



Law Derived from the European Union (Wales) Act 2018

2018 anaw 3

EU derived Welsh law

4 Restatement and continuation of EU derived enactments

- (1) The power in subsection (2) applies to an enactment if—
 - (a) it was passed or made, or operates, entirely or to some extent for a purpose mentioned in section 2(2)(a) or (b) of the European Communities Act 1972 (whether or not made under section 2(2) of, or paragraph 1A of Schedule 2 to, that Act), or
 - (b) it relates otherwise to the EU or the EEA for all or some purposes.
- (2) The Welsh Ministers may by regulations—
 - (a) repeal or revoke an enactment that is wholly within devolved competence;
 - (b) disapply an enactment that is wholly or partly within devolved competence, so far as it is within devolved competence;
 - (c) restate an enactment repealed or revoked under paragraph (a) with or without modifications within devolved competence;
 - (d) restate an enactment disapplied under paragraph (b), so far as it is disapplied, with or without modifications within devolved competence;
 - (e) make further provision within devolved competence in connection with restatement of an enactment under paragraph (c) or (d).
- (3) The Welsh Ministers may by regulations—
 - (a) provide for provision in subordinate legislation made under, or by virtue of, a provision repealed or revoked by regulations under subsection (2)(a) to continue in effect as if made under or by virtue of provision in regulations under subsection (2)(c) (including provision in subordinate legislation made under, or by virtue of, functions that are not restated in the regulations under subsection (2)(c));

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- (b) provide for provision in subordinate legislation made under, or by virtue of, a provision so far as it is disapplied by regulations under subsection (2)(b) to continue in effect as if made under or by virtue of provision in regulations under subsection (2)(d) (including provision in subordinate legislation made under, or by virtue of, functions that are not restated in the regulations under subsection (2)(d));
 - (c) modify provision in subordinate legislation that continues in effect under this subsection and make further provision in connection with its continued effect, if the modification or further provision is within devolved competence.
- (4) Regulations under this section may not make modifications of an enactment or further provision in connection with its restatement or continued effect unless the Welsh Ministers consider the modification or further provision necessary to ensure the effective operation of the enactment after the withdrawal of the United Kingdom from the European Union.
- (5) Regulations under this section may include (but are not limited to) provision—
- (a) removing anything that has no practical application in relation to Wales or any part of it or is otherwise redundant or substantially redundant;
 - (b) removing functions of, or in relation to, EU entities that no longer have functions in that respect under EU law in relation to the United Kingdom or any part of the United Kingdom;
 - (c) removing provision for, or in connection with, reciprocal arrangements between—
 - (i) the United Kingdom or any part of it or a public authority exercising functions in relation to Wales, and
 - (ii) the EU, an EU entity, a member State or a public authority in a member State,
 that no longer exist or are no longer appropriate;
 - (d) removing provision for, or in connection with, other arrangements that—
 - (i) involve the EU, an EU entity, a member State or a public authority in a member State, or
 - (ii) are otherwise dependent upon the United Kingdom’s membership of the EU,
 and that no longer exist or are no longer appropriate;
 - (e) removing provision for, or in connection with, any reciprocal or other arrangements not falling within paragraph (c) or (d) that no longer exist, or are no longer appropriate, as a result of the United Kingdom ceasing to be a party to any of the EU Treaties;
 - (f) conferring functions or imposing restrictions that—
 - (i) were in an EU directive and in force immediately before exit day (including any power to make EU tertiary legislation), and
 - (ii) it is appropriate to retain;
 - (g) removing EU references that are no longer appropriate.
- (6) Regulations under this section may (among other things)—
- (a) provide for functions of EU entities or public authorities in member States (including making an instrument of a legislative character or providing funding) to be—

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- (i) exercisable instead by a public authority (whether or not newly established or established for the purpose), or
 - (ii) replaced, abolished or otherwise modified;
 - (b) provide for the establishment of public authorities to carry out functions provided for by regulations under this section.
- (7) 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, unless the regulations restate the law;
 - (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.
- (8) Regulations under this section—
- (a) must be made before exit day, and
 - (b) must not come into force before exit day.