

Legislation (Wales) Act 2019

2019 anaw 4

PART 2

INTERPRETATION AND OPERATION OF WELSH LEGISLATION

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.