
DRAFT STATUTORY INSTRUMENTS

2009 No.

CONSTITUTIONAL LAW

DEVOLUTION, WALES

**The National Assembly for Wales (Legislative Competence)
(Social Welfare) Order 2009**

Made - - - - *****

Coming into force in accordance with Article 1

At the Court at Buckingham Palace, the *** day *** of *** 2009

Present

The Queen's Most Excellent Majesty in Council

In accordance with section 95(5) of the Government of Wales Act 2006(a), a draft of this order has been laid before, and approved by resolution of, the National Assembly for Wales and each House of Parliament.

Accordingly, Her Majesty, in pursuance of sections 95(1) and (3) of the Government of Wales Act 2006, is pleased, by and with the advice of Her Privy Council, to order as follows:-

Citation and commencement

1. This Order may be cited as the National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 and it comes into force on the day after the day on which it is made.

Amendments to Part 1 of Schedule 5 to the Government of Wales Act 2006

2.—(1) Field 15 (social welfare) of Part 1 of Schedule 5 to the Government of Wales Act 2006 is amended in accordance with this article.

(2) After matter 15.8 insert—

(a) 2006 c.32.

“Matter 15.9

Supporting the provision of care by carers and promoting the well-being of carers.

This matter includes, in particular, social care services to help carers.

In this matter “carers” means individuals who provide or intend to provide a substantial amount of care on a regular basis for—

- (a) a child with a physical or mental impairment, or
- (b) an individual aged 18 or over,

but it does not include individuals who provide or intend to provide care—

- (a) by virtue of a contract of employment or other contract with any person, or
- (b) as a volunteer for any body (whether or not incorporated).”.

(3) Under the heading *“Interpretation of this field”*, in the definition of “social care services”, after “non-residential social care services;” insert “information,”.

Exceptions to matters in Part 1 of Schedule 5 to the 2006 Act

3.—(1) Section 94 of the 2006 Act is amended in accordance with paragraphs (2) to (4).

(2) In subsection (4)(a), after “Schedule 5” insert “and does not fall within any of the exceptions specified in paragraph A1 of Part 2 of that Schedule (whether or not the exception is under a heading corresponding to the field which includes the matter)”.

(3) In subsection (6)(a), after “restrictions in” insert “paragraphs 1 to 6 of”.

(4) In subsection (7), after “Schedule 5” insert “(or falls within any of the exceptions specified in paragraph A1 of Part 2 of that Schedule)”.

(5) In section 101(1)(a), after “Schedule 5” insert “(or falls within any of the exceptions specified in paragraph A1 of Part 2 of that Schedule)”.

(6) Schedule 5 to the 2006 Act is amended in accordance with paragraphs (7) to (12).

(7) In Part 1 of Schedule 5—

- (a) in matter 10.1 omit the words from “This does not include” to the end of that matter;
- (b) omit the words and tables from “EXCEPTIONS TO MATTERS” to the end of that part.

(8) For the heading of Part 2 of Schedule 5 substitute “EXCEPTIONS TO MATTERS AND GENERAL RESTRICTIONS”

(9) After the heading of Part 2 of Schedule 5 insert—

“Exceptions to matters

A1 These are the exceptions mentioned in section 94(4)(a) and (7)—

Highways and transport (field 10 of Part 1)

- (1) Registration of local bus services, and the application and enforcement of traffic regulation conditions in relation to those services.
- (2) Regulation of the use of motor vehicles on roads, their construction and equipment and conditions under which they may be so used.
- (3) Road traffic offences.
- (4) Driver licensing.
- (5) Driving instruction.

- (6) Insurance of motor vehicles.
- (7) Drivers' hours.
- (8) Traffic regulation on special roads, pedestrian crossings, traffic signs (apart from the placing and maintenance of traffic signs within the meaning of section 177 of the Transport Act 2000 for the purposes of matter 10.1) and speed limits.
- (9) Public service vehicle operator licensing.
- (10) Provision and regulation of railway services, apart from financial assistance which—
 - (a) does not relate to the carriage of goods,
 - (b) is not made in connection with a railway administration order, and
 - (c) is not made in connection with Council Regulation (EEC) 1191/69 as amended by Council Regulation (EEC) No. 1893/91 on public service obligations in transport.
- (11) Transport security.
- (12) Shipping, apart from financial assistance for shipping services to, from or within Wales.
- (13) Navigational rights and freedoms, apart from regulation of works which may obstruct or endanger navigation.
- (14) Technical and safety standards of vessels.
- (15) Harbours, docks, piers and boatslips, apart from those used or required wholly or mainly for communications between places in Wales.

Social welfare (field 15 of Part 1)

- (1) Child support.
- (2) Child trust funds, apart from subscriptions to such funds by—
 - (a) a county council or county borough council in Wales, or
 - (b) the Welsh Ministers.
- (3) Tax credits.
- (4) Child benefit and guardian's allowance.
- (5) Social security.
- (6) Independent living funds.
- (7) Motability.
- (8) Vaccine damage payments.
- (9) Intercountry adoption, apart from adoption agencies and their functions, and functions of the "Central Authority" under the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption.
- (10) The Children's Commissioner established under the Children Act 2004.
- (11) Family law and proceedings apart from—
 - (a) welfare advice to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families, and
 - (b) Welsh family proceedings officers.

(12) Welfare foods.

General restrictions”

(10) For the heading of Part 3 of Schedule 5 substitute “EXCEPTIONS FROM GENERAL RESTRICTIONS IN PART 2”.

(11) After the heading of Part 3 of Schedule 5, insert—

“Interpretation

6Z In this Part “general restrictions in Part 2” means paragraphs 1 to 6 of Part 2.”

(12) In Part 3 of Schedule 5, for “Part 2 does not” (in each place) substitute “The general restrictions in Part 2 do not”.

Name

Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 5 to the Government of Wales Act 2006 (“the 2006 Act”) and other provisions of the 2006 Act relating to the legislative competence of the National Assembly for Wales. The Order extends the legislative competence of the National Assembly for Wales to make laws known as Measures of the National Assembly for Wales (referred to in the 2006 Act as “Assembly Measures”). The legislative competence conferred by this Order is subject to general limitations on the exercise of that legislative competence, which apply by virtue of section 94 of, and Schedule 5 to, the 2006 Act (as amended by this Order).

Article 2 inserts matter 15.9 into field 15 (social welfare) of Part 1 of Schedule 5 to the 2006 Act. The matter is about supporting the provision of care by carers and promoting the well-being of carers.

Article 3 amends section 94 of the 2006 Act and Part 2 of Schedule 5 to that Act to make provision for exceptions that apply to all matters in Part 1 of Schedule 5. It also makes consequential amendments to Part 3 of Schedule 5 and other provisions of the 2006 Act.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.