
Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Paragraph 51. (See end of Document for details)

SCHEDULES

SCHEDULE 5

CONSEQUENTIAL AND TRANSITIONAL PROVISION ETC.

PART 2

SPECIFIC CONSEQUENTIAL PROVISION ETC.

European Union (Withdrawal) Act 2018

51 After Part 1 of Schedule 7 insert—

“PART 1A

SCRUTINY OF SPECIFIC POWERS RELATING TO WITHDRAWAL AGREEMENT ETC.

Powers in connection with Part 4 of the withdrawal agreement

- 8A A statutory instrument containing regulations under section 1A(3)(a)(ii) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- 8B (1) A statutory instrument containing regulations under section 8A which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Any other statutory instrument containing regulations under section 8A is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations under Part 1A of Schedule 2 of the Scottish Ministers acting alone which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (4) Any other regulations under Part 1A of Schedule 2 of the Scottish Ministers acting alone are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Paragraph 51. (See end of Document for details)

- (5) A statutory instrument containing regulations under Part 1A of Schedule 2 of the Welsh Ministers acting alone which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (6) Any other statutory instrument containing regulations under Part 1A of Schedule 2 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (7) Regulations under Part 1A of Schedule 2 of a Northern Ireland department acting alone which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (8) Any other regulations under Part 1A of Schedule 2 of a Northern Ireland department acting alone are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- 8C (1) This paragraph applies to regulations under Part 1A of Schedule 2 of a Minister of the Crown acting jointly with a devolved authority.
- (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
- (3) A statutory instrument containing regulations to which this paragraph applies which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any other statutory instrument containing regulations to which this paragraph applies is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- are subject to the affirmative procedure.
- (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the negative procedure.

Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Paragraph 51. (See end of Document for details)

- (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (6) applies as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (14) If in accordance with sub-paragraph (4), (6), (11) or (13)—
 - (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
 - (b) a relevant devolved legislature resolves that an instrument be annulled,

Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Paragraph 51. (See end of Document for details)

nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.

- (15) In sub-paragraph (14) “relevant devolved legislature” means—
- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
 - (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and
 - (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.

Powers in connection with other separation issues in the withdrawal agreement etc.

- 8D (1) A statutory instrument containing regulations under section 8B which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Any other statutory instrument containing regulations under section 8B is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations under Part 1B of Schedule 2 of the Scottish Ministers acting alone which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (4) Any other regulations under Part 1B of Schedule 2 of the Scottish Ministers acting alone are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (5) A statutory instrument containing regulations under Part 1B of Schedule 2 of the Welsh Ministers acting alone which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Paragraph 51. (See end of Document for details)

- (6) Any other statutory instrument containing regulations under Part 1B of Schedule 2 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
 - (7) Regulations under Part 1B of Schedule 2 of a Northern Ireland department acting alone which amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
 - (8) Any other regulations under Part 1B of Schedule 2 of a Northern Ireland department acting alone are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- 8E
- (1) This paragraph applies to regulations under Part 1B of Schedule 2 of a Minister of the Crown acting jointly with a devolved authority.
 - (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
 - (3) A statutory instrument containing regulations to which this paragraph applies which amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
 - (4) Any other statutory instrument containing regulations to which this paragraph applies is subject to annulment in pursuance of a resolution of either House of Parliament.
 - (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,are subject to the affirmative procedure.
 - (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the negative procedure.
 - (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
 - (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation

Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Paragraph 51. (See end of Document for details)

to regulations to which sub-paragraph (6) applies as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).

- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (14) If in accordance with sub-paragraph (4), (6), (11) or (13)—
- (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
 - (b) a relevant devolved legislature resolves that an instrument be annulled,
- nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.
- (15) In sub-paragraph (14) “relevant devolved legislature” means—
- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
 - (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and

Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Paragraph 51. (See end of Document for details)

- (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.

*Powers in connection with the Ireland/Northern
Ireland Protocol in the withdrawal agreement*

- 8F
- (1) A statutory instrument containing regulations under section 8C(1) which contain provision falling within sub-paragraph (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
 - (2) Provision falls within this sub-paragraph if—
 - (a) amends, repeals or revokes primary legislation or retained direct principal EU legislation,
 - (b) establishes a public authority,
 - (c) relates to a fee in respect of a function exercisable by a public authority in the United Kingdom,
 - (d) creates, or widens the scope of, a criminal offence,
 - (e) creates or amends a power to legislate, or
 - (f) facilitates the access to the market within Great Britain of qualifying Northern Ireland goods.
 - (3) Any other statutory instrument containing regulations under section 8C(1) is subject to annulment in pursuance of a resolution of either House of Parliament.
 - (4) A statutory instrument containing regulations under section 8C(6) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
 - (5) Regulations under Part 1C of Schedule 2 of the Scottish Ministers acting alone which contain provision falling within sub-paragraph (2) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).
 - (6) Any other regulations under Part 1C of Schedule 2 of the Scottish Ministers acting alone are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
 - (7) A statutory instrument containing regulations under Part 1C of Schedule 2 of the Welsh Ministers acting alone which contain provision falling within sub-paragraph (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
 - (8) Any other statutory instrument containing regulations under Part 1C of Schedule 2 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Paragraph 51. (See end of Document for details)

- (9) Regulations under Part 1C of Schedule 2 of a Northern Ireland department acting alone which contain provision falling within sub-paragraph (2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (10) Any other regulations under Part 1C of Schedule 2 of a Northern Ireland department acting alone are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- 8G (1) This paragraph applies to regulations under Part 1C of Schedule 2 of a Minister of the Crown acting jointly with a devolved authority.
- (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
- (3) A statutory instrument containing regulations to which this paragraph applies which contain provision falling within paragraph 8F(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any other statutory instrument containing regulations to which this paragraph applies is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and contain provision falling within paragraph 8F(2) are subject to the affirmative procedure.
- (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the negative procedure.
- (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (6) applies as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before

Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Paragraph 51. (See end of Document for details)

that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).

- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and contain provision falling within paragraph 8F(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and contain provision falling within paragraph 8F(2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (14) If in accordance with sub-paragraph (4), (6), (11) or (13)—
- (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
 - (b) a relevant devolved legislature resolves that an instrument be annulled,
- nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.
- (15) In sub-paragraph (14) “relevant devolved legislature” means—
- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
 - (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and
 - (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.”

Commencement Information

- I1** Sch. 5 para. 51 in force for specified purposes at 23.1.2020, see s. 42(6)(e)(ix)
- I2** Sch. 5 para. 51 in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(n)(xxiii)
- I3** Sch. 5 para. 51 in force at 19.5.2020 in so far as not already in force by S.I. 2020/518, reg. 2(p)(i)

Changes to legislation:

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