



UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021

2021 asp 4

PART 1

ALIGNMENT WITH EU LAW

3 Limitations on the section 1(1) power

- (1) Regulations under section 1(1) may not—
- (a) impose or increase taxation,
 - (b) make retrospective provision,
 - (c) create a relevant criminal offence,
 - (d) provide for the establishment of a Scottish public authority,
 - (e) remove any protection relating to the independence of judicial decision-making, or decision-making of a judicial nature, by a person occupying a judicial office, or otherwise make provision inconsistent with the duty in section 1 of the Judiciary and Courts (Scotland) Act 2008 (guarantee of the continued independence of the judiciary),
 - (f) confer a function on a Scottish public authority that is not broadly consistent with the general objects and purposes of the authority,
 - (g) modify any of the matters listed in section 31(5) of the Scotland Act 1998 (protected subject-matter),
 - (h) modify the Scotland Act 1998,
 - (i) modify the Equality Act 2006, or
 - (j) modify the Equality Act 2010.
- (2) Paragraphs (e) and (j) of subsection (1) do not prevent the removal of a protection or the making of a modification if alternative provision is made in the regulations that is equivalent to the protection being removed or the provision being modified.
- (3) In subsection (1)—
- “judicial office” means—
- (a) the office of judge of any court,
 - (b) the office of member of any tribunal,

Changes to legislation: There are currently no known outstanding effects for the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, Section 3. (See end of Document for details)

(c) any other office, or appointment, having functions of a judicial nature, “relevant criminal offence” means an offence for which an individual who has reached the age of 21 is capable of being sentenced to imprisonment for a term of more than 2 years (ignoring any enactment prohibiting or restricting the imprisonment of individuals who have no previous convictions), “retrospective provision”, in relation to provision made by regulations, means provision taking effect from a date earlier than the date on which the regulations are made.

Commencement Information

II S. 3 in force at 29.3.2021 by S.S.I. 2021/141, reg. 2, [sch.](#)

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