
EXPLANATORY NOTE

(This note is not part of the Regulations)

Schedule 1 to these Regulations makes repeals consequential to the repeal of section 5 of the European Union (Amendment) Act 2008 (c. 7) (“the 2008 Act”) and the repeal of sections 1 to 13 of the European Union Act 2011 (c. 12) (“the 2011 Act”) by the European Union (Withdrawal) Act 2018 (c. 16) (“the Withdrawal Act”).

The European Union (Croatian Accession and Irish Protocol) Act 2013 (c. 5) (“the 2013 Act”) which is partially repealed and the European Union (Approvals) Act 2017 (c. 35) (“the 2017 Act”) which is repealed by these Regulations contained Parliamentary approvals of treaties which were required by the 2011 Act.

The Constitutional Reform and Governance Act 2010 (c. 25) (the “CRAG Act”) contained an exemption from the normal CRAG Act procedures for approval of treaties prior to ratification where the treaty approval procedures in either the 2008 Act or the 2011 Act had been followed instead. These Regulations repeal this exemption.

Part 2 of Schedule 1 contains transitional provisions in relation to the repeals in Schedule 1.

Paragraph 1 of Schedule 1 makes it clear that despite the repeal of section 23(1) of the CRAG Act – which created an exemption from the normal CRAG Act treaty approval procedures where the more onerous treaty approval procedures in the 2008 Act or 2011 Act had been followed instead – any treaty which had already been approved under the 2008 Act or 2011 Act will still be treated as exempt from the CRAG Act procedures.

Paragraph 2 of Schedule 1 provides that the repeal of the approvals in the 2013 Act and the 2017 Act have no effect on the continuing validity of anything done in relation to matters approved by those Acts.

Schedule 2 to these Regulations makes certain consequential amendments in consequence of the creation of the new category of “retained direct EU legislation” by the Withdrawal Act and in consequence of the ability of certain powers under that Act to be used to sub-delegate powers.

Paragraph 1 of Schedule 2 amends the Statutory Instruments Act 1946 (c. 36) to make it clear that the normal requirements of that Act will apply to—

- (a) statutory instruments made under a power contained in retained direct EU legislation; and
- (b) statutory instruments made under new powers created in regulations under the Withdrawal Act.

Paragraph 2 of Schedule 2 amends the Laying of Documents Before Parliament (Interpretation) Act 1948 to make the normal rules on how to comply with a duty to lay a document before Parliament (that currently apply to duties in Acts of Parliament and subordinate legislation) apply to any duties to lay a document before Parliament that are added into retained direct EU legislation.

Paragraph 3 of Schedule 2 amends the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573) (the “1979 NI Order”) to make it clear that when a relevant Northern Ireland Authority makes a statutory rule under a power contained in retained direct EU legislation, the normal requirements in that Order will apply to the making of that statutory rule.

Paragraph 3 of Schedule 2 also amends the 1979 NI Order to apply the normal requirements of that Order to statutory rules made under new powers created in regulations under the Withdrawal Act.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The European Union (Withdrawal) Act 2018 (Consequential Amendments) Regulations 2018 No. 1242

A full impact assessment has not been prepared as no, or no significant, impact on the private, voluntary or public sector is foreseen.