



# Legislation (Wales) Act 2019

2019 anaw 4

## PART 2

### INTERPRETATION AND OPERATION OF WELSH LEGISLATION

#### *Application and effect of Part*

#### **3 Legislation to which this Part applies**

- (1) This Part applies to—
  - (a) this Act;
  - (b) Assembly Acts that receive Royal Assent on or after the day on which this Part comes fully into force;
  - (c) Welsh subordinate instruments that are made on or after that day.
- (2) “Welsh subordinate instrument” means an instrument (whether or not that instrument is a statutory instrument) containing only one or both of the following—
  - (a) subordinate legislation that is made under an Assembly Act or an Assembly Measure, whether by the Welsh Ministers or by any other person;
  - (b) subordinate legislation that—
    - (i) is made under an Act of the Parliament of the United Kingdom or retained direct EU legislation,
    - (ii) is made only by the Welsh Ministers or any other devolved Welsh authority (within the meaning given by section 157A of the [Government of Wales Act 2006 \(c. 32\)](#)), and
    - (iii) applies only in relation to Wales.
- (3) References in the rest of this Part to an Assembly Act or a Welsh subordinate instrument are (unless otherwise provided) references to an Assembly Act or Welsh subordinate instrument to which this Part applies by virtue of subsection (1).

#### **4 Effect of provisions in this Part**

- (1) Where this Part applies to an Assembly Act or a Welsh subordinate instrument, the provisions in this Part have effect in relation to the Act or instrument except so far as—
  - (a) express provision is made to the contrary, or
  - (b) the context requires otherwise.
- (2) The exception in subsection (1) does not apply to section 5 (equal status of texts of bilingual legislation).
- (3) Paragraph (b) of that exception does not apply to—
  - (a) section 10 (references to time of day);
  - (b) section 28 (application of Welsh legislation to the Crown);
  - (c) section 33 (repeals and revocations do not revive law previously repealed, revoked or abolished).

#### *Bilingual Welsh legislation*

#### **5 Equal status of Welsh and English language texts**

- (1) This section applies where an Assembly Act is enacted, or a Welsh subordinate instrument is made, in Welsh and English.
- (2) The Welsh language text and the English language text have equal status for all purposes.

#### *Meaning of words and expressions used in Welsh legislation*

#### **6 Definitions of words and expressions**

- (1) Words and expressions listed in the Table in Schedule 1 are to be interpreted according to that Table where they appear in an Assembly Act or a Welsh subordinate instrument.
- (2) The Welsh Ministers may by regulations amend Schedule 1 to—
  - (a) insert new definitions of words or expressions;
  - (b) remove definitions of words or expressions;
  - (c) amend definitions of words or expressions.
- (3) Regulations under subsection (2) may make supplementary, incidental, consequential, transitory, transitional or saving provision, which may include provision which amends, repeals, revokes or otherwise modifies any enactment (whenever enacted or made).

#### **7 Words in the singular include the plural and vice versa**

- In an Assembly Act or a Welsh subordinate instrument—
- (a) words in the singular include the plural;
  - (b) words in the plural include the singular.

**8 Words denoting a gender are not limited to that gender**

In an Assembly Act or a Welsh subordinate instrument, words denoting persons of a particular gender are not to be read as limited to persons of that gender.

**9 Variations of a word or expression due to grammar etc.**

Where a word or expression in an Assembly Act or a Welsh subordinate instrument is given a meaning by an enactment, other parts of speech and grammatical forms or modifications of the word or expression are to be interpreted in accordance with that meaning.

**10 References to time of day**

A reference to the time of day in an Assembly Act or a Welsh subordinate instrument is a reference to Greenwich mean time; but this is subject to section 3 of the [Summer Time Act 1972 \(c. 6\)](#) (points of time during the period of summer time).

**11 References to the Sovereign**

A reference to the Sovereign in an Assembly Act or a Welsh subordinate instrument is to be read as a reference to the Sovereign for the time being.

**12 Measurement of distance**

A reference to a distance in an Assembly Act or a Welsh subordinate instrument is a reference to that distance measured in a straight line on a horizontal plane.

*Service of documents by post or electronically*

**13 Service of documents by post or electronically**

- (1) Where an Assembly Act or a Welsh subordinate instrument authorises or requires a person (“A”) to serve a document by post on another person (“B”), A serves the document if A properly addresses, pre-pays and posts a letter containing the document to B.
- (2) Where an Assembly Act or a Welsh subordinate instrument authorises or requires a person (“A”) to serve a document electronically on another person (“B”), A serves the document if—
  - (a) A properly addresses and sends to B an electronic communication consisting of or containing the document, or to which the document is attached, and
  - (b) the document is sent in an electronic form which is capable of being accessed and retained by B.
- (3) This section applies whether the Assembly Act or Welsh subordinate instrument uses the word “serve” or any other expression (such as “give” or “send”) to refer to the service of the document.

## **14 Day on which service is deemed to be effected**

Where a document is served by post or electronically under an Assembly Act or a Welsh subordinate instrument, service is deemed to be effected, unless the contrary is proved—

- (a) in the case of a document served by post, on the day on which the letter containing the document would arrive in the ordinary course of post;
- (b) in the case of a document served electronically, on the day on which the electronic communication is sent.

### *Powers and duties*

## **15 Continuity of powers and duties**

- (1) A power conferred by an Assembly Act or a Welsh subordinate instrument may be exercised on more than one occasion.
- (2) A duty imposed by an Assembly Act or a Welsh subordinate instrument is continuous and must be performed as occasion requires.
- (3) Where a power is conferred or a duty is imposed by an Assembly Act or a Welsh subordinate instrument on the holder of an office, it is to be exercised by the holder for the time being of the office.

## **16 Exercise of a power or duty that is not in force**

- (1) This section applies where a power or duty is conferred or imposed—
  - (a) by a provision in an Assembly Act which comes into force—
    - (i) other than by order or regulations, and
    - (ii) more than one day after the day on which the Act receives Royal Assent, or
  - (b) by a provision in a Welsh subordinate instrument which does not come into force immediately on the instrument being made.
- (2) The power or duty may be exercised (and any instrument made under the power or duty may come into force) during the period—
  - (a) beginning when the Assembly Act receives Royal Assent or the Welsh subordinate instrument is made, and
  - (b) ending when the provision conferring the power or imposing the duty comes into force.
- (3) But during that period the power or duty may be exercised only so far as is necessary or expedient for the purpose of giving full effect to—
  - (a) the Assembly Act or Welsh subordinate instrument conferring or imposing the power or duty, or
  - (b) a provision in that Act or instrument,at or after the time when the Act, instrument or provision comes into force.
- (4) Where a provision in an Assembly Act or a Welsh subordinate instrument which is not in force—
  - (a) is incidental or supplementary to a power or duty exercised in accordance with this section, and

(b) comes into force other than by order or regulations,  
that provision is to be treated as being in force so far as is necessary for the exercise of the power or duty in accordance with this section.

- (5) The exercise of a power or duty in accordance with this section is subject to any conditions or limitations imposed by the Assembly Act or Welsh subordinate instrument conferring or imposing the power or duty (whether or not the provision imposing the condition or limitation is in force).

## **17 Inclusion of sunset provisions and review provisions in subordinate legislation**

- (1) A power or duty to make subordinate legislation conferred or imposed by an Assembly Act may be exercised so that the subordinate legislation contains a review provision or a sunset provision (or both).
- (2) In this section—
- (a) “review provision” means a provision requiring the person who made the subordinate legislation to review the effectiveness of that legislation, or of any Welsh subordinate instrument it amends, within a specified period or at the end of a specified period;
  - (b) “sunset provision” means a provision for the subordinate legislation, or any Welsh subordinate instrument it amends, to cease to have effect at the end of a specified day or specified period;
  - (c) “specified” means specified in the subordinate legislation.
- (3) A review provision may, among other things, require a review of whether the objectives of the subordinate legislation to which it applies remain appropriate and, if so, whether they could be achieved in another way.
- (4) The subordinate legislation containing the review provision or sunset provision may provide that the provision applies generally or only in relation to specified provisions of subordinate legislation or specified cases or circumstances.
- (5) The power to make the review provision or sunset provision may be exercised to make supplementary, incidental, consequential, transitory, transitional or saving provision in connection with the review provision or sunset provision.

## **18 Revoking, amending and re-enacting subordinate legislation**

- (1) A power to make subordinate legislation conferred by an Assembly Act may be exercised to amend, revoke or re-enact any subordinate legislation made under the power.
- (2) A duty to make subordinate legislation imposed by an Assembly Act includes a power (exercisable in the same way and subject to the same conditions or limitations as the duty) which may be exercised to amend, revoke and replace, or re-enact any subordinate legislation made under the duty (or under the power provided by this subsection).

## **19 Amendment of subordinate legislation by an Assembly Act**

The amendment or revocation of subordinate legislation by an Assembly Act does not limit or otherwise affect the power or duty under which the subordinate legislation was made.

## **20 Varying and withdrawing directions**

- (1) A power to give directions conferred by an Assembly Act or a Welsh subordinate instrument may be exercised to vary or withdraw any directions given under the power.
- (2) A duty to give directions imposed by an Assembly Act or a Welsh subordinate instrument includes a power (exercisable in the same way and subject to the same conditions or limitations as the duty) to vary, or withdraw and replace, any directions given under the duty.

*References in Welsh legislation to legislation and other documents*

## **21 References to portions of enactments, instruments and documents**

- (1) Where an Assembly Act or a Welsh subordinate instrument—
  - (a) describes or refers to a portion of any enactment, instrument or document, and
  - (b) does so by referring to words, sections or other parts from or to which (or from and to which) the portion extends,the portion includes the words, sections or other parts referred to.
- (2) In subsection (1), “enactment” includes an enactment which is, or is contained in, any of the following—
  - (a) an Act of the Scottish Parliament;
  - (b) Northern Ireland legislation (within the meaning given by section 24(5) of the [Interpretation Act 1978 \(c. 30\)](#));
  - (c) an instrument made under legislation mentioned in paragraph (a) or (b).

## **22 Edition of Assembly Act or Assembly Measure referred to**

- (1) This section applies where an Assembly Act or a Welsh subordinate instrument refers to an Assembly Act (including an Assembly Act to which this Part does not apply) or an Assembly Measure.
- (2) The reference is a reference to the certified copy of the Act, or to the Measure as approved, which is published—
  - (a) by the Queen’s Printer, or
  - (b) under the superintendence or authority of Her Majesty’s Stationery Office.

## **23 Edition of Act of the Parliament of the United Kingdom referred to**

- (1) This section applies where an Assembly Act or a Welsh subordinate instrument refers to an Act of the Parliament of the United Kingdom (whether by its short title or by year, statute, session or chapter).
- (2) The reference is a reference to the Act as enacted which is published—
  - (a) by the Queen’s Printer, or

- (b) under the superintendence or authority of Her Majesty's Stationery Office.

(3) But—

- (a) where the reference is to an Act included in a revised edition of the statutes printed by authority, the reference is a reference to that edition;
- (b) where paragraph (a) does not apply and the reference is to an Act included in the edition prepared under the direction of the Record Commission, the reference is a reference to that edition.

## **24 References to direct EU legislation retained in domestic law after EU exit**

(1) This section applies where—

- (a) an Assembly Act receives Royal Assent, or a Welsh subordinate instrument is made, on or after exit day, and
- (b) the Act or instrument refers to any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement that forms part of domestic law by virtue of section 3 of the [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#) (incorporation of direct EU legislation).

(2) The reference is a reference to the EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement as it forms part of domestic law (and not as it forms part of EU law).

(3) In this section, the following expressions have the meanings given by section 20(1) of the European Union (Withdrawal) Act 2018—

- “domestic law”;
- “EU decision”;
- “EU regulation”;
- “EU tertiary legislation”.

## **25 References to enactments are to enactments as amended**

(1) This section applies where—

- (a) an Assembly Act or a Welsh subordinate instrument refers to an enactment (“A”), and
- (b) at any time (whether before, on or after the day on which the Assembly Act receives Royal Assent or the Welsh subordinate instrument is made) A is amended, extended or applied by an enactment (“B”).

(2) The reference to A is a reference to A as amended, extended or applied by B.

(3) Nothing in sections 22 to 24 limits the operation of this section.

(4) In subsection (1), “enactment” includes an enactment which is, or is contained in, any of the following—

- (a) an Act of the Scottish Parliament;
- (b) Northern Ireland legislation (within the meaning given by section 24(5) of the [Interpretation Act 1978 \(c. 30\)](#));
- (c) an instrument made under legislation mentioned in paragraph (a) or (b).

## 26 References to EU instruments

- (1) This section applies where—
  - (a) an Assembly Act or a Welsh subordinate instrument refers to an EU instrument (“A”), and
  - (b) before the day on which the Assembly Act receives Royal Assent or the Welsh subordinate instrument is made, A has been amended, extended or applied by another EU instrument (“B”).
- (2) The reference to A is a reference to A as amended, extended or applied by B.
- (3) See also regulation 2 of the [European Union \(Withdrawal\) Act 2018 \(Consequential Modifications and Repeals and Revocations\)](#) (EU Exit) Regulations 2019 (S.I. 2019/628) for provision about the effect on or after exit day of certain references which exist before exit day.

### *Duplication of criminal offences*

## 27 Duplicated offences

- (1) Where an act or omission is an offence under an Assembly Act or Welsh subordinate instrument (“A”) and is also an offence—
  - (a) under an Assembly Act or Welsh subordinate instrument other than A,
  - (b) at common law, or
  - (c) under an Assembly Act or Welsh subordinate instrument other than A and at common law,a person is liable to be prosecuted and punished under either or any of those Acts or instruments or at common law, but cannot be punished more than once for the same offence.
- (2) Subsection (1) does not apply if the act or omission is also an offence under any legislation to which section 18 of the [Interpretation Act 1978 \(c. 30\)](#) applies (but that section makes corresponding provision in relation to such an act or omission).

### *Application to the Crown*

## 28 Application of Welsh legislation to the Crown

- (1) An Assembly Act binds the Crown.
- (2) A Welsh subordinate instrument binds the Crown so far as it is made under an enactment which binds the Crown or confers a power to make provision binding the Crown.
- (3) An Assembly Act or a Welsh subordinate instrument does not make the Crown criminally liable, but it applies to persons in the service of the Crown as it applies to other persons.

### *Coming into force of legislation*

#### **29 Time when Welsh legislation comes into force**

Where—

- (a) an Assembly Act or a Welsh subordinate instrument, or
  - (b) a provision in an Assembly Act or a Welsh subordinate instrument,
- comes into force on a day provided for in an enactment, the Act, instrument or provision comes into force at the beginning of that day.

#### **30 Day on which an Assembly Act comes into force**

Where the coming into force of an Assembly Act, or of a provision in an Assembly Act, is not provided for in an enactment, the Act or provision comes into force at the beginning of the day after the day on which the Act receives Royal Assent.

#### **31 Orders and regulations bringing Assembly Acts into force**

Where an Assembly Act provides for an order or regulations to appoint—

- (a) the day on which the Act comes into force, or
  - (b) the day on which a provision in the Act comes into force,
- the order or regulations may appoint different days for different purposes.

### *Amendment, repeal and revocation of legislation*

#### **32 Amendments made to or by Welsh legislation**

- (1) Where an enactment amends an Assembly Act or a Welsh subordinate instrument by inserting or substituting words or other material, the words or material have effect as part of that Act or instrument.
- (2) Where an Assembly Act or a Welsh subordinate instrument amends an enactment by inserting or substituting words or other material, the words or material have effect as part of that enactment.
- (3) See also section 23ZA of the [Interpretation Act 1978 \(c. 30\)](#) for provision about the application of that Act to retained direct EU legislation that is amended by an Assembly Act or a Welsh subordinate instrument (or by certain other legislation).

#### **33 Repeals and revocations do not revive law previously repealed, revoked or abolished**

Where—

- (a) an Assembly Act or a Welsh subordinate instrument repeals or revokes an enactment (“A”), and
- (b) A previously repealed or revoked any other enactment (“B”) or abolished any other rule of law (“C”),

the repeal or revocation of A does not revive B or C.

### **34 General savings in connection with repeals and revocations**

- (1) This section applies where an Assembly Act or a Welsh subordinate instrument repeals or revokes an enactment.
- (2) The repeal or revocation does not—
  - (a) revive anything that is not in force or existing at the time when the repeal or revocation takes effect;
  - (b) affect the previous operation of the enactment or anything done or suffered under the enactment.
- (3) The repeal or revocation also does not affect—
  - (a) any right, privilege, obligation or liability acquired, accrued or incurred under the enactment;
  - (b) any penalty, forfeiture or punishment incurred in respect of any offence committed under the enactment;
  - (c) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repeal or revocation had not occurred.

### **35 Effect of re-enactment**

- (1) This section applies where an enactment (“A”) is—
  - (a) repealed or revoked by an Assembly Act or a Welsh subordinate instrument, and
  - (b) re-enacted (with or without modification) by an enactment (“B”) which is, or is contained in, an Assembly Act or a Welsh subordinate instrument.
- (2) A reference to A in any enactment, instrument or document is to be read as (or as including) a reference to B.
- (3) So far as any subordinate legislation made under A or having effect as if it were made under A could have been made under B, it is to have effect as if made under B.
- (4) So far as anything done or having effect as if it were done under A could have been done under B, it is to have effect as if done under B.

### **36 Referring to an Assembly Act by its short title after repeal**

An Assembly Act may continue to be referred to by the short title conferred on it by an enactment despite the repeal of that enactment.

### **37 Meaning of repeal and revocation in this Part**

- (1) In this Part, references to repealing or revoking an enactment or abolishing a rule of law include—
  - (a) substituting anything for the enactment or rule (or for any part of it);
  - (b) limiting the application or effect of the enactment or rule;
  - (c) providing for the enactment or rule to cease to have effect.
- (2) For the purposes of sections 34 to 36 (but not section 33)—

- (a) the expiry of a temporary Assembly Act is to be treated as a repeal of the Act by an Assembly Act or a Welsh subordinate instrument;
- (b) the expiry of a temporary Welsh subordinate instrument is to be treated as a revocation of the instrument by an Assembly Act or a Welsh subordinate instrument.