



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

2021 asp 4

## PART 1

### ALIGNMENT WITH EU LAW

#### **1 Power to make provision corresponding to EU law**

- (1) The Scottish Ministers may by regulations—
- (a) make provision—
    - (i) corresponding to an EU regulation, EU tertiary legislation or an EU decision,
    - (ii) for the enforcement of provision made under sub-paragraph (i) or otherwise to make it effective,
    - (iii) to implement an EU directive, or
    - (iv) modifying any provision of retained EU law relating to the enforcement or implementation of an EU regulation, EU tertiary legislation, an EU decision or an EU directive,so far as the EU regulation, EU tertiary legislation, EU decision or EU directive has effect in EU law after IP completion day, or
  - (b) otherwise make provision for the purpose of dealing with matters arising out of, or related to, the operation from time to time of—
    - (i) any rights, powers, liabilities, obligations or restrictions created by regulations made under this subsection, or
    - (ii) any remedies or proceedings provided for by those regulations.
- (2) In making regulations under subsection (1)(a)(i), (ii) or (iii), the Scottish Ministers may, in particular—
- (a) omit anything which has no practical application in relation to Scotland or is otherwise redundant or substantially redundant,
  - (b) omit functions of, or in relation to, EU entities which no longer have functions in that respect under EU law in relation to Scotland,
  - (c) omit provision for, or in connection with, reciprocal arrangements between—

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*Status: This is the original version (as it was originally enacted).*

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- (i) the United Kingdom or Scotland or a public authority in the United Kingdom, and
  - (ii) the EU, an EU entity, a member State or a public authority in a member State,
- which no longer exist or are no longer necessary,
- (d) omit provision for, or in connection with, other arrangements which—
    - (i) involve the EU, an EU entity, a member State or a public authority in a member State, or
    - (ii) are otherwise dependent upon the United Kingdom’s membership of the EU,
 and which no longer exist or are no longer necessary,
  - (e) omit provision for, or in connection with, any reciprocal or other arrangements not falling within paragraph (c) or (d) which no longer exist, or are no longer necessary, as a result of the United Kingdom ceasing to be a party to any of the EU Treaties,
  - (f) confer functions or impose restrictions which—
    - (i) are in an EU directive and in force (including any power to make EU tertiary legislation), and
    - (ii) it is appropriate to retain,
  - (g) omit EU references which are not necessary.
- (3) Regulations under subsection (1)(a)(i), (ii) or (iii) may provide for functions of EU entities or public authorities in member States (including making an instrument of a legislative character or providing funding) to be—
- (a) exercisable instead by a Scottish public authority (whether or not established for the purpose), or by any person whom the authority authorises to carry out functions on its behalf, or
  - (b) omitted or otherwise differently provided for.
- (4) Regulations under subsection (1)(a)(iv) may, in relation to any functions in EU instruments that are already exercisable by a Scottish public authority—
- (a) provide for the authority to—
    - (i) delegate any of the functions to another person, or
    - (ii) arrange for any of the functions to be carried out by another person, or
  - (b) otherwise provide for the functions to be conferred instead on another Scottish public authority.
- (5) Regulations under subsection (1) may make provision for, or in connection with, the charging of fees or other charges in connection with the exercise of a function (“the relevant function”) which a Scottish public authority has by virtue of provision made under that subsection, including—
- (a) specifying fees or charges or making provision as to how they are to be determined,
  - (b) providing for the recovery or disposal of any sums payable under the regulations,
  - (c) conferring power on the Scottish public authority to make, by subordinate legislation, any provision that the Scottish Ministers may make by virtue of this subsection in relation to the relevant function.

- (6) Regulations under subsection (1) may make any provision that could be made by an Act of the Scottish Parliament.