Draft Order laid before Parliament under section 95(5)(b) of the Government of Wales Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

CONSTITUTIONAL LAW
DEVOLUTION, WALES

The National Assembly for Wales (Legislative Competence) (Welsh Language) 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(**1**), 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 section 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.—(1) This Order may be cited as the National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2009.

(2) This Order shall come into force on the day after the day on which it is made.

(3) In this Order "the 2006 Act" means the Government of Wales Act 2006.

Amendments to the Government of Wales Act 2006

2.—(1) Section 94 of the 2006 Act is modified in accordance with this article.

(**1**) 2006 c.32.

(2) Paragraph (b) of subsection (6) does not prevent the repeal of any provision of the Welsh Language Act 1993(**2**) from having the same extent as the repealed provision.

3.—(1) Part 1 of Schedule 5 to the 2006 Act is amended in accordance with this article.

(2) In field 20 (Welsh language), insert—

"Matter 20.1

Promoting or facilitating the use of the Welsh language; and the treatment of the Welsh and English languages on the basis of equality.

This matter does not include the use of the Welsh language in courts.

This matter does not include imposing duties on persons other than the following—

(a) public authorities;

(b) persons providing services to the public under an agreement, or in accordance with arrangements, made with a public authority;

(c) persons providing services to the public established by an enactment;

(d) persons established by prerogative instrument—

(i) to advance learning and knowledge by teaching or research or by developing or awarding qualifications;

(ii) to collect, preserve or provide access to recorded knowledge or to objects and things which further understanding;

(iii) to support, improve, promote or provide access to heritage, culture, sport or recreational activities;

(iv) engaged in promoting a wider knowledge and representing the interests of Wales to other countries;

(v) engaged in central banking;

(e) persons upon whom functions of providing services to the public are conferred or imposed by an enactment;

(f) persons providing services to the public who receive public money amounting to £400,000 or more in a financial year;

(g) persons overseeing the regulation of a profession, industry or other similar sphere of activity;

(h) providers of social housing;

(i) persons providing the public with the following kinds of services or with other services which relate to any of those services—

(i) gas, water or electricity services (including supply or distribution);

(ii) sewerage services (including disposal of sewage);

(iii) postal services and post offices;

(iv) telecommunications services;

(v) education, training (where the provider receives public money for its provision), or career guidance, and services to encourage, enable or assist participation in education, training or career guidance;

(vi) bus and railway services;

(vii) services to develop or award educational or vocational qualifications;

(**2**) 1993 c.38

(j) persons opting or agreeing to be subject to the imposition of the duties.

With regard to imposing duties in relation to paragraph (b), this matter only includes duties in respect of services to the public provided under an agreement, or in accordance with arrangements, made with a public authority.

A person who receives public money amounting to £400,000 or more in a financial year does not fall within paragraph (f) unless—

(a) that person also received public money in a previous financial year, or

(b) a decision has been made that that person will receive public money in a subsequent financial year.

With regard to imposing duties in relation to paragraph (i)—

(a) this matter only includes duties in respect of the services and the other related services mentioned, and

(b) in respect of the related services, this matter does not include the provision of related services in a shop, other than post office counter services and the sale of tickets or provision of timetables for bus and railway services.

This matter does not include imposing duties about broadcasting.

This matter does not include imposing duties on a person (other than on a Welsh language authority) unless there is a means for that person to challenge those duties, as they apply to that person, on grounds of reasonableness and proportionality.

Matter 20.2

Provision about or in connection with the freedom of persons wishing to use the Welsh language to do so with one another (including any limitations upon it).

Interpretation of this field

In this field—

"broadcasting" means the commissioning, production, scheduling, transmission or distribution of programmes (including advertisements, subtitles, continuity announcements and teletext), access services, interactivity, online content and other output of a similar nature for television, radio, the internet or other online or wireless platforms;

"bus service" means a scheduled service, by public service vehicle (within the meaning of section 1 of the Public Passenger Vehicles Act 1981(**3**)), for the carriage of passengers at separate fares, other than a service—

(a) for which the whole capacity of the vehicle has been purchased by a charterer for the charterer's own use or for resale;

(b) which is a journey or trip organised privately by any person acting independently of the vehicle operator; or

(c) on which the passengers travel together on a journey, with or without breaks and whether or not on the same day, from one or more places to one or more places and back;

"enactment" includes any future enactment;

"shop" means any premises where the sale of goods is the principal trade or business carried on;

"postal services" means the service of conveying letters, parcels, packets or other articles from one place to another by post and the incidental services of receiving, collecting, sorting and delivering such articles;

(**3**) 1981 c.14