



# European Union (Withdrawal) Act 2018

## 2018 CHAPTER 16

### *Retention of existing EU law*

#### **7 Status of retained EU law**

- (1) Anything which—
  - (a) was, immediately before exit day, primary legislation of a particular kind, subordinate legislation of a particular kind or another enactment of a particular kind, and
  - (b) continues to be domestic law on and after exit day by virtue of section 2, continues to be domestic law as an enactment of the same kind.
- (2) Retained direct principal EU legislation cannot be modified by any primary or subordinate legislation other than—
  - (a) an Act of Parliament,
  - (b) any other primary legislation (so far as it has the power to make such a modification), or
  - (c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—
    - (i) paragraph 3, 5(3)(a) or (4)(a), 8(3), 10(3)(a) or (4)(a), 11(2)(a) or 12(3) of Schedule 8,
    - (ii) any other provision made by or under this Act,
    - (iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or
    - (iv) any provision made on or after the passing of this Act by or under primary legislation.
- (3) Retained direct minor EU legislation cannot be modified by any primary or subordinate legislation other than—
  - (a) an Act of Parliament,
  - (b) any other primary legislation (so far as it has the power to make such a modification), or

- (c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—
  - (i) paragraph 3, 5(2) or (4)(a), 8(3), 10(2) or (4)(a) or 12(3) of Schedule 8,
  - (ii) any other provision made by or under this Act,
  - (iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or
  - (iv) any provision made on or after the passing of this Act by or under primary legislation.
- (4) Anything which is retained EU law by virtue of section 4 cannot be modified by any primary or subordinate legislation other than—
  - (a) an Act of Parliament,
  - (b) any other primary legislation (so far as it has the power to make such a modification), or
  - (c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—
    - (i) paragraph 3, 5(3)(b) or (4)(b), 8(3), 10(3)(b) or (4)(b), 11(2)(b) or 12(3) of Schedule 8,
    - (ii) any other provision made by or under this Act,
    - (iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or
    - (iv) any provision made on or after the passing of this Act by or under primary legislation.
- (5) For other provisions about the status of retained EU law, see—
  - (a) section 5(1) to (3) (status of retained EU law in relation to other enactments or rules of law),
  - (b) section 6 (status of retained case law and retained general principles of EU law),
  - (c) section 15(2) and Part 2 of Schedule 5 (status of retained EU law for the purposes of the rules of evidence),
  - (d) paragraphs 13 to 16 of Schedule 8 (affirmative and enhanced scrutiny procedure for, and information about, instruments which amend or revoke subordinate legislation under section 2(2) of the European Communities Act 1972 including subordinate legislation implementing EU directives),
  - (e) paragraphs 19 and 20 of that Schedule (status of certain retained direct EU legislation for the purposes of the Interpretation Act 1978), and
  - (f) paragraph 30 of that Schedule (status of retained direct EU legislation for the purposes of the Human Rights Act 1998).
- (6) In this Act—
  - “retained direct minor EU legislation” means any retained direct EU legislation which is not retained direct principal EU legislation;
  - “retained direct principal EU legislation” means—
    - (a) any EU regulation so far as it—
      - (i) forms part of domestic law on and after exit day by virtue of section 3, and
      - (ii) was not EU tertiary legislation immediately before exit day, or
    - (b) any Annex to the EEA agreement so far as it—

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

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- (i) forms part of domestic law on and after exit day by virtue of section 3, and
  - (ii) refers to, or contains adaptations of, any EU regulation so far as it falls within paragraph (a),
- (as modified by or under this Act or by other domestic law from time to time).