
DRAFT STATUTORY INSTRUMENTS

2019 No.

The Protecting against the Effects of the
Extraterritorial Application of Third Country
Legislation (Amendment) (EU Exit) Regulations 2019

PART 3

Amendment of retained direct EU legislation

Amendment of Council Regulation (EC) No 2271/96

3.—(1) Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, is amended as follows.

(2) In Article 1—

(a) in the first paragraph—

(i) for “Community”, substitute “United Kingdom”;

(ii) for “third”, substitute “other”;

(b) in the second paragraph—

(i) for the words from “Commission” to “Regulation”, substitute “Secretary of State may by regulations made by statutory instrument amend the Annex to this Regulation to add”;

(ii) for “third”, substitute “other”;

(iii) omit “on the interests of the Union and the interests of natural and legal persons exercising rights under the Treaty on the Functioning of the European Union”.

(3) In Article 2—

(a) in the first and second paragraphs for “Commission”, in each place that it occurs, substitute “Secretary of State”;

(b) omit the third paragraph.

(4) In Article 3, for “Commission”, in each place that it occurs, substitute “Secretary of State”.

(5) In Article 4, for “Community”, substitute “United Kingdom”.

(6) In Article 5, for the second paragraph, substitute—

“The Secretary of State may by regulations made by statutory instrument—

(a) authorise persons to comply fully or partially with any requirement or prohibition referred to in the first paragraph of this Article to the extent that non-compliance would seriously damage their interests or those of the United Kingdom;

(b) make provision in connection with the making and consideration of applications to be so authorised.”.

- (7) In Article 6—
- (a) omit the third paragraph;
 - (b) in the fourth paragraph, for “Community”, in both places that it occurs, substitute “United Kingdom”.
- (8) In Article 7—
- (a) for “Commission”, substitute “Secretary of State”;
 - (b) for point (a), substitute—
 - (c) “(a) as regards the effects of the laws, regulations and other legislative instruments and ensuing actions mentioned in Article 1, and on the basis of the information obtained under this Regulation, make regularly a full public report thereon.”;
 - (d) omit points (b) to (e).
- (9) Omit Article 8.
- (10) Omit Article 9.
- (11) Omit Article 10.
- (12) In Article 11—
- (a) in point 1—
 - (i) for “being a resident in the Community”, substitute “who is resident in the United Kingdom”;
 - (ii) for “a Member State”, substitute “the United Kingdom”;
 - (b) in point 2, for “within the Community”, substitute “in any part of the United Kingdom”;
 - (c) for point 3, substitute—
 - (d) “3. a national of the United Kingdom providing maritime transport services, or any legal person (wherever incorporated) providing such services and controlled by a national of the United Kingdom, where the vessel is registered in the United Kingdom,”
 - (e) in point 4, for “being a resident in the Community”, substitute “resident in the United Kingdom”;
 - (f) in point 5—
 - (i) for “within the Community”, substitute “in the United Kingdom”;
 - (ii) for “a Member State”, substitute “the United Kingdom”.
 - (g) After point 5, insert—

“For the purposes of this Article, a natural person is resident in the United Kingdom where that person has been so resident for a period of at least six months within the 12-month period immediately prior to the date on which, under this Regulation, an obligation arises or a right is exercised.

For the purposes of this Article, “a national of the United Kingdom” means—

 - (a) British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
 - (b) a person who, under the British Nationality Act 1981⁽¹⁾, is a British subject;
 - (c) a British protected person within the meaning of that Act.”.
- (13) For Article 11a, substitute—

(1) 1981 c.61.

“Article 11a

1. Regulations under Articles 1 or 5 may make—
 - (a) different provision with respect to different cases or descriptions of case;
 - (b) incidental, supplementary or consequential provision;
 - (c) transitional, transitory or saving provision.

2. A statutory instrument containing regulations under Article 1 or point (b) of the second paragraph of Article 5 is subject to annulment in pursuance of a resolution of either House of Parliament.”.

(14) After Article 12, omit the words from “This Regulation shall be binding” to “all Member States”.

(15) In the Annex—

- (a) for “EU interests” in each place that it occurs, substitute “United Kingdom interests”;
- (b) for “EU citizens or companies”, substitute “United Kingdom nationals or companies”.

Amendment of Commission Implementing Regulation (EU) 2018/1101

4.—(1) Commission Implementing Regulation (EU) 2018/1101 of 3 August 2018 laying down the criteria for the application of the second paragraph of Article 5 of Council Regulation (EC) No 2271/96 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, is amended as follows.

(2) In Article 1, for “application of”, substitute “making and consideration of applications referred to in”;

(3) In Article 2, in point (d), for “Union”, substitute “United Kingdom”.

(4) In Article 3—

- (a) in paragraph 1—
 - (i) after “in writing to”, insert “the Secretary of State.”;
 - (ii) omit the words from “European Commission” to the end;
- (b) in paragraph 4, for “Commission”, in both places that it occurs, substitute “Secretary of State”;
- (c) omit paragraph 5.

(5) In Article 4—

- (a) in the first paragraph, for “Commission”, substitute “Secretary of State”;
- (b) in point (b), omit “third”;
- (c) in point (c), in each place that it occurs, omit “third”;
- (d) in point (i), for “Union’s”, substitute “United Kingdom’s”;
- (e) in point (j), for “Union or a Member State”, substitute “United Kingdom”;
- (f) in point (k), for the words from “internal market” to the end, substitute “financial or economic stability of the United Kingdom or key United Kingdom infrastructure”;
- (g) in point (m), for “one or several Member States and its cross-border consequences within the Union”, substitute “the United Kingdom”.

(6) Omit Article 5.

(7) In Article 6—

- (a) in paragraph 1—

- (i) for “Commission”, substitute “Secretary of State”;
 - (ii) omit “its”;
 - (b) in paragraph 2, omit “and Regulation (EC) No 45/2001”;
 - (c) omit paragraph 3.
- (8) After Article 7, omit the words from “This Regulation shall be binding” to “all Member States”.