

MEMORANDWM ODDI WRTH Y GWEINIDOG DROS DAI

Y GYFRAITH GYFANSODDIADOL: DATGANOLI, CYMRU

Gorchymyn Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol) (Rhif 5) 2008

Cynnig ar gyfer Tai Fforddiadwy - Gorchymyn Cymhwysedd Deddfwriaethol

Rhagarweiniad

1. Mae'r Memorandwm hwn wedi'i baratoi a'i osod gerbron yn unol â Rheol Sefydlog (RhS) 22.14. Mae'n gosod y cefndir i'r darpariaethau yn y cynnig amgaeedig gan y llywodraeth am Orchymyn Cymhwysedd Deddfwriaethol (GCD) a fyddai'n rhoi cymhwysedd deddfwriaethol ychwanegol i Gynulliad Cenedlaethol Cymru ("y Cynulliad"). Mae'r GCD wedi'i osod yn unol â RhS 22.13 ac mae'r Memorandwm hwn yn esbonio cwmpas y pwerau a geisir drwy'r GCD.
2. Ceir cyd-destun cyfansoddiadol y cais hwn yn Neddf Llywodraeth Cymru 2006 ("Deddf 2006") a pholisi Llywodraeth y DU. Yn ei Phapur Gwyn "Trefn Lywodraethu Well i Gymru", a gyhoeddwyd ym mis Mehefin 2005, nododd Llywodraeth y DU ei hymrwymiad i wella pwerau deddfwriaethol y Cynulliad fel sefydliad a etholwyd yn ddemocrataidd gyda'i weithdrefnau craffu manwl ei hun.
3. Mae adran 95 o Ddeddf 2006 yn rhoi pŵer i'w Mawrhydi, drwy Orchymyn yn y Cyfrin Gyngor, i roi cymhwysedd i'r Cynulliad i ddeddfu drwy Fesur Cynulliad ar Faterion penodedig. Caniateir i'r materion hyn gael eu hychwanegu at y Meysydd o fewn Atodlen 5 i Ddeddf 2006. Caiff Mesurau Cynulliad wneud unrhyw ddarpariaeth y gellid ei gwneud drwy Ddeddf Seneddol (ac felly gallant addasu deddfwriaeth sy'n bodoli eisoes a gwneud darpariaeth newydd), o ran materion, yn ddarostyngedig i'r terfynau y darperir ar eu cyfer yn Rhan 3 o Ddeddf 2006. Cyfeirir at Orchymyn yn y Cyfrin Gyngor o dan adran 95 o Ddeddf 2006 fel Gorchymyn Cymhwysedd Deddfwriaethol (GCD) yn y Memorandwm hwn.
4. Caniateir i faterion gael eu mewnosod yn y meysydd a gynhwysir yn Atodlen 5 i Ddeddf 2006, naill ai drwy Ddeddf Seneddol neu Orchymyn Cymhwysedd Deddfwriaethol, a gymeradwywyd gan y Cynulliad a dau Dŷ'r Senedd. Mae'r ail lwybr yn galluogi'r Cynulliad i gychwyn y broses ar gyfer rhoi cymhwysedd o'r fath, drwy Orchymyn Cymhwysedd Deddfwriaethol.
5. Byddai'r GCD a gynigir yn rhoi cymhwysedd deddfwriaethol ychwanegol i'r Cynulliad, ym maes Tai (Maes 11 o fewn Atodlen 5 i Ddeddf 2006). Yn gysylltiedig wrth Atodiad A y mae copi o Atodlen 5

sy'n dangos y cymhwysedd deddfwriaethol y mae'r Cynulliad wedi'i gaffael hyd yn hyn a thrwy ba mecanwaith y cafodd ei roi.

Y cefndir

6. Bydd pwerau deddfwriaethol newydd ynghylch y “materion” penodedig yn galluogi Llywodraeth y Cynulliad, Aelodau'r Cynulliad a Phwyllgorau'r Cynulliad i ddwyn cynigion gerbron ar gyfer deddfwriaeth, ar ffurf Mesurau, a seilir ar flaenoriaethau ac amserlenni yng Nghymru. Bydd y Mesurau hyn yn destun craffu trylwyr a chymeradwyaeth gan y Cynulliad.
7. Mae tai yn faes pwnc sydd wedi'i ddatganoli ers blynyddoedd lawer ac mae gan Lywodraeth y Cynulliad bwerau eang eu hystod o dan Ddeddf Tai 1985 (fel y'i diwygiwyd).
8. Yn Strategaeth Dai Genedlaethol Llywodraeth y Cynulliad ceir gweledigaeth bod eisiau “i bawb yng Nghymru gael cyfle i fyw mewn tai fforddiadwy sydd o ansawdd da; a gallu dewis lle maent yn byw a phenderfynu ai prynu neu rentu ydy'r opsiwn gorau iddynt hwy a'u teuluoedd”. Mae'r Strategaeth yn ceisio canolbwyntio ar ansawdd, dewis a hyrwyddo perchenogaeth gynaliadwy ar gartref.
9. Mae Llywodraeth y Cynulliad wedi defnyddio ei phwerau i wneud is-ddeddfwriaeth i feithrin dull neilltuol o weithredu sydd wedi'i deilwra i amgylchiadau penodol Cymru sy'n wahanol mewn ffyrdd sylweddol i rai Lloegr. Cymeradwyodd y Cynulliad blaenorol nifer o Offerynnau Statudol ynghylch cynlluniau Perchenogaeth Cartref Cost Isel (megis yr Hawl i Brynu a'r Hawl i Gaffael) er mwyn:
 - a. lleihau uchafswm y disgownt o £24,000 i £16,000,
 - b. estyn nifer yr ardaloedd gwledig lle caniateir i gyfyngiadau gael eu rhoi ar ailwerthu, ac
 - c. caniatáu i landlordiaid gael “hawl cynnig cyntaf” i ailbrynu unrhyw eiddo y cynigir ei ailwerthu o fewn 10 mlynedd i'r dyddiad y cafodd ei brynu gyntaf o dan y cynllun Hawl i Brynu neu'r cynllun Hawl i Gaffael.
10. Mae Llywodraeth y Cynulliad wedi cymryd camau hefyd mewn nifer o feysydd eraill ynghylch tai fforddiadwy. Mae'r rhain yn cynnwys:
 - a. Canllawiau Cynllunio diwygiedig ar Dai Fforddiadwy a Chydastudiaethau ynghylch Argaeledd Tir ar gyfer Tai
 - b. Arweiniad i Asesu'r Farchnad Dai leol
 - c. Pecyn Cymorth Tai Fforddiadwy (sy'n nodi ystod lawn y pwerau a'r dulliau sydd ar gael i awdurdodau lleol a'u partneriaid i uchafu'r ddarpariaeth o ran tai fforddiadwy)
 - ch. cynyddu'r rhaglen Grantiau Tai Cymdeithasol â 72% dros 4 blynedd, a

- d. protocol i'w gwneud yn fwy hwylus i waredu tir dros ben, sydd ym mherchenogaeth y Cynulliad, ar gyfer tai fforddiadwy.
11. Gwneir y cynnig am y pwerau hyn hefyd yng nghyd-destun y terfynau i'r setliad cyfredol sy'n cyfyngu Llywodraeth Cynulliad Cymru mewn rhaiu ffyrdd rhag mynd i'r afael â blaenoriaethau a phynciau yng Nghymru. Mewn nifer o feysydd mae pwerau presennol Llywodraeth Cynulliad Cenedlaethol wedi'u cyfyngu. Y prif gyfyngiad ar y trefniadau cyfredol yw'r ffaith nad oes gan y Cynulliad unrhyw bŵer statudol pendant i amrywio darpariaethau'r cynllun Hawl i Brynu a'r cynllun Hawl i Gaffael ynghylch cymhwyster er mwyn diwallu anghenion tai pobl a chymunedau yng Nghymru.
 12. Gellir ystyried bod 70% o Gymru yn wledig ei natur. Mae Llywodraeth y Cynulliad wedi cymryd nifer o gamau i gynorthwyo'r broses o ddatblygu tai fforddiadwy mewn ardaloedd gwledig gan gynnwys cymorth i Swyddogion Galluogi ym Maes Tai yng Nghefn Gwlad ac Ymddiriedolaethau Tir Cymunedol. Er hynny, mewn rhai cymunedau, ychydig iawn o eiddo sydd ar ôl yn y stoc tai cymdeithasol. Mae bron 60% o'r eiddo ym Mhowys a Cheredigion wedi'i werthu o dan yr Hawl i Brynu neu'r Hawl i Gaffael.
 13. Ers cyflwyno'r Hawl i Brynu (ym 1980) a'r Hawl i Gaffael (ym 1997) mae dros 140,000 o anheddau wedi'u prynu gan denantiaid yng Nghymru. Mae hyn yn cyfateb i bron hanner y stoc tai cymdeithasol gwreiddiol (heb gynnwys unrhyw anheddau newydd). Er mai newid deiliadaeth o denant i berchen-feddiannydd yw effaith uniongyrchol tenant sy'n arfer yr hawliau hyn, mae anheddau a fyddai fel arall wedi dod ar gael i'w hailosod at ddibenion tai cymdeithasol wedi'u gwerthu ar y farchnad agored. Mae hyn wedi lleihau'n sylweddol y nifer o dai cymdeithasol sydd ar gael i'w rhentu gan bobl y mae arnynt angen tai. Mae hon yn broblem benodol mewn ardaloedd lle mae pwysau am dai. Yr oedd 1,206 o hawliadau Hawl i Brynu yn ystod y chwarter o Ionawr i Fawrth 2007, sef cynnydd o 126 ar yr un chwarter y flwyddyn flaenorol.
 14. Yn y chwarter o Ionawr i Fawrth 2007, yr oedd 1,666 o aelwydydd yn ddigartref a'u hangen yn fater o flaenoriaeth, tra'r oedd 3,152 o aelwydydd mewn llety dros dro (gan gynnwys sefydliadau gwely a brecwast). Er gwaethaf y camau a amlinellwyd uchod, mae lefel y digartrefedd yn parhau i fod yn sylweddol er bod maint y stoc tai cymdeithasol yn parhau i ostwng.
 15. Er mwyn cymryd camau pellach ynghylch tai fforddiadwy, mae Llywodraeth Cynulliad Cymru'n credu bod angen pwerau ychwanegol i'w galluogi i ddeddfu drwy gyfrwng Mesur Cynulliad o dan bwerau sydd wedi'u cynnwys yn Neddf Llywodraeth Cymru 2006.
 16. Mae *Cymru'n Un*, rhaglen lywodraethu Llywodraeth y Cynulliad, yn cynnwys ymrwymiad i geisio cael pŵer deddfwriaethol i'r Cynulliad er

mwyn atal dros dro'r Hawl i Brynu mewn ardaloedd lle mae pwysau am dai.

17. Mae hyn yn ganlyniad i ymrwymïadau yn y manifestos a gyflwynwyd gan y ddau barti yn etholiadau Cynulliad 2007. Yr oedd manifesto Llafur yn cynnwys ymrwymïad i geisio pwerau deddfwriaethol newydd er mwyn gallu cadw'r gronfa dai a oedd ar gael i'w rhentu mewn ardaloedd lle'r oedd angen mawr am dai, fel un mesur i wella'r nifer o dai fforddiadwy a oedd ar gael. Yr oedd manifesto Plaid Cymru yn cynnwys ymrwymïad i ddiddymu'r "Hawl i Brynu" mewn ardaloedd â phroblemau tai lle mae prinder lletyau i'w rhentu.
18. Byddai'r GCD a gynigir yn rhoi i Gynulliad Cenedlaethol Cymru bŵer i basio Mesurau Cynulliad ynghylch gwaredu anheddau a thai annedd gan landlordiaid cymdeithasol. Byddai hyn yn galluogi'r Cynulliad i lunio atebion Cymreig i fynd i'r afael â blaenoriaethau Cymru.

Cwmpas

19. Cynigir bod Rhan 1 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006 yn cael ei diwygio i ychwanegu Mater o dan Faes 11: tai.
Mater 11.1 (Byddai gwaredu'r canlynol gan landlord cymdeithasol –
(a) tŷ annedd o fewn ystyr "dwelling-house" yn Rhan 5 o Ddeddf Tai 1985;
(b) annedd o fewn ystyr "dwelling" yn adran 63 o Ddeddf Tai 1996)
yn galluogi'r Cynulliad i gyflwyno Mesur o dan Ran 3 o Ddeddf 2006 a fyddai'n ymwneud â gwaredu tir ar gyfer tai gan landlord cymdeithasol (gan gynnwys atal dros dro yr Hawl i Brynu a'r Hawl i Gaffael mewn ardaloedd lle mae pwysau am dai).
20. Cynigir cwmpasu'r darpariaethau statudol canlynol –
Rhan V o Ddeddf Tai 1985 ac adrannau 16-17 o Ddeddf Tai 1996. Bydd gwaredu tai annedd ac anheddau o dan Ran II o Ddeddf Tai 1985 a Phennod II o Ran I o Ddeddf Tai 1996 o fewn y cymhwysedd ond nid unrhyw fath arall o dir. O dan yr amgylchiadau presennol, lle gall fod prinder tai cymdeithasol mewn rhai lleoedd, byddai'r mater yn galluogi'r Cynulliad i ddeddfu er mwyn caniatáu i'r Hawl i Brynu neu'r Hawl i Gaffael gael ei hatal dros dro mewn ardaloedd penodol ac am gyfnodau penodol ac i ddiffinio o dan ba amgylchiadau neu amodau y câi ataliad dros dro o'r fath ei ystyried neu ei ganiatáu.
21. Gan hynny, prif fwriad yr GCD hwn yw rhoi'r pŵer i'r Cynulliad wneud Mesurau o dan Ran 3 o Ddeddf 2006 a fyddai'n rhoi eu heffaith i ba benderfyniadau bynnag ar bolisi y bydd Gweinidogion Cymru yn bwrw ymlaen â hwy maes o law i wella'r nifer o dai fforddiadwy sydd ar gael

yng Nghymru. Mae cynyddu'r cyflenwad o dai fforddiadwy i'w rhentu ac i'w prynu yn faes sydd â blaenoriaeth i Lywodraeth Cynulliad Cymru.

Terfynau daearyddol unrhyw Fesur Cynulliad

22. Mae Adran 94 o Ddeddf 2006 yn gwahardd unrhyw Fesur Cynulliad rhag cael effaith ac eithrio o ran Cymru. Mae'n darparu na fydd darpariaeth mewn Mesur Cynulliad yn gyfraith i'r graddau y mae y tu allan i gymhwysedd deddfwriaethol y Cynulliad. Mae darpariaeth y tu allan i gymhwysedd os bydd yn gymwys ac eithrio o ran Cymru, neu os bydd yn rhoi, gosod, addasu neu dynnu swyddogaethau y gellir eu harfer ac eithrio o ran Cymru (neu'n rhoi pŵer i wneud hynny). Mae eithriadau cyfyngedig ar gyfer mathau penodol o ddarpariaethau atodol, er enghraifft, darpariaeth sy'n briodol i wneud darpariaethau'r Mesur yn effeithiol, darpariaeth sy'n galluogi darpariaethau'r Mesur i gael eu gorfodi a darpariaeth sy'n gwneud diwygiadau canlyniadol i deddfwriaeth arall.
23. Mae'r cyfyngiad ynghylch swyddogaethau ac eithrio o ran Cymru yn golygu na fyddai'r Cynulliad yn gallu rhoi swyddogaethau nad ydynt yn ymwneud â Chymru i Weinidogion Cymru, awdurdodau lleol Cymru nac unrhyw awdurdod cyhoeddus arall.

Swyddogaethau Gweinidog y Goron

24. Nid yw'r Gorchymyn arfaethedig hwn ynndo'i hun yn ceisio addasu na thynnu oddi ar unrhyw un o Weinidogion y Goron unrhyw swyddogaethau sydd ganddo. Yn rhinwedd Rhan 2 o Atodlen 5 i Ddeddf 2006, ni chaiff y Cynulliad drwy Fesur newid swyddogaethau Gweinidogion y Goron heb gydsyniad yr Ysgrifennydd Gwladol. O ran unrhyw gynigion yn y dyfodol a all effeithio ar swyddogaethau Gweinidog y Goron, ymgynghorir ag Adrannau priodol Llywodraeth y DU a cheisir dod i gytundeb am unrhyw gynigion yn y dyfodol i newid neu addasu'r swyddogaethau hynny.

Y Casgliad

25. Am y rhesymau a amlinellwyd uchod, mae Llywodraeth Cynulliad Cymru yn cynnig y dylid estyn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru yn unol â darpariaethau'r GCD a gynigir gan y llywodraeth ac y mae'r Memorandwm Esboniadol hwn yn ymwneud ag ef.

Jocelyn Davies
Y Dirprwy Weinidog dros Dai
Rhagfyr 2007

SCHEDULE 5
ASSEMBLY MEASURES

Part 1

Matters

Field 1: agriculture, fisheries, forestry and rural development

Field 2: ancient monuments and historic buildings

Field 3: culture

Field 4: economic development

Field 5: education and training

Matter 5.1

Provision about the categories of school that may be maintained by local education authorities.

Matter 5.2

Provision about the establishment and discontinuance of schools maintained by local education authorities, their change from one category to another and their alteration in other respects.

Matter 5.3

Provision about the admission of pupils to schools maintained by local education authorities.

Matter 5.4

Provision about the curriculum in schools maintained by local education authorities.

Matter 5.5

Provision about school attendance, the behaviour of pupils at school, school discipline and the exclusion of pupils from school (including the duties of parents in connection with those matters).

Matter 5.6

Provision about the making of arrangements for the provision of education for persons of compulsory school age who have been excluded from schools or who for any other reason would not otherwise receive suitable education.

Matter 5.7

Provision about entitlement to primary, secondary and further education and to training.

Matter 5.8

Provision about the provision of services that are intended to encourage, enable or assist people—

- (a) to participate effectively in education or training,
- (b) to take advantage of opportunities for employment, or
- (c) to participate effectively in the life of their communities.

Matter 5.9

Provision about food and drink provided on school premises or provided for children at a place where they receive education or childcare.

Matter 5.10

Provision about the travel of persons receiving primary, secondary or further education or training to and from the schools or other places where they receive it.

This does not include provision about any of the following—

- (a) the regulation of the use of motor vehicles on roads, their construction and equipment and conditions under which they may be so used;
- (b) road traffic offences;
- (c) driver licensing;
- (d) driving instruction;
- (e) insurance of motor vehicles;
- (f) drivers' hours;
- (g) traffic regulation on special roads, pedestrian crossings, traffic signs and speed limits;
- (h) public service vehicle operator licensing;
- (i) the provision and regulation of railway services, apart from financial assistance which—
 - (i) does not relate to the carriage of goods,
 - (ii) is not made in connection with a railway administration order, and
 - (iii) 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;
- (j) transport security;
- (k) shipping, apart from financial assistance for shipping services to, from or within Wales;
- (l) navigational rights and freedoms, apart from regulation of works which may obstruct or endanger navigation;
- (m) technical and safety standards of vessels;

- (n) harbours, docks, piers and boatslips, apart from those used or required wholly or mainly for communications between places in Wales;
- (o) registration of local bus services, and the application and enforcement of traffic regulation conditions in relation to those services.

*Matter 5.11*¹

Provision for and in connection with securing the provision of facilities for post-16 education or training.

Matter 5.12

Provision for and in connection with the establishment and dissolution of—

- (a) institutions concerned with the provision of further education, and
- (b) bodies that conduct such institutions,

including the circumstances in which an educational institution becomes or ceases to be an institution concerned with the provision of further education.

Provision about—

- (a) the conduct and functions of such institutions and bodies that conduct such institutions;
- (b) the property, rights and liabilities of such institutions and bodies that conduct such institutions;
- (c) property held by any person for the purposes of such an institution;
- (d) the governance and staff of such institutions.

Matter 5.13

Provision for and in connection with securing collaboration—

- (a) between bodies that conduct institutions concerned with the provision of further education, or
- (b) between one or more such bodies and other persons or bodies that have functions relating to education or training in Wales,

including, in particular, provision for and in connection with the establishment of bodies for the purpose of discharging functions on behalf of one or more persons or bodies that are party to arrangements for collaboration.

¹ Matters 5.11 – 5.16 of this Schedule have been inserted by the Further Education and Training Act 2007 and will come into force on the 23rd December 2007.

Matter 5.14

The provision of financial resources for and in connection with—

- (a) education or training provided by institutions concerned with the provision of further education;
- (b) post-16 education or training provided otherwise than by such institutions;
- (c) the carrying out of research relating to education or training falling within paragraph (a) or (b).

Matter 5.15

The inspection of—

- (a) education or training provided by institutions concerned with the provision of further education;
- (b) post-16 education or training provided otherwise than by such institutions;
- (c) the training of teachers and specialist teaching assistants for schools;
- (d) services of the kinds mentioned in matter 5.8.

Matter 5.16

The provision of advice and information in connection with, and the carrying out of studies in relation to, any of the kinds of education, training or services mentioned in matter 5.15.

Interpretation of this field

In this field—

“post-16 education” means—

- (a) education (other than higher education) suitable to the requirements of persons who are above compulsory school age, and
- (b) organised leisure-time occupation connected with such education;

“post-16 training” means—

(a) training suitable to the requirements of persons who are above compulsory school age, and

(b) organised leisure-time occupation connected with such training.

References in this field to an institution concerned with the provision of further education are references to an educational institution, other than a school or an institution within the higher education sector (within the meaning of the Further and Higher Education Act 1992), that is conducted (whether or not exclusively) for the purpose of providing further education.

Expressions used in this field and in the Education Act 1996 have the same meaning in this field as in that Act.

Field 6: environment

Field 7: fire and rescue services and promotion of fire safety

Field 8: food

Field 9: health and health services

Matter 9.1

Provision for and in connection with the provision of redress without recourse to civil proceedings in circumstances in which, under the law of England and Wales, qualifying liability in tort arises in connection with the provision of services (in Wales or elsewhere) as part of the health service in Wales.

Interpretation of this field

In this field-

“the health service in Wales” means the health service continued under section 1(1) of the National Health Service (Wales) Act 2006;

“illness” has the same meaning as in that Act;

“patient” has the same meaning as in that Act;

“personal injury” includes any disease and any impairment of a person’s physical or mental health;

“qualifying liability in tort” means liability in tort owed in respect of or consequent upon personal injury or loss arising out of or in connection with

breach of a duty of care owed to any person in connection with the diagnosis or illness or the care or treatment of any patient.

Field 10: highways and transport

Field 11: housing

Field 12: local government

Matter 12.1²

Provision for and in connection with—

(a) the constitution of new principal areas and the abolition or alteration of existing principal areas, and

(b) the establishment of councils for new principal areas and the abolition of existing principal councils.

“Principal area” means a county borough or a county in Wales, and “principal council” means a council for a principal area.

Matter 12.2

Provision for and in connection with—

(a) the procedure for the making and coming into force of byelaws, and

(b) the enforcement of byelaws.

“Byelaws” means those of a class which may be confirmed by the Welsh Ministers (but the provision which may be made includes provision to remove a requirement of confirmation).

Matter 12.3

Any of the following—

(a) the principles which are to govern the conduct of members of relevant authorities,

(b) codes of conduct for such members,

(c) the conferral on any person of functions relating to the promotion or maintenance of high standards of conduct of such members (including the establishment of bodies to have such functions),

(d) the making or handling of allegations that members (or former members) of relevant authorities have breached standards of conduct, including in particular—

(i) the investigation and adjudication of such allegations and reports on the outcome of investigations,

² Matters 12.1 – 12.5, Paragraph 2A of Part 2 and Paragraph 7A of Part 3 of this Schedule have been inserted by the Local Government and Public Involvement in Health Act 2007 and come into force on the 30th December 2007.

(ii) the action that may be taken where breaches are found to have occurred,

(e) codes of conduct for employees of relevant authorities.

For the purposes of this matter—

“relevant authority” has the same meaning as in Part 3 of the Local Government Act 2000, except that other than in paragraph (d) it does not include a police authority,

“member” includes a co-opted member within the meaning of that Part.

Matter 12.4

Provision for and in connection with strategies of county councils and county borough councils for promoting or improving the economic, social or environmental wellbeing of their areas or contributing to the achievement of sustainable development in the United Kingdom, including provision imposing requirements in connection with such strategies on other persons with functions of a public nature.

Matter 12.5

Provision for and in connection with—

(a) the making of arrangements by relevant Welsh authorities to secure improvement in the way in which their functions are exercised,

(b) the making of arrangements by relevant Welsh authorities for the involvement in the exercise of their functions of people who are likely to be affected by, or interested in, the exercise of the functions, and

(c) the assessment and inspection of the performance of relevant Welsh authorities in exercising their functions.

The following are “relevant Welsh authorities”—

(a) a county council, county borough council or community council in Wales,

(b) a National Park authority for a National Park in Wales,

(c) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,

(d) a levying body within the meaning of section 74(1) of the Local Government Finance Act 1988 in respect of which the county council or charging authority referred to in section 74(1)(b) of that Act was a council or authority for an area in Wales,

(e) a body to which section 75 of that Act applies (special levies) and which as regards the financial year beginning in 1989 had power to levy a rate by reference to property in Wales.

Field 13: National Assembly for Wales

Matter 13.1.

Creation of, and conferral of functions on, an office or body for and in connection with investigating complaints about the conduct of Assembly members and reporting on the outcome of such investigations to the Assembly.

Matter 13.2.

Conferral of functions on the Assembly Commission for and in connection with facilitating the exercise by the Assembly of its functions (including the provision to the Assembly of the property, staff and services required for the Assembly's purposes).

Matter 13.3

Provision for and in connection with the payment of salaries, allowances, pensions and gratuities to or in respect of Assembly members, the First Minister, any Welsh Minister appointed under section 48, the Counsel General and any Deputy Welsh Minister.

Matter 13.4

Provision for and in connection with the creation and maintenance of a register of interests of Assembly members and the Counsel General.

Matter 13.5.

Provision about the meaning of Welsh words and phrases in-

- (a) Assembly Measures,
- (b) subordinate legislation made under Assembly Measures, and
- (c) subordinate legislation not so made but made by the Welsh Ministers, the First Minister or the Counsel General.

Matter 13.6.

Provision for and in connection with the procedures for dealing with proposed private Assembly Measures, including, in particular-

- (a) procedures for hearing the promoters of, and objectors, to proposed private Assembly Measures,
- (b) the persons who may represent such promoters and objectors, and the qualifications that such persons must possess,
- (c) the imposition of fees for and in connection with the promotion of proposed private Assembly Measures, and
- (d) the assessment of costs incurred in connection with proposed private Assembly Measures.

Field 14: public administration

Field 15: social welfare

Field 16: sport and recreation

Field 17: tourism

Field 18: town and country planning

Field 19: water and flood defence

Field 20: Welsh language

PART 2

GENEAL RESTRICTIONS

Functions of Ministers of the Crown

1 (1) A provision of an Assembly Measure cannot remove or modify, or confer power by subordinate legislation to remove or modify, any function of a Minister of the Crown.

(2) A provision of an Assembly Measure cannot confer or impose, or confer power by subordinate legislation to confer or impose, any function on a Minister of the Crown.

Criminal offences

2 (1) A provision of an Assembly Measure cannot create, or confer power by subordinate legislation to create, any criminal offence punishable-

- (a) on summary conviction, with imprisonment for a period exceeding the prescribed term or with a fine exceeding the amount specified as level 5 on the standard scale, or
- (b) on conviction on indictment, with a period of imprisonment exceeding two years.

(2) In sub-paragraph (1) "the prescribed term" means-

- (a) where the offence is a summary offence, 51 weeks, and
- (b) where the offence is triable either way, twelve months.

Police areas

2A A provision of an Assembly Measure cannot make any alteration in police areas.

Enactments other than this Act

3 A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, any of the provisions listed in the Table below:

TABLE

<i>Enactment</i>	<i>Provisions protected from modification</i>
European Communities Act 1972 (c.68)	The whole Act
Data Protection Act 1998 (c.29)	The whole Act
Government of Wales Act 1998 (c.38)	Sections 144(7), 145, 145A and 146A1
Human Rights Act 1998 (c. 42)	The whole Act
Civil Contingencies Act 2004 (c.36)	The whole Act
Re-Use of Public Sector Information Regulations 2005 (S.I. 2005/1505)	The whole set of Regulations

4 A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, any provision of an Act of Parliament other than this Act which requires sums required for the repayment of, or the payment of interest on, amounts borrowed by the Welsh Ministers to be charged on the Welsh Consolidated Fund.

5 A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, any functions of the Comptroller and Auditor General.

This Act

6(1) A provision of an Assembly Measure cannot make modifications of, or confer power by subordinate legislation to make modifications of, provisions contained in this Act.

(2) Sub-paragraph (1) does not apply to sections 20, 22, 24, 36(1) to (5) and (7) to (11), 53, 54 and 156(2) to (5).

(3) Sub-paragraph (1) does not apply to any provision-

- (a) making modifications of so much of any enactment as is modified by this Act, or
- (b) repealing so much of any provision of this Act as amends any enactment, if the provision ceases to have effect in consequence of any provision of, or made under, an Assembly Measure.

PART 3

EXCEPTIONS FROM PART 2

Functions of Ministers of the Crown

7 Part 2 does not prevent a provision of an Assembly Measure removing or modifying, or conferring power by subordinate legislation to remove or modify, any function of a Minister of the Crown if the Secretary of State consents to the provision.

Police areas

7A Part 2 does not prevent a provision of an Assembly Measure making an alteration to the boundary of a police area in Wales if the Secretary of State consents to the provision.

Comptroller and Auditor General

8 Part 2 does not prevent a provision of an Assembly Measure modifying, or conferring power by subordinate legislation to modify, any enactment relating to the Comptroller and Auditor General if the Secretary of State consents to the provision.

Restatement

9 Part 2 does not prevent a provision of an Assembly Measure-

- (a) restating the law (or restating it with such modifications as are not prevented by that Part), or
- (b) repealing or revoking any spent enactment,

or conferring power by subordinate legislation to do so.

Subordinate legislation

10 Part 2 does not prevent an Assembly Measure making modifications of, or conferring power by subordinate legislation to make modifications of, an enactment for or in connection with any of the following purposes-

- (a) making different provision about the document by which a power to make, confirm or approve subordinate legislation is to be exercised,
- (b) making provision (or no provision) for the procedure, in relation to the Assembly, to which legislation made in the exercise of such a power (or the instrument or other document in which it is contained) is to be subject, and
- (c) applying any enactment comprised in or made under an Assembly Measure relating to the documents by which such powers may be exercised.

Data Protection Act 1998

11. Part 2 does not prevent an Assembly Measure making modifications of, or conferring power by subordinate legislation to make modifications of, section 31(6) of the Data Protection Act 1998 so that it applies to complaints under any Assembly Measure relating to matter 9.1 in Part 1.

