

*Changes to legislation: European Union (Withdrawal) Act 2018, SCHEDULE 5 is up to date with all changes known to be in force on or before 09 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## SCHEDULES

### SCHEDULE 5

Section 15(1) and (2)

#### PUBLICATION AND RULES OF EVIDENCE

#### PART 1

##### PUBLICATION OF RETAINED DIRECT EU LEGISLATION ETC.

##### *Things that must or may be published*

- 1 (1) The Queen's Printer must make arrangements for the publication of—
- (a) each relevant instrument that has been published before [<sup>F1</sup>IP completion day] by an EU entity, and
  - (b) the relevant international agreements.
- (2) In this paragraph—
- “relevant instrument” means—
    - (a) an EU regulation,
    - (b) an EU decision, and
    - (c) EU tertiary legislation;
  - “relevant international agreements” means—
    - (a) the Treaty on European Union,
    - (b) the Treaty on the Functioning of the European Union,
    - (c) the Euratom Treaty, and
    - (d) the EEA agreement.
- (3) The Queen's Printer may make arrangements for the publication of—
- (a) any decision of, or expression of opinion by, the European Court, or
  - (b) any other document published by an EU entity.
- (4) The Queen's Printer may make arrangements for the publication of anything which the Queen's Printer considers may be useful in connection with anything published under this paragraph.
- (5) This paragraph does not require the publication of—
- (a) anything repealed before [<sup>F2</sup>IP completion day], or
  - (b) any modifications made on or after [<sup>F3</sup>IP completion day].

#### Textual Amendments

- F1** Words in Sch. 5 para. 1(1)(a) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(7), **Sch. 5 para. 48(2)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(n)(xxi)

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- F2** Words in Sch. 5 para. 1(5)(a) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 48\(2\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(n)(xxi)
- F3** Words in Sch. 5 para. 1(5)(b) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 48\(2\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(n)(xxi)

**Modifications etc. (not altering text)**

- C1** Sch. 5 para. 1(1) excluded (30.1.2020) by [Direct Payments to Farmers \(Legislative Continuity\) Act 2020 \(c. 2\), ss. 4, 9\(3\)](#)

**Commencement Information**

- I1** Sch. 5 para. 1 in force at 3.7.2019 by [S.I. 2019/1077, reg. 2\(a\)](#)

*Exceptions from duty to publish*

- 2 (1) A Minister of the Crown may create an exception from the duty under paragraph 1(1) in respect of a relevant instrument if satisfied that it has not become (or will not become, on [<sup>F4</sup>IP completion day]) retained direct EU legislation.
- (2) An exception is created by giving a direction to the Queen's Printer specifying the instrument or category of instruments that are excepted.
- (3) A Minister of the Crown must publish any direction under this paragraph.
- (4) In this paragraph—  
“instrument” includes part of an instrument;  
“relevant instrument” has the meaning given by paragraph 1(2).

**Textual Amendments**

- F4** Words in Sch. 5 para. 2(1) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 48\(2\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(n)(xxi)

**Commencement Information**

- I2** Sch. 5 para. 2 in force at 4.7.2018 by [S.I. 2018/808, reg. 3\(d\)](#)

**PART 2**

RULES OF EVIDENCE

*Questions as to meaning of EU law*

- 3 (1) Where it is necessary, [<sup>F5</sup>in legal proceedings], to decide a question as to—  
(a) the meaning or effect in EU law of any of the EU Treaties or any other treaty relating to the EU, or  
(b) the validity, meaning or effect in EU law of any EU instrument,  
the question is to be treated <sup>F6</sup>... as a question of law.
- (2) In this paragraph—  
<sup>F7</sup>  
...  
“treaty” includes—

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- (a) any international agreement, and
- (b) any protocol or annex to a treaty or international agreement.

#### Textual Amendments

- F5** Words in Sch. 5 para. 3(1) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 48(3)(a)(i)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F6** Words in Sch. 5 para. 3(1) omitted (31.12.2020) by virtue of European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 48(3)(a)(ii)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F7** Words in Sch. 5 para. 3(2) omitted (31.12.2020) by virtue of European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 48(3)(b)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)

#### Commencement Information

- I3** Sch. 5 para. 3 in force at 31.12.2020 by S.I. 2020/1622, **reg. 3(m)**

#### *Power to make provision about judicial notice and admissibility*

- 4 (1) A Minister of the Crown may by regulations—
- (a) make provision enabling or requiring judicial notice to be taken of a relevant matter, or
  - (b) provide for the admissibility in any legal proceedings of specified evidence of—
    - (i) a relevant matter, or
    - (ii) instruments or documents issued by or in the custody of an EU entity.
- (2) Regulations under sub-paragraph (1)(b) may provide that evidence is admissible only where specified conditions are met (for example, conditions as to certification of documents).
- (3) Regulations under this paragraph may modify any provision made by or under an enactment.
- (4) In sub-paragraph (3) “enactment” does not include primary legislation passed or made after [F8]IP completion day].
- (5) For the purposes of this paragraph each of the following is a “relevant matter”—
- [F9](a) assimilated law,]
  - (b) EU law,
  - (c) the EEA agreement,
  - [F10](ca) the EEA EFTA separation agreement,
  - (cb) the Swiss citizens' rights agreement,
  - (cc) the withdrawal agreement,] and
  - (d) anything which is specified in the regulations and which relates to a matter mentioned in paragraph (a), (b) [F11], (c), (ca), (cb) or (cc)].

#### Textual Amendments

- F8** Words in Sch. 5 para. 4(4) substituted (31.1.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 48(4)(a)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(n)(xxi)

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- F9** Sch. 5 para. 4(5)(a) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(13)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F10** Sch. 5 para. 4(5)(ca)-(cc) inserted (31.1.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 48(4)(b)(i)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(n)(xxi)
- F11** Words in Sch. 5 para. 4(5)(d) substituted (31.1.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 48(4)(b)(ii)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(n)(xxi)

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**Commencement Information**

- I4** Sch. 5 para. 4 in force at 4.7.2018 by S.I. 2018/808, **reg. 3(e)**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6(4)-(5ZA) word substituted by [2023 c. 28 Sch. 2 para. 8\(3\)\(c\)](#) (The inserted text to be amended is still prospective so this amendment is not applied yet.)
- s. 6(5ZA) inserted by [2023 c. 28 s. 6\(4\)](#)
- s. 6(6B) inserted by [2023 c. 28 s. 6\(6\)](#)
- s. 6A-6C inserted by [2023 c. 28 s. 6\(8\)](#)
- s. 6A word substituted by [2023 c. 28 Sch. 2 para. 8\(4\)](#) (The inserted text to be amended is still prospective so this amendment is not applied yet.)
- s. 6B word substituted by [2023 c. 28 Sch. 2 para. 8\(5\)](#) (The inserted text to be amended is still prospective so this amendment is not applied yet.)
- s. 6C word substituted by [2023 c. 28 Sch. 2 para. 8\(6\)](#) (The inserted text to be amended is still prospective so this amendment is not applied yet.)