



Law Derived from the European Union (Wales) Act 2018

2018 anaw 3

EU derived Welsh law

5 Provision made under EU related powers to continue to have effect

- (1) Provision made in a statutory instrument made under one or more of the EU related powers set out in subsection (2) that is specified by the Welsh Ministers in regulations has effect under this section instead of under those powers and is to be treated as having been made under this section.
- (2) The EU related powers are—
 - (a) section 2(2) of the European Communities Act 1972;
 - (b) paragraph 1A of Schedule 2 to the European Communities Act 1972;
 - (c) section 56 of the Finance Act 1973 in so far as the provision was made in connection with any EU obligation.
- (3) Provision made in a statutory instrument made under an enactment other than the EU related powers set out in subsection (2) may also be specified under subsection (1) if—
 - (a) the statutory instrument is also made under one or more of the EU related powers, and
 - (b) the provision is made for a purpose mentioned in section 2(2)(a) or (b) of the European Communities Act 1972 or relates otherwise to the EU or the EEA.
- (4) A provision specified under subsection (1) has effect under this section, and is to be treated as having been made under this section, only so far as the provision would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (including any provision that could only be made with the consent of a Minister of the Crown).
- (5) Regulations may modify the provisions specified under subsection (1) or make further provision in connection with them if—

Status: This is the original version (as it was originally enacted).

- (a) the Welsh Ministers consider the modification or further provision necessary to ensure the effective operation of provisions specified under subsection (1) after the withdrawal of the United Kingdom from the European Union, and
 - (b) the modification or further provision is within devolved competence.
- (6) Regulations under subsection (5) may—
- (a) include (among other things) the kinds of provision mentioned in subsections (5) and (6) of section 4;
 - (b) modify an enactment.
- (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;
 - (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.