.
- (5) The Commission must make an annual report to the Lord Chancellor and the Welsh Ministers on its proceedings.
- (6) The Lord Chancellor and the Welsh Ministers acting jointly may by regulations make further provision about the Commission.
- (7) The power to make regulations under subsection (6) is exercisable by statutory instrument and such regulations may not be made unless a draft of the instrument containing them has been laid before and approved by a resolution of each House of Parliament and of the Assembly.”

Clause 2

LORD WIGLEY

3★ Page 2, line 15, leave out “normally”

Clause 4

LORD BOURNE OF ABERYSTWYTH

4 Page 3, line 24, leave out “**Wales public**” and insert “**Devolved Welsh**”

5 Page 3, leave out lines 25 to 28 and insert—

- “(1) In this Act “devolved Welsh authority” means—
- (a) a public authority that meets the conditions in subsection (2),
 - (b) a public authority that is specified, or is of a description specified, in Schedule 9A (whether or not it meets those conditions), or
 - (c) the governing body of an institution within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992) whose activities are carried on, or principally carried on, in Wales.”

Schedule 3

LORD BOURNE OF ABERYSTWYTH

6 Page 96, line 16, leave out “WALES PUBLIC” and insert “DEVOLVED WELSH”

7 Page 97, leave out lines 27 and 28

Schedule 3 - continued

- 8 Page 98, line 30, leave out “the Open University” and insert “an institution within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992)”

Clause 5

LORD BOURNE OF ABERYSTWYTH

- 9 Page 6, line 21, at end insert –
 “(3) In section 7 of the Political Parties, Elections and Referendums Act 2000 (Commission to be consulted on changes to electoral law), in subsection (2)(f), after “64(3)” insert “or regulations under section 13A(1)”.”

Clause 9

LORD BOURNE OF ABERYSTWYTH

- 10 Page 12, line 17, at end insert “, and
 () the number of persons who may hold the office of Welsh Minister appointed under section 48 or the office of Deputy Welsh Minister.”

Clause 13

LORD BOURNE OF ABERYSTWYTH

- 11 Page 15, line 40, at end insert –
 “(3A) Welsh legislation may make further provision for the purpose of ensuring that devolved Welsh authorities that receive sums derived from the Fund are accountable.
 That provision may, in particular, include provision for a devolved Welsh authority to which subsection (1)(a) does not apply to be accountable for its expenditure and receipts in respect of functions for which it receives sums derived from the Fund.”

- 12 Page 16, line 11, leave out “Wales public” and insert “devolved Welsh”

Clause 21

LORD BOURNE OF ABERYSTWYTH

- 13 Leave out Clause 21

Clause 29BARONESS MORGAN OF ELY
LORD WIGLEY

- 14 Page 26, line 23, leave out “, other than harbours that are reserved trust ports”

- 15 Page 26, line 29, leave out subsection (4)

Clause 29 - continued

16 Page 26, leave out line 44

Clause 30

BARONESS MORGAN OF ELY
LORD WIGLEY

17 Page 27, line 5, leave out “, other than a reserved trust port,”

18 Page 27, line 9, leave out “, other than reserved trust ports”

19 Page 27, line 13, leave out “or a reserved trust port”

20 Page 27, line 17, leave out “other than a reserved trust port”

21 Page 27, line 43, leave out subsection (6)

22 Page 28, line 2, leave out “other than a reserved trust port”

Clause 32

BARONESS MORGAN OF ELY

23 Leave out Clause 32

Clause 33

BARONESS MORGAN OF ELY

24 Page 29, leave out lines 5 to 10 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”.

25 Page 29, leave out lines 12 to 17 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”.

26 Page 29, line 18, leave out subsection (4)

Clause 35

LORD BOURNE OF ABERYSTWYTH

27 Page 30, line 46, at end insert –

“() Where the Secretary of State or the Welsh Ministers have made an order under section 42A of the Harbours Act 1964 delegating the function of making a harbour revision order, the duty in subsection (1) or (2), so far as it relates to the function mentioned in subsection (4)(c), applies to the delegate as it applies to the Secretary of State or the Welsh Ministers.”

After Clause 35

LORD BOURNE OF ABERYSTWYTH

28 Insert the following new Clause –

“Exercise of functions in relation to two or more harbours

(1) Where –

- (a) a Minister of the Crown proposes to exercise a relevant function in relation to two or more harbours, and
- (b) at least one of those harbours is a harbour that is wholly in Wales and is not a reserved trust port,

the Minister of the Crown must first consult the Welsh Ministers (except where section 36(1) applies).

(2) Where a Minister of the Crown has made an order under section 42A of the Harbours Act 1964, the duty in subsection (1) applies to the delegate as it applies to a Minister of the Crown.

(3) In this section –

“relevant function” has the same meaning as in section 34;

“reserved trust port” has the meaning given in section 32;

“Wales” has the same meaning as in section 34.”

29 Insert the following new Clause –

“Consequential amendments to consent requirements in Harbours Act 1964

(1) In section 42C of the Harbours Act 1964 (consent of Welsh Ministers for certain orders and schemes), after subsection (2) insert –

“(2A) The references in subsections (1)(c) and (2) to a statutory provision of local application do not include a harbour revision order, a harbour empowerment order or a harbour reorganisation scheme.”

(2) In section 42D of that Act (consent of Secretary of State for certain orders and schemes), after subsection (2) insert –

“(2A) The references in subsections (1)(c) and (2) to a statutory provision of local application do not include a harbour revision order, a harbour empowerment order or a harbour reorganisation scheme.””

Clause 36

LORD BOURNE OF ABERYSTWYTH

- 30 Page 31, line 28, leave out “or section 35(1) or (3)” and insert “, section 35(1) or (3) or section (*Exercise of functions in relation to two or more harbours*)(1)”
- 31 Page 31, line 30, leave out from “function” to end of line 31
- 32 Page 31, line 32, leave out “or section 35(1)” and insert “, section 35(1) or section (*Exercise of functions in relation to two or more harbours*)(1)”
- 33 Page 31, line 40, leave out “or section 35(1) or (3)” and insert “, section 35(1) or (3) or section (*Exercise of functions in relation to two or more harbours*)(1)”
- 34 Page 31, line 44, after “35” insert “, (*Exercise of functions in relation to two or more harbours*)”
- 35 Page 32, line 10, leave out “or 35” and insert “, 35 or (*Exercise of functions in relation to two or more harbours*)”

Clause 37

LORD WIGLEY

- 36 Page 32, line 32, leave out “350” and insert “2000”
- 37 Page 32, line 36, leave out “350” and insert “2000”

LORD BOURNE OF ABERYSTWYTH

- 38 Page 34, line 11, at end insert –
 “() in the definition of “statutory provision”, after “Scottish Parliament” insert “and an Act of the Assembly”;

After Clause 45

LORD BOURNE OF ABERYSTWYTH

- 39 Insert the following new Clause –
“Water and sewerage
 (1) In Schedule 7A to the Government of Wales Act 2006 (substituted by this Act), in section C15 (water and sewerage) –
 (a) omit paragraph 90;
 (b) in paragraph 91 omit “and regulation”;
 (c) omit the two exceptions (and the heading “*Exceptions*”);
 (d) omit the definitions of “supply system of a water undertaker” and “sewerage system of a sewerage undertaker”.
 (2) In section 192B of the Water Industry Act 1991 (annual and other reports) –
 (a) in subsection (1), after “the Secretary of State” insert “and the Welsh Ministers”;

After Clause 45 - continued

- (b) after subsection (5) insert—
 - “(5A) The Welsh Ministers shall—
 - (a) lay a copy of each annual report before the Assembly; and
 - (b) arrange for the report to be published in such manner as they consider appropriate.”;
- (c) in subsection (7) omit “the Assembly,.”

40 Insert the following new Clause—

“Modification of water-related functions

In section 58 of the Government of Wales Act 2006, after subsection (2) insert—

- “(2A) Her Majesty may by Order in Council—
 - (a) make provision modifying (by reference to geographical extent or otherwise) a previously conferred or transferred water-related function;
 - (b) provide for such a function to be exercisable—
 - (i) concurrently or jointly with a Minister of the Crown or the Welsh Ministers, or
 - (ii) only with the agreement of, or after consultation with, a Minister of the Crown or the Welsh Ministers.

(2B) In subsection (2A)—

“previously conferred or transferred function” means a function exercisable by—

- (a) the Welsh Ministers, the First Minister or the Counsel General,
- (b) a Minister of the Crown, or
- (c) any authority or other body,

by virtue of provision contained in or made under this Act or any other enactment;

“water-related function” means a function exercisable in relation to water supply, water quality, water resources management, control of pollution of water resources, sewerage, rivers and other watercourses, land drainage, flood risk management or coastal protection.””

LORD CRICKHOWELL

As an amendment to Amendment 40

41 ★ In inserted subsection (2B), after “flood risk management” insert “, fisheries, recreation”

LORD WIGLEY

42 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.”

After Clause 45 - continued

BARONESS MORGAN OF ELY

43

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 consult 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”;
 - (d) after subsection (4) insert—
 - “(5) A request for information, advice or assistance by the Welsh Ministers under subsection (4) must relate to one or more of the matters or activities referred to in paragraphs (a) to (c) of subsection (3A).”.
- (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; and
 - (b) arrange for the report to be published in such manner as they consider appropriate.”;
 - (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”;
 - (ii) in sub-paragraph (2), omit paragraph (a);
 - (b) in paragraph 2(2), after “Secretary of State” insert “and the Welsh Ministers acting jointly”;

After Clause 45 - continued

- (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)—
 - (a) for “determines” substitute “and the Welsh Ministers acting jointly determine”;
 - (b) at end insert “and the Welsh Ministers acting jointly”;
- (e) in paragraph 9(3)(b), for “Assembly” substitute “Welsh Ministers”.

LORD WIGLEY

44 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

LORD BOURNE OF ABERYSTWYTH

45 Leave out Clause 46 and insert the following new Clause—

“Water protocol

- (1) The Welsh Ministers and the Secretary of State may make an agreement (the “water protocol”) for the purpose of ensuring that—
 - (a) actions or inaction of the Welsh Ministers, or public bodies exercising functions in Wales, do not have a serious adverse impact on water resources in England, water supply in England or the quality of water in England, and
 - (b) actions or inaction of the Secretary of State, or public bodies exercising functions in England, do not have a serious adverse impact on water resources in Wales, water supply in Wales or the quality of water in Wales.
- (2) The water protocol must—
 - (a) provide for a procedure for resolving matters of disagreement between the Welsh Ministers and the Secretary of State;
 - (b) make provision about whether, or to what extent, functions relating to such matters may be exercised pending the outcome of the procedure.
- (3) The water protocol may be revised by agreement of the Welsh Ministers and the Secretary of State.

Clause 46 - continued

- (4) The water protocol, and any revised protocol, must be laid before both Houses of Parliament and the National Assembly for Wales.
- (5) The Welsh Ministers and the Secretary of State must exercise their functions in accordance with the provisions of the water protocol, unless it is revoked by agreement of the Welsh Ministers and the Secretary of State.”

LORD CRICKHOWELL

As an amendment to Amendment 45

46 ★ In subsection (1)(a), after “on” insert “water-related functions and”

As an amendment to Amendment 45

47 ★ In subsection (1)(b), after “on” insert “water-related functions and”

As an amendment to Amendment 45

48 ★ At end insert –

“() In this section, “water-related function” has the same meaning as in section 58 of the Government of Wales Act 2006.”

LORD WIGLEY

49 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 46

LORD BOURNE OF ABERYSTWYTH

50 Insert the following new Clause –

“Reciprocal cross-border duties in relation to water

- (1) In exercising functions relating to water resources, water supply or water quality –
 - (a) the Welsh Ministers must have regard to the interests of consumers in England;
 - (b) the Secretary of State must have regard to the interests of consumers in Wales.
- (2) In subsection (1) “the interests of consumers” has the same meaning as in section 2 of the Water Industry Act 1991.”

LORD CRICKHOWELL

As an amendment to Amendment 50

51 ★ In subsection (1), leave out “functions relating to water resources, water supply or water quality” and insert “water-related functions”

After Clause 46 - continued

As an amendment to Amendment 50

- 52 ★ In subsection (2), at end insert “, and “water-related function” has the same meaning as in section 58 of the Government of Wales Act 2006.”

LORD BOURNE OF ABERYSTWYTH

- 53 Insert the following new Clause –

“Repeal of intervention powers relating to water

- (1) In the Government of Wales Act 2006 –
 - (a) in section 114 (power to intervene in certain cases) omit paragraph (b) of subsection (1);
 - (b) omit section 152 (intervention in case of functions relating to water).
- (2) Regulations under section 62 bringing this section into force may not be made until an agreement under section (*Water protocol*) has been laid before both Houses of Parliament and the National Assembly for Wales.”

Before Clause 47

LORD BOURNE OF ABERYSTWYTH

- 54 Insert the following new Clause –

“Transfer of functions in relation to fishing vessels

- (1) The functions to which this section applies, so far as exercisable in relation to Welsh fishing boats beyond the seaward limits of the Welsh zone, are transferred to the Welsh Ministers.
- (2) This section applies to –
 - (a) functions of a Minister of the Crown or the Marine Management Organisation under the Sea Fish (Conservation) Act 1967,
 - (b) functions of a Minister of the Crown under the Sea Fisheries Act 1968,
 - (c) functions of a Minister of the Crown under Parts 2 to 4 of the Fisheries Act 1981, and
 - (d) functions of a Minister of the Crown or the Marine Management Organisation under the Sea Fisheries (Wildlife Conservation) Act 1992.
- (3) But this section does not apply to –
 - (a) functions conferred on the Board of Trade by section 8 of the Sea Fish (Conservation) Act 1967;
 - (b) functions listed in paragraph 2(2) of Schedule 3A to the Government of Wales Act 2006 (inserted by this Act) (functions concurrently exercisable with the Welsh Ministers).
- (4) In this section –

“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;

Before Clause 47 - continued

“Welsh zone” has the meaning given in section 158 of the Government of Wales Act 2006.”

After Clause 49

LORD BOURNE OF ABERYSTWYTH

55

Insert the following new Clause—

“Maritime and Coastguard Agency

- (1) In section 1 of the Coastguard Act 1925 (transfer of the coastguard to the Board of Trade), after subsection (4) 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) In section 292 of the Merchant Shipping Act 1995 (general functions of the Secretary of State), after subsection (4) 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.””

56

Insert the following new Clause—

“Gaming machines on licensed betting premises

- (1) In section 172 of the Gambling Act 2005 (gaming machines), in subsection (12) (definition of “appropriate Minister”), after paragraph (a) 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;”.
- (2) In section 355 of that Act (regulations, orders and rules)—
 - (a) in subsection (1), after “the Secretary of State” insert “, the Welsh Ministers”;
 - (b) in subsection (3), after “the Secretary of State” insert “or the Welsh Ministers”;
 - (c) after subsection (8) insert—
 - “(8A) An order of the Welsh Ministers under section 172 shall not be made unless a draft has been laid before and approved by resolution of the National Assembly for Wales.”

After Clause 49 - continued

- (3) The amendments made by this section do not apply in relation to a betting premises licence issued before this section comes into force.”

BARONESS MORGAN OF ELY
As an amendment to Amendment 56

- 57★ In inserted paragraph (aa)(i), leave out “£10” and insert “£2”

As an amendment to Amendment 56

- 58★ Leave out subsection (3)

- 59 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.”

LORD WIGLEY

- 60 Insert the following new Clause –

“The Crown Estate

After section 89 of the Government of Wales Act 2006, insert –

“89A The Crown Estate

- (1) The Treasury may make a scheme transferring on the transfer date all the existing Welsh functions of the Crown Estate Commissioners (“the Commissioners”) to the Welsh Ministers or a person nominated by the Welsh Ministers (“the transferee”).
- (2) The existing Welsh functions are the Commissioners’ functions relating to the part of the Crown Estate that, immediately before the transfer date, consists of –
 - (a) property, rights or interests in land in Wales, excluding property, rights or interests mentioned in subsection (3), and
 - (b) rights in relation to the Welsh zone.
- (3) Where immediately before the transfer date part of the Crown Estate consists of property, rights or interests held by a limited partnership registered under the Limited Partnerships Act 1907, subsection (2)(a) excludes –
 - (a) the property, rights or interests, and

After Clause 49 - continued

- (b) any property, rights or interests in, or in a member of, a partner in the limited partnership.
- (4) Functions relating to rights within subsection (2)(b) are to be treated for the purposes of this Act as exercisable in or as regards Wales.
- (5) The property, rights and interests to which the existing Welsh functions relate must continue to be managed on behalf of the Crown.
- (6) That does not prevent the disposal of property, rights or interests for the purposes of that management.
- (7) Subsection (5) also applies to property, rights or interests acquired in the course of that management (except revenues to which section 1(1) of the Civil List Act 1952 applies or are to be paid into the Welsh Consolidated Fund).
- (8) The property, rights and interests to which subsection (5) applies must be maintained as an estate in land or as estates in land managed separately (with any proportion of cash or investments that seems to the person managing the estate to be required for the discharge of functions relating to its management).
- (9) The scheme may specify any property, rights or interests that appear to the Treasury to fall within subsection (2)(a) or (b), without prejudice to the functions transferred by the scheme.
- (10) The scheme must provide for the transfer to the transferee of designated rights and liabilities of the Commissioners in connection with the functions transferred.
- (11) The scheme must include provision to secure that the employment of any person in Crown employment (within the meaning of section 191 of the Employment Rights Act 1996) is not adversely affected by the transfer.
- (12) The scheme must include such provision as the Treasury consider necessary or expedient—
- (a) in the interests of defence or national security,
 - (b) in connection with access to land for the purposes of telecommunications, or with other matters falling within section C9 in Part 2 of Schedule 1,
 - (c) for securing that the management of property, rights or interests to which subsection (5) applies does not conflict with the exploitation of resources falling within section D2 in Part 2 of Schedule 1, or with other reserved matters in connection with their exploitation, and
 - (d) for securing consistency, in the interests of consumers, in the management of property, rights or interests to which subsection (5) applies and of property, rights or interests to which the Commissioners' functions other than the existing Welsh functions relate, so far as it affects the transmission or distribution of electricity or the provision or use of electricity interconnectors.
- (13) Any transfer by the scheme is subject to any provision under subsection (12).
- (14) The scheme may include—

After Clause 49 - continued

- (a) incidental, supplemental and transitional provision;
 - (b) consequential provision, including provision amending an enactment, instrument or other document;
 - (c) provision conferring or imposing a function on any person including any successor of the transferee;
 - (d) provision for the creation of new rights or liabilities in relation to the functions transferred.
- (15) On the transfer date, the existing Welsh functions and the designated rights and liabilities are transferred and vest in accordance with the scheme.
- (16) A certificate by the Treasury that anything specified in the certificate has vested in any person by virtue of the scheme is conclusive evidence for all purposes.
- (17) The Treasury may make a scheme under this section only with the agreement of the Welsh Ministers.
- (18) The power to make a scheme under this section is exercisable by statutory instrument, a draft of which has been laid before, and approved by resolution of, the National Assembly for Wales.
- (19) The power to amend the scheme is exercisable so as to provide for an amendment to have effect from the transfer date.
- (20) If an order amends a scheme and does not contain provision –
- (a) made by virtue of subsection (12) or (19) of that section, or
 - (b) adding to, replacing or omitting any part of the text of an Act,
- then, instead of subsection (18), the instrument containing the legislation shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (21) For the purposes of the exercise on and after the transfer date of functions transferred by the scheme under this section, the Crown Estate Act 1961 applies in relation to the transferee as it applied immediately before that date to the Crown Estate Commissioners, with the following modifications –
- (a) a reference to the Crown Estate is to be read as a reference to the property, rights and interests to which subsection (5) applies;
 - (b) the appropriate procedure for subordinate legislation is that no Minister of the Crown is to make the legislation unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament;
 - (c) a reference to the Treasury is to be read as a reference to the Welsh Ministers;
 - (d) a reference to the Comptroller and Auditor General is to be read as a reference to the Auditor General for Wales;
 - (e) a reference to Parliament or either House of Parliament is to be read as a reference to the National Assembly for Wales;
 - (f) the following do not apply –
 - (i) in section 1, subsections (1), (4) and (7);
 - (ii) in section 2, subsections (1) and (2) and, if the Welsh Ministers are the transferee, the words in subsection (3) from “in relation thereto” to the end;

After Clause 49 - continued

- (iii) in section 4, the words “with the consent of Her Majesty signified under the Royal Sign Manual”;
 - (iv) sections 5, 7 and 8 and Schedule 1.
- (22) Subsection (7) is subject to any provision made by Order in Council under subsection (9) or by any other enactment, including an enactment comprised in, or in an instrument made under, an Act of the National Assembly for Wales.
- (23) Her Majesty may by Order in Council make such provision as She considers appropriate for or in connection with the exercise by the transferee under the scheme this section (subject to subsections (5) to (8)) of functions transferred by the scheme, including provision taking effect on or before the transfer date.
- (24) An Order in Council under subsection (23) may in particular –
- (a) establish a body, including a body that may be nominated under that section as the transferee;
 - (b) amend, repeal, revoke or otherwise modify an enactment, an Act or Measure of the National Assembly for Wales, or an instrument made under an enactment or Act or Measure of the National Assembly for Wales.
- (25) The power to make an Order in Council under subsection (24) is exercisable by Welsh statutory instrument subject to the affirmative procedure.
- (26) That power is to be regarded as being exercisable within devolved competence before the transfer date for the purposes of making provision consequential on legislation of, or scrutinised by, the National Assembly for Wales.
- (27) In this section –
- “designated” means specified in or determined in accordance with the scheme;
 - “the transfer date” means a date specified by the scheme as the date on which the scheme is to have effect.”

Clause 51

LORD BOURNE OF ABERYSTWYTH

61 Page 42, line 40, leave out “Wales public” and insert “devolved Welsh”

Clause 56

LORD BOURNE OF ABERYSTWYTH

62 Page 47, line 1, leave out “Wales public authority” and insert “devolved Welsh authority within paragraph (a) or (b) of section 157A(1) that is”

Clause 60

LORD WIGLEY

63 Page 49, line 5, at beginning insert “Subject to subsection (2A),”

Clause 60 - continued

64 Page 49, line 5, after “such” insert “minor or”

LORD JUDGE
LORD WIGLEY

65 Page 49, line 7, at end insert –

“(2A) The Secretary of State may not make regulations under subsection (2) unless the National Assembly for Wales has passed a resolution approving a draft of the regulations.”

LORD WIGLEY

66 Page 49, line 8, after “may” insert “, to the extent that they implement minor or consequential changes,”

BARONESS MORGAN OF ELY

67 Page 49, line 20, 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 (6A) applies, a draft of the instrument, to the First Minister for Wales and the First Minister must lay it before the Assembly.”

LORD ELYSTAN-MORGAN

68 Page 49, line 21, leave out subsections (6) and (7) and insert –

“() A statutory instrument containing regulations under subsection (2) 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 for Wales or it is made at the request of each House of Parliament and the National Assembly for Wales.”

BARONESS MORGAN OF ELY

69 Page 49, line 24, at end insert –

“(6A) 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.”

70 Page 49, line 27, leave out from “Parliament” to end of line 28 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.”

Clause 60 - continued

LORD WIGLEY

71 Page 49, line 31, at end insert –

“() In this section “consequential” means provision that is deemed necessary to fulfil the objectives of the primary legislation or instrument to which it refers, to eliminate ambiguity, or to secure legislative consistency.”

BARONESS MORGAN OF ELY

72 Page 49, line 31, 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.”

After Clause 17

BARONESS MORGAN OF ELY

LORD WIGLEY

73 Insert the following new Clause –

“Lending for capital expenditure

In section 122A of the Government of Wales Act 2006 (lending for capital expenditure), in subsections (1) and (3), for “£500 million” substitute “£2 billion”.

LORD WIGLEY

74 Insert the following new Clause –

“Apprenticeship levy

In Part 4A of the Government of Wales Act 2006, after Chapter 4 insert –

“CHAPTER 5

Apprenticeship levy

“116O Apprenticeship levy

- (1) The Treasury must make separate provision in regulations made by statutory instrument for apprenticeship levy charged to a person in Wales with a pay bill.
- (2) The Treasury must consult the Assembly before setting a levy allowance or a relevant percentage applicable to persons in Wales.”

Clause 3

BARONESS MORGAN OF ELY

75 Page 2, line 31, after “7A)” insert “and is not ancillary to another provision (whether in the Act or another enactment) that does not relate to a reserved matter”

LORD WIGLEY

76 Page 2, line 36, leave out “subsection (2)(b) does” and insert “paragraphs (2)(b) and (2)(c) do”

77 Page 2, line 39, after “Parliament” insert “or devolved matter”

After Clause 3

LORD ELYSTAN-MORGAN

LORD WIGLEY

78 Insert the following new Clause—

“Working group to review reserved powers and functions

- (1) The Secretary of State for Wales shall, within three months of the day on which this Act is passed, set up a working party to report upon the operation of each and every power and function reserved to Parliament under Schedule 1 to this Act.
- (2) The working party established under subsection (1) shall, within three years of its establishment, report to the Secretary of State upon the operation of each and every power and function reserved under Schedule 1 to this Act, and make such representations as are appropriate as to whether the continued operation of such reservations is appropriate in the current context of devolution.
- (3) The Secretary of State shall publish the report and recommendations made under subsection (2).”

Schedule 1

BARONESS MORGAN OF ELY

79 Page 53, leave out lines 31 and 32

BARONESS RANDESON

LORD ROWE-BEDDOE

LORD WIGLEY

BARONESS FINLAY OF LLANDAFF

80 Page 56, line 6, at end insert—

“Rates of air passenger duty on the carriage of passengers on long haul flights beginning at a place in Wales (including different rates for different descriptions of long haul flights).

Interpretation

A flight is a “long haul flight” if—

- (a) it is the only flight, or the first flight, of a passenger’s journey;

Schedule 1 - continued

- (b) the passenger's journey does not end in a place in the United Kingdom or a territory specified in Part 1 of Schedule 5A to the Finance Act 1994; and
- (c) where the passenger's journey has more than one flight, it is—
 - (i) the first flight of the journey, and
 - (ii) not followed by a connected flight beginning at a place in the United Kingdom or a territory specified in Part 1 of Schedule 5A to the Finance Act 1994.

“Flight” in relation to a passenger means the passenger's carriage on an aircraft; and a passenger's flight is to be treated as beginning when the passenger first boards the aircraft and ending when the passenger finally disembarks from the aircraft.

“Carriage”, “passenger” and “connected” have the meaning given by Chapter 4 of Part 1 of the Finance Act 1994, and “journey” is to be construed in accordance with that Chapter.”

LORD THOMAS OF GRESFORD
BARONESS RANDERSON

81 Page 59, leave out lines 11 to 15

BARONESS FINLAY OF LLANDAFF
LORD WIGLEY

82 Page 60, leave out lines 30 to 32

LORD BOURNE OF ABERYSTWYTH

83 Page 61, 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).”

BARONESS MORGAN OF ELY
As an amendment to Amendment 83

84★ Leave out “£10” and insert “£2”

LORD WIGLEY

85 Page 66, leave out lines 11 to 29

BARONESS MORGAN OF ELY

86 Page 70, line 26, leave out “Reserved trust ports and”

87 Page 70, line 33, leave out “reserved trust ports or”

88 Page 71, line 3, leave out “that is not a reserved trust port”

Schedule 1 - continued

89 Page 71, leave out lines 10 and 11

LORD HAIN
BARONESS MORGAN OF ELY
LORD KINNOCK
LORD MURPHY OF TORFAEN

90 Page 76, 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 MORGAN OF ELY

91 Page 82, leave out line 25

LORD WIGLEY

92 Page 82, leave out line 29

BARONESS MORGAN OF ELY

93 Page 82, leave out lines 30 to 34

LORD BOURNE OF ABERYSTWYTH

94 Page 83, line 21, leave out “Wales public” and insert “devolved Welsh”

95 Page 83, line 26, leave out “Wales public” and insert “devolved Welsh”

96 Page 83, line 27, leave out “Wales public” and insert “devolved Welsh”

97 Page 83, line 29, leave out “Wales public” and insert “devolved Welsh”

98 Page 85, line 9, leave out “*Wales public*” and insert “*Devolved Welsh*”

99 Page 85, line 11, leave out “a public” and insert “an”

100 Page 85, line 22, leave out “Wales public” and insert “devolved Welsh”

101 Page 85, line 24, leave out “a “public authority” is” and insert ““authority” means”

102 Page 85, line 36, leave out “a public authority is a Wales public” and insert “an authority is a devolved Welsh”

103 Page 86, line 1, leave out “Wales public” and insert “devolved Welsh”

104 Page 86, line 20, leave out “Wales public” and insert “devolved Welsh”

Schedule 2

LORD BOURNE OF ABERYSTWYTH

- 105 Page 90, line 43, at end insert –
“() section 51;”
- 106 Page 92, line 35, leave out “Wales public” and insert “devolved Welsh”
- 107 Page 93, line 30, leave out “Wales public” and insert “devolved Welsh”

LORD WIGLEY

- 108 Page 95, line 14, at end insert –
“11A 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 2005,
does not apply where the provision of an Act of the Assembly relates to a Welsh language function.”

Clause 20

BARONESS MORGAN OF ELY

- 109 Page 20, line 5, at end insert –
“() After section 58B of that Act (inserted by section 19(1)) insert –
“58C **Transfer of functions within devolved competence**
(1) Functions conferred on a Minister of the Crown by virtue of any pre-commencement enactment or pre-commencement prerogative instrument, so far as they are exercisable within devolved competence by a Minister of the Crown, are to be exercisable by the Welsh Ministers instead of a Minister of the Crown.
(2) Provision for a Minister of the Crown to exercise a function with the agreement of, or after consultation with, any other Minister of the Crown ceases to have effect in relation to the exercise of the function by a member of the Welsh Government by virtue of subsection (1).
(3) In this section –
“pre-commencement enactment” means –
(a) an Act passed before or in the same session as the Wales Act 2016 and any other enactment made before the passing of that Act;
(b) an enactment made, before the commencement of this section, under such an Act or such other enactment;
“pre-commencement prerogative instrument” means a prerogative instrument made before or during the session in which the Wales Act 2016 was passed.””

Schedule 4

LORD BOURNE OF ABERYSTWYTH

- 110** Page 100, line 36, leave out “restrictions on time spent at sea—appeals” and insert “licensing of vessels receiving trans-shipped fish”
- 111** Page 100, line 39, leave out from “15(3)” to end of line 41 and insert “(order by Ministers as to powers of British sea-fishery officers for enforcement of the Act)”
- 112** Page 101, line 6, leave out from “section” to end of line 8 and insert “5(1) and (2)(a) (regulation of conduct of fishing operations)”
- 113** Page 105, line 37, leave out from beginning to end of line 14 on page 106 and insert—
- “(a) functions of a Minister of the Crown under the following provisions of the Sea Fish (Conservation) Act 1967—
 - (i) section 1(3), (4) and (6) (size limits for fish carried by fishing boat);
 - (ii) section 3(1), (3) and (4) (regulation of nets and other fishing gear);
 - (iii) section 5 (power to restrict fishing for sea fish);
 - (iv) section 15(3) (order by Ministers as to powers of British sea-fishery officers for enforcement of the Act);
 - (b) functions of a Minister of the Crown or the Marine Management Organisation under the following provisions of the Sea Fish (Conservation) Act 1967—
 - (i) section 4 (licensing of fishing boats);
 - (ii) section 4A (licensing of vessels receiving trans-shipped fish);
 - (c) functions of a Minister of the Crown under the following provisions of the Sea Fisheries Act 1968—
 - (i) section 5(1) and (2)(a) (regulation of conduct of fishing operations);
 - (ii) section 7(1)(g) and (2) (appointment of British sea-fishery officers);
 - (d) functions of a Minister of the Crown under the following provisions of the Fisheries Act 1981—
 - (i) section 15 (schemes of financial assistance);
 - (ii) section 16 (administration schemes by Sea Fish Industry Authority);
 - (e) functions of a Minister of the Crown under section 30(2) of the Fisheries Act 1981 (enforcement of Community rules).”
- 114** Page 106, line 15, leave out “that Act” and insert “the Sea Fish (Conservation) Act 1967”

Schedule 6

LORD BOURNE OF ABERYSTWYTH

- 115** Page 114, line 34, leave out “Wales public” and insert “devolved Welsh”

Schedule 6 - continued

- 116** Page 114, line 35, at end insert –
“10A In Schedule 3 (transfer etc of functions: further provision), in paragraph 3(2), for “section 58” substitute “section 58(1).”
- 117** Page 126, line 5, leave out “Welsh waters” and insert “generating stations in respect of which they are the appropriate authority”
- 118** Page 126, line 12, at end insert –
“(8B) The Welsh Ministers may by regulations make provision for applications in respect of which they are the appropriate authority to be determined by a person appointed by them for that purpose.”
- 119** Page 126, line 12, at end insert –
“45A In section 36C of the Electricity Act 1989 (variation of consents under section 36), after subsection (5) insert –
“(5A) Regulations may provide that, where the Welsh Ministers are the appropriate authority, applications under this section are to be determined by a person appointed by the Welsh Ministers for that purpose.”
- 120** Page 127, line 25, leave out “Wales public” and insert “devolved Welsh”
- 121** Page 127, line 27, leave out “Wales public” and insert “devolved Welsh”
- 122** Page 129, line 32, leave out “Wales public” and insert “devolved Welsh”
- 123** Page 132, line 10, leave out “Wales public” and insert “devolved Welsh”
- 124** Page 132, line 15, leave out “Wales public” and insert “devolved Welsh”
- 125** Page 134, line 12, leave out “Wales public” and insert “devolved Welsh”
- 126** Page 134, line 15, leave out “Wales public” and insert “devolved Welsh”
- 127** Page 134, line 18, leave out “Wales public” and insert “devolved Welsh”
- 128** Page 135, line 4, leave out “Wales public” and insert “devolved Welsh”
- 129** Page 135, line 11, leave out “Wales public” and insert “devolved Welsh”
- 130** Page 135, line 14, leave out “Wales public” and insert “devolved Welsh”
- 131** Page 135, line 19, leave out “Wales public” and insert “devolved Welsh”

Schedule 6 - continued

- 132 Page 135, line 29, leave out “Wales public” and insert “devolved Welsh”
- 133 Page 135, line 32, leave out “Wales public” and insert “devolved Welsh”
- 134 Page 135, line 37, leave out “Wales public” and insert “devolved Welsh”
- 135 Page 135, line 40, leave out “Wales public” and insert “devolved Welsh”

Schedule 7

LORD BOURNE OF ABERYSTWYTH

- 136 Page 137, line 15, after “Crown” insert “or other public authority”
- 137 Page 137, line 17, after “Crown” insert “or other public authority”
- 138 Page 137, line 22, after “Crown” insert “or other public authority”
- 139 Page 137, line 33, leave out ““Minister of the Crown” includes the Treasury” and insert ““public authority” means a body, office or holder of an office that has functions of a public nature”
- 140 Page 138, line 33, leave out sub-paragraph (1)
- 141 Page 139, line 3, leave out sub-paragraph (5)

Clause 62

LORD WIGLEY

- 142 Page 50, line 12, at beginning insert “subject to subsection (1A),”
- 143 Page 50, line 15, at end insert –
“(1A) Section 60(2) to (8) may not come into force until a motion has been passed by the National Assembly for Wales approving the coming into force of those provisions.”

BARONESS MORGAN OF ELY

- 144 Page 50, line 22, at end insert –
“() section (*Lending for capital expenditure*);”

LORD BOURNE OF ABERYSTWYTH

- 145 Page 50, line 24, at end insert –
“() section (*Water and sewerage*)(2);
() sections (*Water protocol*) and (*Reciprocal cross-border duties in relation to water*).”

Clause 62 - *continued*

LORD WIGLEY

146

Page 50, line 32, at end insert—

“ Before making regulations under this subsection, the Secretary of State must consult the Welsh Ministers and the Presiding Officer of the National Assembly for Wales.”

Wales Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

12 December 2016
