



# Law Derived from the European Union (Wales) Act 2018

2018 anaw 3

*Welsh Ministers' consent to subordinate legislation within the scope of EU law*

## **14 Welsh Ministers' consent to making subordinate legislation**

- (1) Before making subordinate legislation containing a provision to which this section applies, a Minister of the Crown, or any other person (other than the Welsh Ministers) upon whom the function of making the legislation has been conferred, must obtain the Welsh Ministers' consent.
- (2) This section applies to a provision if—
  - (a) conditions 1, 2 and 3 are met, and
  - (b) condition 4 or 5 is met.
- (3) Condition 1 is that the provision applies in relation to Wales (whether or not the provision extends or applies to other territories) and is within devolved competence.
- (4) Condition 2 is that the provision falls, or would have fallen, within the scope of EU law as it has effect on the day this section comes into force.
- (5) Condition 3 is that the provision is to be made under a function exercised by statutory instrument.
- (6) Condition 4 is that the provision is to be made under a function conferred by or under an Act of the Parliament of the United Kingdom enacted after the day on which this section comes into force.
- (7) Condition 5 is that—
  - (a) the provision is to be made under a function modified by or under an Act of the Parliament of the United Kingdom enacted after the day on which this section comes into force,
  - (b) the function mentioned in paragraph (a) is modified by the Act in a way that enables or requires provision to be made that could not be made previously, and

- (c) the provision could not have been made before the function was modified.

## **15 Welsh Ministers' consent to approval or confirmation of subordinate legislation**

- (1) Before approving or confirming subordinate legislation to which this section applies, a Minister of the Crown, or any other person (other than the Welsh Ministers) upon whom the function of approving or confirming the legislation has been conferred, must obtain the Welsh Ministers' consent.
- (2) This section applies to subordinate legislation if—
  - (a) conditions 1, 2 and 3 are met, and
  - (b) condition 4 or 5 is met.
- (3) Condition 1 is that the subordinate legislation contains provision applying in relation to Wales (whether or not the provision extends or applies to other territories) that is within devolved competence.
- (4) Condition 2 is that the provision referred to in condition 1 falls, or would have fallen, within the scope of EU law as it has effect on the day this section comes into force.
- (5) Condition 3 is that the subordinate legislation is to be made by a person other than the Welsh Ministers under a function exercised by statutory instrument.
- (6) Condition 4 is that the subordinate legislation is to be approved or confirmed under a function conferred by or under an Act of the Parliament of the United Kingdom enacted after the day on which this section comes into force.
- (7) Condition 5 is that—
  - (a) the subordinate legislation is to be approved or confirmed under a function modified by or under an Act of the Parliament of the United Kingdom enacted after the day on which this section comes into force, and
  - (b) the subordinate legislation contains the kind of provision that the modification allows or requires or to which the modification applies.
- (8) A function is modified for the purposes of subsection (7) if as a consequence of a modification of an enactment—
  - (a) the subordinate legislation to which the function applies can contain provision within devolved competence that it could not previously contain, or
  - (b) the function applies to subordinate legislation containing provision within devolved competence to which it did not previously apply.
- (9) For the purposes of this section, a function of approving includes a function of giving consent.

## **16 Duty to report on exercise of functions under sections 14(1) and 15(1)**

- (1) The Welsh Ministers must lay before the National Assembly for Wales a report on the exercise of their consent function under section 14(1) or 15(1) before the end of a period of 60 days beginning with the day on which consent is given.
- (2) A report prepared under subsection (1) must—
  - (a) give an explanation of the subordinate legislation being made, approved or confirmed;

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*Status: This is the original version (as it was originally enacted).*

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- (b) specify the person upon whom the functions of making, approving or confirming the legislation have been conferred;
  - (c) specify the Welsh Ministers' reasons for giving the consent.
- (3) For the purposes of subsection (1), no account is to be taken of any time during which the National Assembly for Wales is dissolved or in recess for more than four days.