

# National Assembly for Wales

## Legislative powers of the National Assembly for Wales

July 2011

The National Assembly for Wales can pass laws, known as “Assembly Acts”, in areas where it has the legislative powers to do so. These powers are specified in the 20 Subjects of Schedule 7 to the *Government of Wales Act 2006*.

The purpose of this paper is to provide a detailed overview of those powers along with an outline of the exceptions and general restrictions which apply to the National Assembly’s powers.

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# **National Assembly for Wales**

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July 2011

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# Legislative powers of the National Assembly for Wales

## 1. Introduction

Under Part 4 of the *Government of Wales Act 2006*<sup>1</sup> (“the 2006 Act”), the National Assembly can pass laws, known as “Assembly Acts” (or “Assembly Bills” in their proposed form), in areas where it has legislative powers. These powers are specified in the 20 Subjects of Schedule 7 to the 2006 Act.

The purpose of this paper is to provide a detailed overview of those legislative powers along with an outline of the exceptions and general restrictions which apply to the National Assembly’s powers.<sup>2</sup>

## 2. The legislative powers of the National Assembly under Part 4 of the Government of Wales Act 2006

Included below are individual tables for each of the 20 Subjects included in Part 1 of Schedule 7 to the 2006 Act along with the exceptions that apply. Although the exceptions included are listed by each subject area, they apply across all of the 20 Subjects.

If a policy area is not specified within one or more of the Subjects listed (or if it is clearly specified as an exception or a restriction to the National Assembly’s powers), the National Assembly cannot legislate in relation to it.

The Subjects within Schedule 7 to the 2006 Act can however be amended at a later date by an Order in Council. Such an Order could in effect change the National Assembly’s legislative powers by:

- adding new Subjects;
- expanding or clarifying existing Subjects; or
- removing existing exceptions.

Such an Order in Council would have to be laid before and approved by the National Assembly and both Houses of the UK Parliament.

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<sup>1</sup> [Government of Wales Act 2006 \(c.32\)](#)

<sup>2</sup> A glossary of the terms used in this paper is available in the [Research Service Quick Guide: A glossary](#).

## 2.1. *Agriculture, Forestry, Animals, Plants and Rural Development*

### **Legislative powers**

---

Agriculture;

Horticulture;

Forestry;

Fisheries and Fishing;

Animal health and welfare;

Plant varieties and seeds; and

Rural development.

---

### **Exceptions**

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Hunting with dogs;

Regulation of scientific or other experimental procedures on animals;

Import and export control and regulation of movement, of animals, plants and other things **apart** from the movement into and out of, and within, Wales of:

- Animals, animal products, plants, plant products and other things related to them for the purposes of protecting human, animal or plant health, animal welfare or the environment or observing or implementing obligations under the Common Agricultural Policy.
- Animal feedstuff, fertilisers and pesticides for the purposes of protecting human, animal or plant health or the environment.

Authorisation of veterinary medicines and medicinal products.



## 2.2. *Ancient Monuments and Historic Buildings*

### **Legislative powers**

---

Archaeological remains;

Ancient monuments;

Buildings and places of historical or architectural interest; and

Historic wrecks.

---

### **Exceptions**

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None

## 2.3. *Culture*

### **Legislative powers**

---

Arts and crafts;

Museums and galleries;

Libraries;

Archives and historical records; and

Cultural activities and projects.

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### **Exceptions**

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Public lending right;

Broadcasting;

Classification of films and video recordings;

Government indemnities for objects on loan; and

Payments to Her Majesty's Revenue and Customs in respect of property accepted in satisfaction of tax, **apart** from property in which there is a Welsh national interest.

## 2.4. *Economic Development*

### Legislative powers

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Economic regeneration and development; and  
Promotion of business and competitiveness.

---

### Exceptions

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Fiscal, economic and monetary policy and regulation of international trade;  
Regulation of anti-competitive practices and agreements, abuse of dominant position and monopolies and mergers;  
Intellectual property, **apart** from plant varieties;  
Creation, operation, regulation and dissolution of types of business association;  
Insolvency;  
Product standards, safety and liability, **apart** from in relation to food, agricultural and horticultural products, animals and animal products, seeds, fertilisers and pesticides;  
Consumer protection, including the sale and supply of goods to consumers, consumer guarantees, hire purchase, trade descriptions, advertising and price indications, **apart** from in relation to food, agricultural and horticultural products, seeds, fertilisers and pesticides;  
Financial Services, including investment business, banking and deposit-taking, collective investment schemes and insurance;  
Occupational and personal pension schemes (including schemes which make provision for compensation for loss of office or employment, compensation for loss or diminution of emoluments, or benefits in respect of death or incapacity resulting from injury or disease), **apart** from schemes for or in respect of Assembly members, the First Minister, Welsh Ministers appointed under section 48 (of the 2006 Act), the Counsel General or Deputy Welsh Ministers and schemes for or in respect of members of local authorities.  
Financial markets, including listing and public offers of securities and investments, transfers of securities, insider dealing and money laundering;  
Telecommunications, wireless telegraphy, internet services and electronic encryption;

Postal services, post offices and the Post Office, **apart** from financial assistance for the provision of services to be provided from public post offices;

Generation, transmission, distribution and supply of electricity, **apart** from pollution;

Energy conservation, **apart** from the encouragement of energy efficiency otherwise than by prohibition or regulation;

Coal, including mining and subsidence, **apart** from land restoration and other environmental matters;

Oil and gas, **apart** from pollution;

Nuclear energy and nuclear installations including nuclear safety and liability for nuclear occurrences, but not including disposal of very low level radioactive waste moved from a site requiring a nuclear site licence;

Units and standards of weight and measurement and the regulation of trade so far as involving weighing, measuring and quantities; and

The Industrial Development Advisory Board.

## 2.5. *Education and Training*

### **Legislative powers**

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Education;

Vocational, social and physical training;

The Careers Service; and

Promotion of advancement and application of knowledge.

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### **Exceptions**

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Research councils

## 2.6. *Environment*

### **Legislative powers**

---

Environmental protection, including pollution, nuisances and hazardous substances;

Prevention, reduction, collection, management, treatment and disposal of waste;

Land drainage and land improvement;

Countryside and open spaces (including the designation and regulation of national parks and areas of outstanding natural beauty);

Nature conservation and sites of special scientific interest;

Protection of natural habitats, coast and marine environment (including seabed);

Biodiversity;

Genetically modified organisms;

Smallholdings and allotments;

Common land;

Town and village greens; and

Burial and cremation, except coroner's functions.

---

### **Exceptions**

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None

## 2.7. *Fire and Rescue Services and Fire Safety*

### **Legislative powers**

---

Fire and rescue services;

Provision of automatic fire suppression systems in newly constructed and newly converted residential premises; and

Promotion of fire safety otherwise than by prohibition or regulation.

---

### **Exceptions**

---

None

## 2.8. *Food*

### **Legislative powers**

---

Food and food products;

Food safety (including packaging and other materials which come into contact with food); and

Protection of interests of consumers in relation to food.

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### **Exceptions**

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None



## 2.9. *Health and Health Services*

### **Legislative powers**

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Promotion of health;

Prevention, treatment and alleviation of disease, illness, injury, disability and mental disorder;

Control of disease;

Family planning;

Provision of health services including medical, dental, ophthalmic, pharmaceutical and ancillary services and facilities;

Clinical governance and standards of healthcare; and

Organisation and funding of national health service.

---

### **Exceptions**

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Abortion;

Human genetics, human fertilisation, human embryology, surrogacy arrangements;

Xenotransplantation;

Regulation of health professionals (including persons dispensing hearing aids);

Poisons;

Misuse of and dealing in drugs;

Human medicines and medicinal products, including authorisations for use and regulation of prices;

Standards for, and testing of, biological substances;

Vaccine damage payments;

Welfare foods;

Health and Safety Executive and Employment Medical Advisory Service and provision made by health and safety regulations.

## 2.10. Highways and Transport

### Legislative powers

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Highways, including bridges and tunnels;  
Streetworks;  
Traffic management and regulation; and  
Transport facilities and services.

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### Exceptions

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Registration of local bus services, and the application and enforcement of traffic regulation conditions in relation to those services;  
Road freight transport services, including goods vehicles operating licensing;  
Regulation of the construction and equipment of motor vehicles and trailers, and regulation of the use of motor vehicles and trailers on roads, **apart** from any such regulation which relates to schemes for imposing charges in respect of the use or keeping of vehicles on Welsh trunk roads; or relates to the descriptions of motor vehicles and trailers which may be used under arrangements for persons to travel to and from the places where they receive education or training;  
Regulation of the use of motor vehicles and trailers carrying animals for the purpose of protecting human, animal or plant health, animal welfare of the environment;  
Road traffic offences;  
Driver licensing;  
Driver instruction;  
Insurance of motor vehicles;  
Drivers' hours;  
Traffic regulation on special roads, **apart** from regulation relating to trunk road charging schemes;  
Pedestrian crossings;  
Traffic signs, **apart** from the placing and maintenance of traffic signs relating to trunk road charging schemes;

Speed limits;

International road transport services for passengers;

Public service vehicle operator licensing;

Documents relating to vehicles and drivers for purpose of travel abroad and vehicles brought temporarily into Wales by persons resident outside the UK;

Vehicle excise duty and registration;

Provision and regulation of railway services, **apart** from financial assistance which does not relate to the carriage of goods, is not made in connection with a railway administration order, and is not made in connection with Council Regulation (EEC) No.1893/91 on public service obligation in transport;

Transport security **apart** from regulation relating to the carriage of adults who supervise persons travelling to and from places where they receive education or training;

Railway heritage;

Aviation, air transport and aerodromes, **apart** from financial assistance, strategies by Welsh Ministers and/or local authorities, and regulation of use of aircraft carrying animals for the purposes of protecting human, animal, or plant health, animal welfare or the environment;

Shipping, **apart** from, financial assistance and regulation of use of vessels carrying animals for purpose of protecting human, animal or plant health, animal welfare or the environment;

Navigational rights and freedoms, **apart** from regulation of works which may obstruct or endanger navigation;

Technical and safety standards of vessels;

Harbours, docks, piers and boatslips, **apart** from those used or required wholly or mainly for the fishing industry, for recreation, or for communication between places in Wales (or for two or more of those purposes), and the regulation for the purposes of protecting human, animal, or plant health, animal welfare or the environment;

Carriage of dangerous goods (including transport of radioactive materials);  
and

Technical specifications for fuel for use in internal combustion engines.

## 2.11. Housing

### **Legislative powers**

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Housing;

Housing finance except schemes supported from central or local funds which provide assistance for social security purposes to or in respect of individuals by way of benefits;

Encouragement of home energy efficiency and conservation;

Regulation of rent;

Homelessness; and

Residential caravans and mobile homes.

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### **Exceptions**

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None

## 2.12. Local Government

### Legislative powers

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Constitution, structure and areas of local authorities;  
Electoral arrangements for local authorities;  
Powers and duties of local authorities and their members and officers; and  
Local government finance.

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### Exceptions

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Local government franchise;  
Electoral registration and administration;  
Registration of births, marriages, civil partnerships and deaths;  
Licensing of sale and supply of alcohol, provision of entertainment and late night refreshment;  
Anti-social behaviour orders;  
Local land charges, **apart** from fees;  
Sunday trading; and  
Provision of advice and assistance overseas by local authorities in connection with carrying on there of local government activities.

## 2.13. *National Assembly for Wales*

### **Legislative powers**

---

Complaints about Assembly Members;

Assembly Commission;

Salaries, allowances, pensions and gratuities for and in respect of Assembly members, the First Minister, Welsh Ministers, the Counsel General and Deputy Welsh Ministers;

Register of interests of Assembly members and the Counsel General;

Meaning of Welsh words and phrases in Assembly Measures and Acts of the Assembly, in subordinate legislation made under Assembly Measures and Acts of the Assembly and in other subordinate legislation if made by the Welsh Ministers, the First Minister or Counsel General;

Private legislation in the Assembly;

Financial assistance for political groups to which Assembly members belong;

The Welsh Seal;

Arrangements for the printing of Acts of the Assembly, of subordinate legislation made under Assembly Measures and Acts of the Assembly and of other subordinate legislation if made by the Welsh Ministers, the First Minister or the Counsel General.

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### **Exceptions**

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None

## 2.14. *Public Administration*

### **Legislative powers**

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Public Service Ombudsman for Wales;

Audit, examination, regulation and inspection of auditable public authorities;

Inquiries, in respect of matters in relation to which the Welsh Ministers, the First Minister or the Counsel General exercise functions;

Equal opportunities in relation to equal opportunity public authorities; and

Access to information held by open access public authorities.

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### **Exceptions**

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Regulation of the profession of the auditor.

## 2.15. *Social Welfare*

### **Legislative powers**

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Social welfare including social services;

Protection and well-being of children (including adoption and fostering of young adults);

Care of children, young adults, vulnerable persons and older persons, including care standards;

Badges for display on motor vehicles used by disabled persons.

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### **Exceptions**

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Child support;

Child trust funds, **apart** from subscriptions to such funds by a county council of county borough council in Wales, or the Welsh Ministers;

Tax credits;

Child benefits and guardian's allowances;

Social Security;

Independent Living Funds;

Motability;

Intercountry adoption, **apart** from adoption agencies and their functions, and function of "the Central Authority";

The Children's Commissioner; and

Family law and proceedings, **apart** from welfare advice to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families, and Welsh family proceedings officers.



## *2.16. Sport and Recreation*

### **Legislative powers**

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Sport and recreational facilities.

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### **Exceptions**

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Betting, gaming and lotteries.

## 2.17. *Tourism*

### **Legislative powers**

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Tourism

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### **Exceptions**

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None

## 2.18. *Town and Country Planning*

### **Legislative Powers**

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Town and country planning, including listed buildings and conservation areas;

Caravan sites;

Spatial planning;

Mineral workings;

Urban development;

New towns; and

Protection of visual amenity.

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### **Exceptions**

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Functions of the Infrastructure Planning Commission or any of its members under the *Planning Act 2008(a)*.<sup>3</sup>

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<sup>3</sup> Planning Act 2008

## 2.19. *Water and Flood Defence*

### Legislative Power

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Water supply;

Water resources management (including reservoirs), water quality and representation of consumers of water and sewerage services; and

Flood risk management and coastal protection.

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### Exceptions

---

Appointment and regulation of any water undertaker whose area is not wholly or mainly in Wales; and

Licensing and regulation of any licensed water supplier within the meaning of the *Water Industry Act 1991*,<sup>4</sup> **apart** from regulation in relation to licensed activities using the supply system of a water undertaker whose area is wholly or mainly in Wales.

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<sup>4</sup> [Water Industry Act 1991 \(c. 56\)](#)

## 2.20. *Welsh Language*

### **Legislative powers**

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Welsh Language

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### **Exceptions**

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Use of the Welsh language in the courts.

### 3. General restrictions to the National Assembly's powers

In addition to the exceptions included under the 20 Subjects, Parts 2 and 3 of Schedule 7 to the 2006 Act outline further restrictions to the legislative powers of the National Assembly. These sections of the 2006 Act state that Assembly Acts:

- must apply only in relation to Wales;
- must not modify continuing functions of UK Ministers in devolved subject areas (or create new ones) unless the relevant Secretary of State consents;
- must not amend some 'constitutional' Acts of Parliament (e.g. Human Rights Act 1998, Freedom of Information Act 2000 etc.); and
- must be compatible with the European Convention on Human Rights and European Union law.

An Assembly Act which relates to any of the above conditions would not be within the scope of the National Assembly's legislative powers.

The 2006 Act also allows a Secretary of State to veto, by Order, an Assembly Act at any time during the four week period after the Act has been passed by the National Assembly if he or she has reasonable grounds to believe that an Act falls into one or more of the following categories:

- it would have an adverse effect on any matter not listed under the 20 Subjects of Schedule 7 (or falls within any of the exceptions listed under that Schedule);
- it might have a serious adverse impact on water resources, water supply or quality of water in England;
- it would have an adverse effect on the operation of the law as it applies in England; or
- it would be incompatible with any international obligations or the interests of defence or national security.

Such an Order would have to identify the Act in question and state reasons for the intervention. The Order would then be subject to the negative procedure in the UK Parliament (i.e. it would come into effect unless a motion annulling the Order was tabled and carried). It would not be subject to any procedural control in the National Assembly.

