



Law Derived from the European Union (Wales) Act 2018

2018 anaw 3

Further powers of the Welsh Ministers in connection with withdrawal from the EU

9 Complying with international obligations

- (1) The Welsh Ministers may by regulations make provision within devolved competence they consider appropriate to prevent or remedy any breach, arising from the withdrawal of the United Kingdom from the EU, of the international obligations of the United Kingdom.
- (2) Regulations under this section may modify an enactment.
- (3) But regulations under this section may not—
 - (a) make retrospective provision;
 - (b) create a relevant criminal offence;
 - (c) confer or impose a function on a Minister of the Crown;
 - (d) remove or modify a pre-commencement function of a Minister of the Crown unless doing so is incidental to, or consequential on, another provision contained in the regulations;
 - (e) be made to implement the withdrawal agreement in relation to Wales.
- (4) No regulations may be made under this section after the end of the period of two years beginning with exit day.

10 Implementing the withdrawal agreement

- (1) The Welsh Ministers may by regulations make provision within devolved competence they consider appropriate for the purposes of implementing the withdrawal agreement if they consider that such provision should be in force on or before exit day, subject to the prior enactment of a statute by the Parliament of the United Kingdom approving the final terms of withdrawal of the United Kingdom from the European Union.

- (2) Regulations under this section may modify an enactment (including an enactment contained in this Act).
- (3) But regulations under this section may not—
 - (a) impose or increase taxation;
 - (b) make retrospective provision;
 - (c) create a relevant criminal offence;
 - (d) confer or impose a function on a Minister of the Crown;
 - (e) remove or modify a pre-commencement function of a Minister of the Crown unless doing so is incidental to, or consequential on, another provision contained in the regulations.
- (4) No regulations may be made under this section after exit day.

11 Power to make provision corresponding to EU law after exit day

- (1) The Welsh Ministers may by regulations make provision within devolved competence—
 - (a) corresponding to provision in an EU regulation or EU decision,
 - (b) for the enforcement of provision made under paragraph (a) or to otherwise make it effective, or
 - (c) to implement an EU directive in relation to Wales,
 so far as the EU regulation, EU decision or EU directive has effect in EU law after exit day.
- (2) Regulations under this section may modify an enactment.
- (3) In making provision under subsection (1), the Welsh Ministers have the powers (among others) mentioned in section 3(4); and for this purpose, the reference to “direct EU law” in section 3(4) is to be read as if it included provision in an EU directive.
- (4) But regulations under this section may not—
 - (a) impose or increase taxation;
 - (b) make retrospective provision;
 - (c) create a relevant criminal offence.
- (5) Before making regulations under this section the Welsh Ministers must consult such persons as they consider appropriate.
- (6) For the purpose of this section, “EU Treaties” in the definition of “EU law” given by section 20(1) means—
 - (a) the EU Treaties within the meaning given by section 1(2) of the [European Communities Act 1972 \(c. 68\)](#) as that Act had effect immediately before its repeal by section 1 of the European Union (Withdrawal) Act 2018, as at immediately before exit day;
 - (b) any treaty entered into by the European Union (except so far as it relates to the Common Foreign and Security Policy), with or without any of the member States, that is specified in regulations made by the Welsh Ministers, and
 - (c) any treaty entered into by member States that is ancillary to a treaty mentioned in paragraph (a) or (b) and specified in regulations made by the Welsh Ministers.

12 Review and sunset of the power in section 11(1)

- (1) No regulations may be made under section 11(1) after the end of a period of 5 years beginning with exit day.
- (2) But the Welsh Ministers may by regulations extend the period mentioned in subsection (1).
- (3) Regulations under subsection (2)—
 - (a) may extend the period on more than one occasion;
 - (b) must come into force before the end of the period mentioned in subsection (1) or, if the period has been extended by previous regulations, the end of that extended period;
 - (c) must not extend the period on any occasion for more than 5 years.
- (4) Before making regulations under subsection (2), the Welsh Ministers must lay before the National Assembly for Wales a report on—
 - (a) the operation and effect of the power in section 11(1) and provision made under it, and
 - (b) the continuing need or otherwise for the power.
- (5) In preparing a report, the Welsh Ministers must consult such persons as they consider appropriate.
- (6) A report does not need to deal with a period dealt with in a previous report.

13 Fees and charges

Schedule 1 (which contains powers in connection with fees and charges) has effect.