

Wales Bill

SECOND
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.**

After Clause 17

LORD BOURNE OF ABERYSTWYTH

72A 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 “£1,000 million”.

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”.

After Clause 17 - continued

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

LORD MORRIS OF ABERAVON

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

LORD BOURNE OF ABERYSTWYTH

- 78A** Page 52, line 30, at end insert –
- “2A(1) Paragraph 1 does not reserve property belonging –
- (a) to Her Majesty in right of the Crown,
 - (b) to Her Majesty in right of the Duchy of Lancaster, or
 - (c) to the Duchy of Cornwall.
- (2) Paragraph 1 does not reserve property belonging to any person acting on behalf of the Crown or held in trust for Her Majesty for the purposes of any person acting on behalf of the Crown.
- (3) Sub-paragraphs (1) and (2) do not affect the reservation by paragraph 1 of –
- (a) the hereditary revenues of the Crown,
 - (b) the royal arms and standard, or
 - (c) the compulsory acquisition of property –
 - (i) belonging to Her Majesty in right of Crown;
 - (ii) belonging to Her Majesty in right of the Duchy of Lancaster;
 - (iii) belonging to the Duchy of Cornwall;
 - (iv) held or used by a Minister of the Crown or government department.
- 2B(1) Paragraph 1 does not reserve property held by Her Majesty in Her private capacity.
- (2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the subject-matter of the Crown Private Estates Acts 1800 to 1873.”

- 78B** Page 53, leave out lines 26 to 39

BARONESS MORGAN OF ELY

- 79** Page 53, leave out lines 31 and 32

LORD ROWE-BEDDOE BARONESS RANDERSON 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;
- (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

Schedule 1 - continued

- (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

LORD BOURNE OF ABERYSTWYTH

- 81A Page 59, line 13, after “to” insert “4 and”

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

LORD BOURNE OF ABERYSTWYTH

- 85A Page 67, line 11, after “licensing” insert “and the regulation of works that may obstruct or endanger navigation,”

- 85B Page 67, line 24, at end insert –

“Marine licensing and the regulation of works that may obstruct or endanger navigation, so far as relating to searching or boring for or getting petroleum under such a licence.”

Schedule 1 - continued

85C Page 68, leave out lines 10 to 13

85D Page 68, line 13, at end insert –

“Exceptions

Heat and cooling networks, but not the regulation of them.

Schemes providing incentives to generate or produce, or to facilitate the generation or production of, heat or cooling from sources of energy other than fossil fuel or nuclear fuel.”

85E Page 68, leave out lines 18 to 21

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”

LORD BOURNE OF ABERYSTWYTH

87A Page 70, line 34, at end insert –

“The reference to maritime search and rescue does not reserve participation by Welsh fire and rescue authorities in maritime search and rescue responses.”

87B Page 70, leave out line 39

BARONESS MORGAN OF ELY

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

89 Page 71, leave out lines 10 and 11

LORD BOURNE OF ABERYSTWYTH

89A Page 72, line 25, at end insert –

“The deferral of payment due to a local authority from an individual in respect of costs of, or financial assistance for, meeting that or another individual’s needs for care or support.”

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.”

Schedule 1 - continued

LORD BOURNE OF ABERYSTWYTH

90A Page 81, line 25, at beginning insert “Services and facilities relating to adoption,”

90B Page 81, line 27, at end insert –
“Parental discipline.”

90C Page 82, leave out lines 3 to 13 and insert –
“M1 Registration of land
180 Registration of –
(a) estates, interests and charges in or over land, and
(b) associated actions, proceedings, writs and orders.
Exception
Fees for the registration of local land charges.”

BARONESS MORGAN OF ELY

91 Page 82, leave out line 25

LORD BOURNE OF ABERYSTWYTH

91A Page 82, line 25, after “railways” insert “other than railways that start, end and remain in Wales”

91B Page 82, leave out line 28

LORD WIGLEY

92 Page 82, leave out line 29

LORD BOURNE OF ABERYSTWYTH

92A Page 82, leave out line 29 and insert –
“185 Compensation in respect of –
(a) the interference with rights in land by exercise of a statutory power;
(b) depreciation in the value of land as a result of works or land provided or used in the exercise of a statutory power.”

BARONESS MORGAN OF ELY

93 Page 82, leave out lines 30 to 34

LORD BOURNE OF ABERYSTWYTH

93A Page 82, line 34, at end insert –
“but only in relation to specified Crown land and specified undertaker land.”

Schedule 1 - continued

- 93B** Page 83, line 12, at end insert—
 ““Specified Crown land” means land—
 (a) belonging to Her Majesty in right of the Crown;
 (b) belonging to Her Majesty in right of the Duchy of Lancaster;
 (c) belonging to the Duchy of Cornwall;
 (d) held or used by a Minister of the Crown or a government department.
 “Specified undertaker land” means land held or used by a statutory undertaker in the exercise of a statutory power that relates to a matter in paragraph 94, 95(f) and (g), 97, 115, 119 or 123.”
- 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”
- 104A** Page 86, line 41, leave out “paragraph 198” and insert “paragraphs 198 and 198A”
- 104B** Page 87, line 8, at end insert—
 “*Council tax precepts*
 198A This Schedule does not reserve council tax precepts.”

Schedule 2

LORD BOURNE OF ABERYSTWYTH

- 104C** Page 88, line 23, at end insert “but does include the compulsory acquisition of property”
- 104D** Page 89, line 23, at end insert –
- | | |
|------------------|--|
| “Energy Act 2008 | Section 100 and regulations under that section.” |
|------------------|--|
- 104E** Page 90, line 28, after “3(1)” insert “, (1B)”
- 104F** Page 90, line 29, leave out from “to” to “20” in line 30
- 105** Page 90, line 43, at end insert –
“() section 51;”
- 106** Page 92, line 35, leave out “Wales public” and insert “devolved Welsh”
- 106A** Page 93, line 20, at end insert –
“() Paragraph 8(1)(c) does not apply to a provision to which paragraph 8(1)(a) applies or would apply but for sub-paragraph (2) of this paragraph.”
- 106B** Page 93, line 27, at end insert –
“() Paragraph 8(1) does not apply in relation to the funding of police and crime commissioners through council tax precepts.”
- 107** Page 93, line 30, leave out “Wales public” and insert “devolved Welsh”
- 107A** Page 94, line 13, at end insert –
“() This paragraph does not apply in relation to the funding of police and crime commissioners through council tax precepts.”
- 107B** Page 94, line 27, after “under” insert “Chapter 1 of Part 3, or section 58, of”
- 107C** Page 94, line 28, leave out from “2009” to end of line 30

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

Schedule 2 - continued

(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 –

Schedule 4 - continued

- (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”

114A Page 106, leave out lines 39 to 42 and insert –
 “4 Functions specified in the table below are exercisable jointly with the Welsh Ministers.

Schedule 4 - continued

| <i>Act or instrument</i> | <i>Functions</i> |
|---|--|
| Crime and Disorder Act 1998 | Functions of the Secretary of State under section 6 in relation to strategies for combatting crime and disorder or re-offending in areas in Wales. |
| Marine and Coastal Access Act 2009 | Functions of the Secretary of State under sections 45, 46 and 47 (preparation, review and amendment of marine policy statement) in relation to a marine policy statement prepared by the Secretary of State and the Welsh Ministers acting jointly (or by the Secretary of State, the Welsh Ministers and one or more other authorities acting jointly). |
| | Functions of the Secretary of State under Schedule 5 (preparation or amendment of marine policy statement) that are exercisable jointly with the Welsh Ministers by virtue of paragraph 2(2)(b) of that Schedule. |
| | Functions of the Secretary of State under subsection (6) of section 70 (inquiries) that are exercisable jointly with the Welsh Ministers by virtue of subsection (7) of that section. |
| Marine Strategy Regulations 2010 (S.I. 2010/1627) | Functions of the Secretary of State under regulation 19 (directions to, and assistance from, public authorities) that are exercisable jointly with the Welsh Ministers by virtue of paragraph (5) of that regulation. |
| | Functions of the Secretary of State under regulation 20 (guidance) that are exercisable jointly with the Welsh Ministers by virtue of paragraph (5) of that regulation.” |

Schedule 6

LORD BOURNE OF ABERYSTWYTH

114B Page 114, line 26, at end insert –

“8A In section 158 (interpretation), in subsection (1), at the appropriate place insert –

““property” includes rights and interests of any description,””

114C Page 114, line 32, at end insert –

“property | section 158(1)”

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

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)”.”

Schedule 6 - continued

- 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”
- 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”

Schedule 6 - continued

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.”

LORD HAIN

LORD KINNOCK

LORD MURPHY OF TORFAEN

143A Page 50, line 15, at end insert –

“(1A) Subsections (2) to (7) are subject to subsection (1B).

(1B) Aside from this subsection and the provisions mentioned in subsection (1), the provisions of this Act may not come into force until the Secretary of State has laid before each House of Parliament an impact assessment setting out how the agreement between the Welsh Government and the United Kingdom Government on the Welsh Government’s fiscal framework will affect differential tax receipts in Wales.”

Clause 62 - continued

LORD BOURNE OF ABERYSTWYTH

- 143B** Page 50, line 22, leave out “section 17” and insert “sections 17 and (*Lending for capital expenditure*)”

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*).”

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

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

6 January 2017
