

2011 No. 1597 (W.185) (C. 61)

CONSTRUCTION, WALES

**The Local Democracy, Economic
Development and Construction Act
2009 (Commencement No. 2)
(Wales) Order 2011**

EXPLANATORY NOTE

(This note is not part of the Order)

So far as extending to England and Wales, this Order commences the provisions of Part 8 of the Local Democracy, Economic Development and Construction Act 2009 (c.20) (“the 2009 Act”) in relation to construction contracts which relate to the carrying out of construction operations in Wales. It does not commence such provisions in respect of other construction contracts which are being commenced by separate commencement orders.

Part 8 of the 2009 Act amends Part 2 of the Housing Grants, Construction and Regeneration Act 1996 (c.53) (“the 1996 Act”).

The provisions of Part 8 of the 2009 Act brought into force by this Order (where applicable in relation to Wales) are as follows:

- section 138 which substitutes a new power allowing the Welsh Ministers to disapply any or all of the provisions of Part 2 of the 1996 Act;
- section 139 which removes the original limitation of Part 2 to contracts which were in writing;
- section 140 which introduces a provision to facilitate the correction of clerical or typographical errors in an adjudicator’s decision;
- section 141 which makes an agreement about the allocation of the costs of adjudication ineffective, unless certain conditions apply;

- section 142 which addresses the issue of making periodic payments under a construction contract conditional upon obligations under another contract, and the issue of making the date a payment becomes due dependent upon the giving of a notice by the payer of the sum the payer proposes to pay;
- section 143 which amends sections 109 and 110 of the 1996 Act and introduces provisions relating to the giving of notices by the payee;
- section 144 which introduces a statutory requirement to pay sums specified in these notices;
- section 145 which amends section 112 of the 1996 Act relating to a contractor's right to stop working if the contractor has not been paid.

Article 3 brings into force the provisions of Part 8 of the 2009 Act on 1 October 2011.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

Welsh Ministers have brought into force section 138 of Part 8 of the 2009 Act so far as extending to England and Wales, by Statutory Instrument 2011/1514, for the purpose of enabling Welsh Ministers to make orders.

So far as extending to England and Wales, the following provisions of the 2009 Act have been brought into force in relation to Wales by commencement orders made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Section 69 (partially)	25.11.2009	2009/3087
Section 71	25.11.2009	2009/3087
Section 84	25.11.2009	2009/3087
Section 86	25.11.2009	2009/3087
Section 87	25.11.2009	2009/3087

Various provisions of the 2009 Act have been brought into force so far as extending to England and Wales by the Secretary of State by the following Statutory Instruments: S.I. 2009/3087, S.I. 2009/3318 and S.I. 2010/881.

See also section 148 for the provisions which come into force on the passing of the 2009 Act.

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Development and Construction Act
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(Wales) Order 2011

Made

28 June 2011

The Welsh Ministers, in exercise of the power conferred on them by section 149(1) of the Local Democracy, Economic Development and Construction Act 2009⁽¹⁾, make the following Order:

Title and interpretation

1.—(1) The title of this Order is the Local Democracy, Economic Development and Construction Act 2009 (Commencement No. 2) (Wales) Order 2011.

(2) In this Order, “the Act” (“*y Ddeddf*”) means the Local Democracy, Economic Development and Construction Act 2009.

Extent and application of provisions coming into force

2. Part 8 of the Act comes into force so far as extending to England and Wales in relation to construction contracts which relate to the carrying out of construction operations in Wales in accordance with article 3.

Provisions coming into force on 1 October 2011

3. The following provisions come into force on 1 October 2011—

- (a) section 138 for all remaining purposes;
- (b) sections 139 to 145.

(1) 2009 c.20.

John Griffiths

Minister for Environment and Sustainable
Development, one of the Welsh Ministers

28 June 2011