



Law Derived from the European Union (Wales) Act 2018

2018 anaw 3

EU derived Welsh law

7 Interpretation of EU derived Welsh law

- (1) This section applies to the interpretation of EU derived Welsh law.
- (2) Any question as to the validity, meaning or effect of any EU derived Welsh law is to be decided, so far as that law is unmodified on or after exit day and so far as they are relevant to it—
 - (a) in accordance with any retained case law, any retained general principles of EU law and the Charter of Fundamental Rights, and
 - (b) having regard (among other things) to the limits, immediately before exit day, of EU competences.
- (3) But—
 - (a) the Supreme Court of the United Kingdom is not bound by any retained EU case law,
 - (b) no court or tribunal is bound by any retained domestic case law that it would not otherwise be bound by, and
 - (c) no general principle of EU law is to be taken into account unless it was recognised as a general principle of EU law by the European Court in a case decided before exit day (whether or not as an essential part of the decision in the case).
- (4) In deciding whether to depart from any retained EU case law, the Supreme Court must apply the same test as it would apply in deciding whether to depart from its own case law.
- (5) Subsection (2) does not prevent the validity, meaning or effect of any EU derived Welsh law that has been modified on or after exit day from being decided as provided for in that subsection if doing so is consistent with the intention of the modifications.

(6) In this section—

“retained case law” (*“cyfraith achosion a ddargedwir”*) means—

- (a) retained domestic case law, and
- (b) retained EU case law;

“retained domestic case law” (*“cyfraith achosion ddomestig a ddargedwir”*) means any principles laid down by, and any decisions of, a court or tribunal in England and Wales or the Supreme Court of the United Kingdom, as they have effect immediately before exit day and so far as they—

- (a) relate to anything in respect of which regulations may be made under section 3, 4 or 5, and
- (b) are not excluded by section 6 or any other enactment in primary legislation (except an enactment to which subsection (7) applies),

(as those principles and decisions are modified by or under this Act or by other law of England and Wales from time to time);

“retained EU case law” (*“cyfraith achosion yr UE a ddargedwir”*) means any principles laid down by, and any decisions of, the European Court, as they have effect in EU law immediately before exit day and so far as they—

- (a) relate to anything in respect of which regulations may be made under section 3, 4 or 5, and
- (b) are not excluded by section 6 or any other enactment in primary legislation (except an enactment to which subsection (7) applies),

(as those principles and decisions are modified by or under this Act or by other law of England and Wales from time to time);

“retained general principles of EU law” (*“egwyddorion cyffredinol cyfraith yr UE a ddargedwir”*) means the general principles of EU law, as they have effect in EU law immediately before exit day and so far as they—

- (a) relate to anything in respect of which regulations may be made under which section 3, 4 or 5, and
- (b) are not excluded by section 6 or any other enactment in primary legislation (except an enactment to which subsection (7) applies),

(as those principles are modified by or under this Act or by other law of England and Wales from time to time).

(7) This subsection applies to an enactment (other than an enactment contained in an Act of the National Assembly for Wales) that would exclude the Charter of Fundamental Rights from law that applies in relation to Wales (whether or not the exclusion extends or applies to other territories) were it not for this section.

(8) An enactment to which subsection (7) applies has no effect for the purposes of this section.