

Explanatory Memorandum to the Welsh Forms of Oaths and Affirmations (Government of Wales Act 2006) (Amendment) Order 2011.

This Explanatory Memorandum has been prepared by the Legal Services Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Welsh Forms of Oaths and Affirmations (Government of Wales Act 2006) (Amendment) Order 2011.

Jane Hutt, Minister for Business and Budget
1 March 2011

1. Description

This order makes a correction to the Welsh form of the affirmation of allegiance which may be made by members of the National Assembly for Wales.

2. Matters of special interest to the Constitutional Affairs Committee

It is considered that there are no matters of special interest to the Constitutional Affairs Committee.

3. Legislative background

Section 23(1) of the Government of Wales Act 2006 provides that a member of the National Assembly for Wales must take an oath of allegiance, or make an affirmation of allegiance, as soon as is reasonably practicable after they have been returned as an Assembly member.

Section 23(1) also has the effect that the English form of the oath of allegiance is that set out in section 2 of the Promissory Oaths Act 1868, and that the English form of the affirmation of allegiance is the words of the oath of allegiance adapted in accordance with section 6(1) of the Oaths Act 1978.

Section 26(2) of the Welsh Language Act 1993 provides that where an Act of Parliament specifies a form of words to be used for an official purpose, a Minister of the Crown may make an order which prescribes a form of words in Welsh which may be used.

The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2, Schedule 1, gave the National Assembly for Wales set up by the Government of Wales Act 1998 a power to make orders under section 26(2) of the Welsh Language Act 1993 in relation to Wales. The power was later transferred to the Welsh Ministers by paragraph 30(1) of Schedule 11 to the Government of Wales Act 2006.

The Welsh Ministers made the Welsh Forms of Oaths and Affirmations (Government of Wales Act 2006) Order 2007 (S.I. 2007/ 2044, W. 169) ("the 2007 order") under section 26(2) of the Welsh Language Act 1993. The order prescribed Welsh forms of the oaths and affirmations of allegiance for Assembly members, as well as Welsh forms of the official oaths and affirmations for members of the Welsh Assembly Government.

It is up to each Assembly member to decide whether to take the oath or make the affirmation, and whether to use the Welsh form or the English form.

Section 27(3) of the Welsh Language Act 1993 Act provides that orders made under section 26(2) of that Act by Ministers of the Crown must be laid before Parliament after they have been made. They cannot be annulled by Parliament.

The effect of paragraph 33(2) of Schedule 11 to the Government of Wales Act 2006 is that orders made by the Welsh Ministers under section 26(2) of the Welsh Language Act 1993 must be laid before the Assembly after they have been made but cannot be annulled by the Assembly.

4. Purpose & intended effect of the legislation

The purpose of this order is to correct an error in the Welsh form of the affirmation of allegiance. Its effect is to make the Welsh form accurately reflect the English form prescribed by the Government of Wales Act 2006.

5. Consultation

There has been no consultation in respect of this order because it makes a technical correction to the Welsh form of the affirmation of allegiance which may be used by Assembly members.

6. Regulatory Impact Assessment (RIA)

There has been no Regulatory Impact Assessment in respect of this order because it makes a technical correction to the Welsh form of the affirmation of allegiance which may be used by Assembly members.

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