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PWYSIG: Mae'n bosibl bod y ddogfen hon ac unrhyw beth sydd wedi'i amgáu gyda hi yn cynnwys cyngor cyfreithiol sydd wedi'i roi yn gyfrinachol i Gomisiwn Cynulliad Cenedlaethol Cymru neu unrhyw sefydliad arall sy'n rhan o Gynulliad Cenedlaethol Cymru. Os felly, mae'r cyngor yn destun braint broffesiynol gyfreithiol. Peidiwch ag anfon y ddogfen hon (neu unrhyw atodiad iddi) at unrhyw berson y tu allan i Gomisiwn Cynulliad Cenedlaethol Cymru heb ganiatâd ysgrifenedig gan aelod o Adran Gwasanaethau Cyfreithiol y Comisiwn. Os ydych wedi cael y ddogfen hon drwy gamgymeriad, rhowch wybod i'r awdur ar unwaith drwy ei ffonio.

Constitutional and Legislative Affairs Committee

Localism Act

Legal Advice Note

1. At its meeting on the 19th January 2015, the Committee considered the Accounts and Audit (Wales) Regulations 2014. The Government response referred to the Localism Act 2011, and the provisions in it relating to the salaries of local authority employees.

2. A question arose as to the extent to which the Localism Act applies to Wales. Most of the Act applies to England only, though some provisions do apply to England and Wales, and some to the UK as a whole. The position is summarised in the Explanatory Notes to the Act as follows –

“Territorial application: Wales

7. Some of the provisions in the Act apply in England only, some provisions also apply in Wales, and some apply in Wales only. Application to England and Wales is set out in Annex A and explained at the appropriate point in the commentary below.

8. The legislative competence of the National Assembly for Wales increased significantly during this Act's passage through Parliament, as a result of the Assembly Act provisions in Part 4 of the Government of Wales Act 2006 coming into force on 5 May 2011. Prior to that date, the Assembly's competence was more limited. This Act includes provisions which, at the time they were first considered by Parliament, related to matters in Wales which were to some extent within the legislative competence of the Assembly as it stood at the relevant

time. They relate to powers of fire and rescue authorities, pay accountability, repeal of the duty to promote democracy and petitions duty, assets of community value, duties to homeless persons, transfer of functions to Homes and Communities Agency, tenancy deposit schemes, tenure reform, HMO licensing and compensation for compulsory acquisition. Those provisions required the consent of the Assembly, which it gave by passing appropriate legislative consent motions. In addition, the Act includes provisions applying to Wales which, while they did not relate to matters within the legislative competence of the Assembly at the time when they were first considered by Parliament, confer new functions on the Welsh Ministers or relate to matters in respect of which they already exercise functions. The Welsh Ministers agreed to the inclusion of those provisions, which relate to predetermination, the Welsh Ministers' powers in relation to EU financial sanctions, business rate supplement ballots, discretionary relief from non-domestic rates and council tax calculations and revaluations. In addition, the Act includes a number of provisions which apply to non-devolved matters in Wales, including standards for members of police authorities, the powers of Ministers of the Crown in relation to EU financial sanctions, the Community Infrastructure Levy and nationally significant infrastructure projects."

3. The detailed breakdown of the territorial application of sections of the Act as passed is annexed to this note. Sections 38–43 relate to 'Pay Accountability' and apply to England Wales. These were the provisions referred to in the Government response to the recent Order.
4. Members will also note the interesting way in which the Assembly's increased competence affected Bills passing through Parliament at the time.

Legal Services

National Assembly for Wales

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