

LEGISLATION (WALES) ACT 2019

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Accessibility of Welsh Law

Section 1 – Duty to keep accessibility of Welsh law under review

10. In order to inform the process of making Welsh law more accessible section 1(1) requires the Law Officer for Wales, the Counsel General, to keep the accessibility of Welsh law under review. The Counsel General is a member of the Welsh Government, appointed by Her Majesty upon the recommendation of the First Minister under section 49 of the Government of Wales Act 2006.
11. The duty in section 1(1) is similar to, and intended to supplement (not replace), the obligation on the Law Commission to keep the law under review under section 3(1) of the Law Commissions Act 1965. It requires a focus on the law as a collective, be that the law on a particular subject or the statute book as a whole. It also means that the Counsel General’s obligation to keep the accessibility of Welsh law under review will be relevant when the Welsh Ministers are considering whether to propose new legislation. In such situations regard should be had to how the approach taken to legislating could impact upon the accessibility of the law. This does not, however, mean that the Welsh Ministers would have to legislate in a particular way in any individual case.
12. The “accessibility” of Welsh law is defined in section 1(2) as having four elements.
13. The first is the extent to which Welsh law is readily available to members of the public in Welsh and English. The law is not accessible unless those who may be affected by it can obtain it and view it. The main way of achieving this is to publish legislation online in both languages, so that it can be read free of charge.
14. The second element is the extent to which the law is published in an up-to-date form in both languages. In practice accessibility requires more than making each piece of legislation available, and requires it to be available in a form that enables people to see its current effect. This involves identifying whether provisions are in force and showing any amendments made to legislation by other legislation which is made or is brought into force subsequently.
15. The third element is the extent to which Welsh law is clearly and logically organised. To be truly accessible legislation should be organised in such a way as to make it as easy as practicable for people to find the law relevant to them and to see and understand the relationships between enactments. So the structure of legislation should be clear, consistent and coherent; both within individual enactments and across enactments on particular subjects and the statute book as a whole.
16. The final element is the extent to which the law is easy to understand and certain in its effect. This includes the extent to which the law is formulated clearly and precisely, as it will not be accessible if its language is unnecessarily complicated or obscure. This

*These notes refer to the Legislation (Wales) Act 2019
(c.4) which received Royal Assent on 10 September 2019*

also includes the availability of other explanatory material or commentary that can help people to understand the law.

17. “Welsh law” is defined in section 1(3) to mean:
 - a. Assembly Acts and Measures and subordinate legislation made under them (in other words, all legislation made by the National Assembly for Wales or under its authority),
 - b. other subordinate legislation made by the Welsh Ministers or the old National Assembly for Wales so far as it applies in relation to Wales (in other words, any other legislation made by the devolved government in Wales), and
 - c. any other enactment or rule of law so far as it applies in relation to Wales and relates to subject matter for which an Assembly Act could make provision (in other words, other legislation or common law rules which could potentially be reformed or re-enacted by the National Assembly).
18. [Schedule 1](#) to the Act contains definitions of various terms used in section 1(3), including “enactment”, “subordinate legislation” and “Wales”.