

LAW DERIVED FROM THE EUROPEAN UNION (WALES) BILL – STAGE 2 GOVERNMENT AMENDMENTS

This table provides information about the amendments tabled in the name of Mark Drakeford AM on 15 March 2018.

N o.	GOVERNMENT AMENDMENT	GWELLIANT Y LLYWODRAETH	PURPOSE AND EFFECT
1	Section 2, page 1, line 22, leave out '(restated' and insert 'or continuing in effect under or by virtue of regulations under that section ('.	Adran 2, tudalen 1, llinell 23, hepgorer '(deddfiadau sy'n deillio o gyfraith yr UE sydd wedi eu hailddatgan' a mewnosoder 'neu sy'n parhau mewn effaith o dan neu yn rhinwedd rheoliadau o dan yr adran honno (deddfiadau sy'n deillio o gyfraith yr UE'.	Consequential to amendment 2.
2	Section 4, page 4, line 2, leave out subsection (1) and insert— '(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	Adran 4, tudalen 4, llinell 2, hepgorer is-adran (1) a mewnosoder— '(1) Mae'r pŵer yn is-adran (2) yn gymwys i ddeddfiad— (a) os cafodd ei basio neu ei wneud, neu os yw'n gweithredu, yn gyfan gwbl neu i ryw raddau at ddiben a grybwyllir yn adran 2(2)(a) neu (b) o Ddeddf y Cymunedau Ewropeaidd 1972 (pa un a yw wedi ei wneud o dan adran 2(2) o'r Ddeddf honno neu baragraff 1A o Atodlen 2 iddi ai peidio), neu	The first purpose of this amendment is to expand the Welsh Ministers' power relating to EU derived enactments. It clarifies that the power is not restricted to enactments which are entirely within devolved competence. Therefore, where there is an enactment which is partly devolved and partly non-devolved, this amendment will enable the Welsh Ministers to use the power in section 4 to disapply the provision in relation to Wales (insofar as it is within devolved competence) and restate it, (again to the extent to which it is within devolved competence).

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	<p>(b) it relates otherwise to the EU or the EEA for all or some purposes.</p> <p>(2) The Welsh Ministers may by regulations—</p> <p>(a) repeal or revoke an enactment that is wholly within devolved competence;</p> <p>(b) disapply an enactment that is wholly or partly within devolved competence, so far as it is within devolved competence;</p> <p>(c) restate an enactment repealed or revoked under paragraph (a) with or without modifications within devolved competence;</p> <p>(d) restate an enactment disapplied under paragraph (b), so far as it is disapplied, with or without modifications within devolved competence;</p> <p>(e) make further provision within devolved competence in connection with restatement</p>	<p>(b) os yw'n ymwneud fel arall â'r UE neu'r AEE at bob diben neu at rai dibenion.</p> <p>(2) Caiff Gweinidogion Cymru drwy reoliadau—</p> <p>(a) diddymu neu ddirymu deddfiad sydd o fewn cymhwysedd datganoledig yn gyfan gwbl;</p> <p>(b) datgymhwyso deddfiad sydd o fewn cymhwysedd datganoledig yn gyfan gwbl neu'n rhannol, i'r graddau y mae o fewn cymhwysedd datganoledig;</p> <p>(c) ailddatgan deddfiad a ddiddymir neu a ddirymir o dan baragraff (a) gyda neu heb addasiadau o fewn cymhwysedd datganoledig;</p> <p>(d) ailddatgan deddfiad a ddatgymhwysir o dan baragraff (b), i'r graddau y mae wedi ei ddatgymhwyso, gyda neu heb addasiadau o fewn cymhwysedd datganoledig;</p> <p>(e) gwneud darpariaeth bellach o fewn cymhwysedd datganoledig</p>	<p>The effect of this amendment in relation to its first purpose is to provide a more precisely defined list of the powers available under section 4. The amendment will mean that the power to repeal and restate an enactment extends to enactments which contain devolved and non-devolved provision. Without amendment, only enactments which are entirely within devolved competence (as defined by section 15) would fall within the scope of section 4.</p> <p>The amendment's second purpose is to deal with subordinate legislation made under enactments which are repealed, revoked or disapplied in relation to Wales by virtue of section 4. It will enable the Welsh Ministers to make regulations so that such subordinate legislation continues to have effect rather than the subordinate legislation in question is restated.</p> <p>The effect of the amendment in relation to the second purpose is to add a further power in relation to subordinate legislation</p>

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	<p>of an enactment under paragraph (c) or (d).</p> <p>(3) The Welsh Ministers may by regulations—</p> <p>(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));</p> <p>(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</p>	<p>mewn cysylltiad ag ailddatgan deddfiad o dan baragraff (c) neu (d).</p> <p>(3) Caiff Gweinidogion Cymru drwy reoliadau—</p> <p>(a) darparu i ddarpariaeth mewn is-ddeddfwriaeth a wneir o dan neu yn rhinwedd darpariaeth a ddiddymir neu a ddirymir drwy reoliadau o dan is-adran (2)(a) barhau mewn effaith fel pe bai wedi ei gwneud o dan neu yn rhinwedd darpariaeth mewn rheoliadau o dan is-adran (2)(c) (gan gynnwys darpariaeth mewn is-ddeddfwriaeth a wneir o dan neu yn rhinwedd swyddogaethau nad ydynt wedi eu hailddatgan yn y rheoliadau o dan is-adran (2)(c));</p> <p>(b) darparu i ddarpariaeth mewn is-ddeddfwriaeth a wneir o dan neu yn rhinwedd darpariaeth i'r graddau y mae wedi ei datgymhwyso drwy reoliadau o dan isadran (2)(b) barhau mewn effaith fel pe bai wedi ei gwneud o dan neu yn rhinwedd</p>	<p>falling within the scope of section 4. It provides that the Welsh Ministers can, by regulations, specify subordinate legislation that is made under enactments repealed, revoked or disapplied under section 4 are to continue to have effect. It also provides a power to make modifications to the subordinate legislation continuing effect by virtue of regulations made under section 4. The requirement that modifications must be necessary to ensure the effective operation of the restated enactment after withdrawal will apply to the power to make modifications to subordinate legislation continuing in effect by virtue of amendments 3 and 4 below.</p>

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	<p>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));</p> <p>(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.’.</p>	<p>darpariaeth mewn rheoliadau o dan is-adran (2)(d) (gan gynnwys darpariaeth mewn is-ddeddfwriaeth a wneir o dan neu yn rhinwedd swyddogaethau nad ydynt wedi eu hailddatgan yn y rheoliadau o dan is-adran(2)(d));</p> <p>(c) addasu darpariaeth mewn is-ddeddfwriaeth sy'n parhau mewn effaith o dan yr isadran hon a gwneud darpariaeth bellach mewn cysylltiad â'i heffaith barhaus, os yw'r addasiad neu'r ddarpariaeth bellach o fewn cymhwysedd datganoledig.’.</p>	
3	Section 4, page 4, line 13, after ‘restatement’, insert ‘or continued effect’.	Adran 4, tudalen 4, llinell 15, ar ôl ‘ailddatgan’, mewnosoder ‘neu ei barhad mewn effaith’.	This amendment is consequential to amendment 2 and ensures that the restriction to only make modifications which are necessary applies to subordinate legislation that is continued in effect by virtue of regulations made under section 4 as amended by amendment 2.
4	Section 4, page 4, line 15, leave out ‘restated’.	Adran 4, tudalen 4, llinell 17, hepgorer ‘ailddatganedig’.	This amendment is consequential to amendment 2 and reflects that section 4(2) will also apply to subordinate legislation which continues in effect in

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			addition to restated enactments.
5	Schedule 2, page 20, line 16, after 'Wales', insert 'along with a statement setting out the Welsh Ministers' view on whether the procedure in sub-paragraphs (5) to (13) should apply'.	Atodlen 2, tudalen 20, llinell 18, ar ôl 'Cymru', mewnosoder 'ynghyd â datganiad sy'n nodi barn Gweinidogion Cymru o ran a ddylai'r weithdrefn yn is-baragraffau (5) i (13) fod yn gymwys'.	<p>The purpose of this amendment is to provide the Assembly with information on the Welsh Ministers' views on whether the enhanced procedure should apply to draft regulations made under the Bill.</p> <p>Paragraph 1(4) of Schedule 2 to the Bill provides that the Assembly chooses whether the enhanced procedure is to apply to regulations falling within the categories specified in paragraph 1(1) of Schedule 2 to the Bill.</p> <p>Any draft regulations laid by the Welsh Ministers before the Assembly that contain provision which falls within paragraph 1(1) of Schedule 2 to the Bill are subject to the procedure set out in paragraph 1 of that Schedule. This includes the Assembly deciding whether to approve the regulations (affirmative) or deciding that the enhanced procedure (laid out in sub-paragraphs (5) to (13)) is to apply). The effect of this amendment is that, when laying draft regulations which are subject to these procedures, the Welsh Ministers will be under a duty to lay an accompanying statement setting out</p>

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			the Welsh Ministers' view on whether the enhanced procedure should apply.
6	Schedule 2, page 22, line 30, after 'Wales', insert 'along with a statement explaining the circumstances of the urgency and why, in the Welsh Ministers' opinion, it was necessary to make the regulations without a draft being laid and approved'.	Atodlen 2, tudalen 22, llinell 32, ar ôl 'Cymru', mewnosoder 'ynghyd â datganiad sy'n esbonio amgylchiadau'r brys a pham, ym marn Gweinidogion Cymru, yr oedd angen gwneud y rheoliadau heb osod na chymeradwyo drafft'.	<p>The purpose of this amendment is to provide the Assembly with information on why the Welsh Ministers consider the urgent procedure is justified. This is aimed at assisting the Assembly in scrutinising the regulations in question.</p> <p>The effect is to require the Welsh Ministers to lay a statement alongside any instrument made using the urgent procedure. The statement must explain the circumstances of the urgency and why the Welsh Ministers consider it necessary for the regulations to be subject to the urgent procedure.</p>