



European Union (Withdrawal) Act 2018

2018 CHAPTER 16

VALID FROM 17/08/2019

Repeal of the ECA

1 Repeal of the European Communities Act 1972

The European Communities Act 1972 is repealed on exit day.

Retention of existing EU law

VALID FROM 31/12/2020

2 Saving for EU-derived domestic legislation

(1) EU-derived domestic legislation, as it has effect in domestic law immediately before [F1IP completion day], continues to have effect in domestic law on and after [F1IP completion day].

F2(2)

(3) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation) [F3and section 5A (savings and incorporation: supplementary)].

Textual Amendments

F1 Words in s. 2(1) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(1\)\(a\), 42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)

F2 S. 2(2) omitted (31.12.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(1\)\(b\), 42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)

Status: Point in time view as at 28/03/2019. This version of this Act contains provisions that are not valid for this point in time.
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F3 Words in s. 2(3) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(1)(c), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)

Commencement Information

I1 S. 2 in force at 31.12.2020 by S.I. 2020/1622, reg. 3(a)

VALID FROM 31/12/2020

3 Incorporation of direct EU legislation

(1) Direct EU legislation, so far as operative immediately before [^{F4}IP completion day], forms part of domestic law on and after [^{F4}IP completion day].

(2) In this Act “direct EU legislation” means—

(a) any EU regulation, EU decision or EU tertiary legislation, as it has effect in EU law immediately before [^{F5}IP completion day] and so far as—

[^{F6}(ai) it is applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement,

[^{F7}(bi) it neither has effect nor is to have effect by virtue of section 7A or 7B,]

(i) it is not an exempt EU instrument (for which see section 20(1) and Schedule 6), [^{F8}and]

[^{F9}(ii)]

(iii) its effect is not reproduced in an enactment to which section 2(1) applies,

(b) any Annex to the EEA agreement, as it has effect in EU law immediately before [^{F10}IP completion day] and so far as—

[^{F11}(ai) it is applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement,

(bi) it neither has effect nor is to have effect by virtue of section 7A or 7B,]

(i) it refers to, or contains adaptations of, anything falling within paragraph (a), and

(ii) its effect is not reproduced in an enactment to which section 2(1) applies, or

(c) Protocol 1 to the EEA agreement (which contains horizontal adaptations that apply in relation to EU instruments referred to in the Annexes to that agreement), as it has effect in EU law immediately before [^{F12}IP completion day] and so far as—

(i) it is applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement, and

(ii) it neither has effect nor is to have effect by virtue of section 7A or 7B].

(3) For the purposes of this Act, any direct EU legislation is operative immediately before [^{F13}IP completion day] if—

(a) in the case of anything which comes into force at a particular time and is stated to apply from a later time, it is in force and applies immediately before [^{F13}IP completion day],

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- (b) in the case of a decision which specifies to whom it is addressed, it has been notified to that person before [^{F13}IP completion day], and
 - (c) in any other case, it is in force immediately before [^{F13}IP completion day].
- (4) This section—
- (a) brings into domestic law any direct EU legislation only in the form of the English language version of that legislation, and
 - (b) does not apply to any such legislation for which there is no such version, but paragraph (a) does not affect the use of the other language versions of that legislation for the purposes of interpreting it.
- (5) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation) [^{F14}and section 5A (savings and incorporation: supplementary)].

Textual Amendments

- F4** Words in s. 3(1) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(2)(a), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F5** Words in s. 3(2)(a) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(2)(b)(i), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F6** S. 3(2)(a)(ai)(bi) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(2)(b)(ii), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F7** S. 3(2)(a)(bi) omitted for specified purposes (31.12.2020) by virtue of Agriculture Act 2020 (c. 21), ss. 18, 57(1)(a)
- F8** Word in s. 3(2)(a)(i) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(2)(b)(iii), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F9** S. 3(2)(a)(ii) and word omitted (31.12.2020) by virtue of European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(2)(b)(iv), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F10** Words in s. 3(2)(b) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(2)(c)(i), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F11** S. 3(2)(b)(ai)(bi) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(2)(c)(ii), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F12** Words in s. 3(2)(c) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(2)(d), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F13** Words in s. 3(3) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(2)(e), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F14** Words in s. 3(5) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(2)(f), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)

Modifications etc. (not altering text)

- C1** S. 3 modified (31.12.2020 immediately before IP completion day) by The Agriculture (Payments) (Amendment, etc.) (EU Exit) Regulations 2020 (S.I. 2020/1445), regs. 1, 2
- C2** S. 3 modified (31.12.2020) by virtue of Agriculture Act 2020 (c. 21), ss. 18, 57(1)(a)

Commencement Information

- I2** S. 3 in force at 31.12.2020 by S.I. 2020/1622, reg. 3(b)

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VALID FROM 31/12/2020

4 Saving for rights etc. under section 2(1) of the ECA

- (1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which, immediately before [^{F15}IP completion day]—
- (a) are recognised and available in domestic law by virtue of section 2(1) of the European Communities Act 1972, and
 - (b) are enforced, allowed and followed accordingly,
- continue on and after [^{F15}IP completion day] to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly).
- (2) Subsection (1) does not apply to any rights, powers, liabilities, obligations, restrictions, remedies or procedures so far as they—
- (a) form part of domestic law by virtue of section 3,
 - ^{F16}(aa) are, or are to be, recognised and available in domestic law (and enforced, allowed and followed accordingly) by virtue of section 7A or 7B,] or
 - (b) arise under an EU directive (including as applied by the EEA agreement) and are not of a kind recognised by the European Court or any court or tribunal in the United Kingdom in a case decided before [^{F17}IP completion day] (whether or not as an essential part of the decision in the case).
- (3) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation) [^{F18}and section 5A (savings and incorporation: supplementary)].

Textual Amendments

- F15** Words in s. 4(1) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), **ss. 25(3)(a)**, 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F16** S. 4(2)(aa) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), **ss. 25(3)(b)(i)**, 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F17** Words in s. 4(2)(b) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), **ss. 25(3)(b)(ii)**, 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F18** Words in s. 4(3) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), **ss. 25(3)(c)**, 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)

Modifications etc. (not altering text)

- C3** S. 4 excluded (31.12.2020) by Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), **Sch. 5 para. 2**
- C4** S. 4(1) excluded (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 7 para. 1(2)**; S.I. 2020/1642, **reg. 4(a)**
- C5** S. 4(1) excluded (23.7.2020 for specified purposes) by Finance Act 2019 (c. 1), **ss. 76(3)**, 79(1) (as substituted by 2020 c. 14, **Sch. 12 para. 8(2)**)

Commencement Information

- I3** S. 4 in force at 31.12.2020 by S.I. 2020/1622, **reg. 3(c)**

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5 Exceptions to savings and incorporation

- (1) The principle of the supremacy of EU law does not apply to any enactment or rule of law passed or made on or after exit day.
- (2) Accordingly, the principle of the supremacy of EU law continues to apply on or after exit day so far as relevant to the interpretation, disapplication or quashing of any enactment or rule of law passed or made before exit day.
- (3) Subsection (1) does not prevent the principle of the supremacy of EU law from applying to a modification made on or after exit day of any enactment or rule of law passed or made before exit day if the application of the principle is consistent with the intention of the modification.
- (4) The Charter of Fundamental Rights is not part of domestic law on or after exit day.
- (5) Subsection (4) does not affect the retention in domestic law on or after exit day in accordance with this Act of any fundamental rights or principles which exist irrespective of the Charter (and references to the Charter in any case law are, so far as necessary for this purpose, to be read as if they were references to any corresponding retained fundamental rights or principles).
- (6) Schedule 1 (which makes further provision about exceptions to savings and incorporation) has effect.

Commencement Information

I4 S. 5(6) in force at 4.7.2018 for specified purposes by S.I. 2018/808, reg. 3(a)

6 Interpretation of retained EU law

- (1) A court or tribunal—
 - (a) is not bound by any principles laid down, or any decisions made, on or after exit day by the European Court, and
 - (b) cannot refer any matter to the European Court on or after exit day.
- (2) Subject to this and subsections (3) to (6), a court or tribunal may have regard to anything done on or after exit day by the European Court, another EU entity or the EU so far as it is relevant to any matter before the court or tribunal.
- (3) Any question as to the validity, meaning or effect of any retained EU law is to be decided, so far as that law is unmodified on or after exit day and so far as they are relevant to it—
 - (a) in accordance with any retained case law and any retained general principles of EU law, and
 - (b) having regard (among other things) to the limits, immediately before exit day, of EU competences.
- (4) But—
 - (a) the Supreme Court is not bound by any retained EU case law,
 - (b) the High Court of Justiciary is not bound by any retained EU case law when—
 - (i) sitting as a court of appeal otherwise than in relation to a compatibility issue (within the meaning given by section 288ZA(2) of the Criminal Procedure (Scotland) Act 1995) or a devolution issue (within the

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- meaning given by paragraph 1 of Schedule 6 to the Scotland Act 1998), or
- (ii) sitting on a reference under section 123(1) of the Criminal Procedure (Scotland) Act 1995, and
- (c) no court or tribunal is bound by any retained domestic case law that it would not otherwise be bound by.
- (5) In deciding whether to depart from any retained EU case law, the Supreme Court or the High Court of Justiciary must apply the same test as it would apply in deciding whether to depart from its own case law.
- (6) Subsection (3) does not prevent the validity, meaning or effect of any retained EU law which has been modified on or after exit day from being decided as provided for in that subsection if doing so is consistent with the intention of the modifications.
- (7) In this Act—
- “retained case law” means—
- (a) retained domestic case law, and
- (b) retained EU case law;
- “retained domestic case law” means any principles laid down by, and any decisions of, a court or tribunal in the United Kingdom, as they have effect immediately before exit day and so far as they—
- (a) relate to anything to which section 2, 3 or 4 applies, and
- (b) are not excluded by section 5 or Schedule 1,
- (as those principles and decisions are modified by or under this Act or by other domestic law from time to time);
- “retained EU case law” means any principles laid down by, and any decisions of, the European Court, as they have effect in EU law immediately before exit day and so far as they—
- (a) relate to anything to which section 2, 3 or 4 applies, and
- (b) are not excluded by section 5 or Schedule 1,
- (as those principles and decisions are modified by or under this Act or by other domestic law from time to time);
- “retained EU law” means anything which, on or after exit day, continues to be, or forms part of, domestic law by virtue of section 2, 3 or 4 or subsection (3) or (6) above (as that body of law is added to or otherwise modified by or under this Act or by other domestic law from time to time);
- “retained general principles of EU law” means the general principles of EU law, as they have effect in EU law immediately before exit day and so far as they—
- (a) relate to anything to which section 2, 3 or 4 applies, and
- (b) are not excluded by section 5 or Schedule 1,
- (as those principles are modified by or under this Act or by other domestic law from time to time).

Commencement Information

I5 S. 6(7) in force at 4.7.2018 by [S.I. 2018/808](#), [reg. 3\(b\)](#)

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VALID FROM 31/01/2020

7 Status of retained EU law

- (1) Anything which—
 - (a) was, immediately before exit day, primary legislation of a particular kind, subordinate legislation of a particular kind or another enactment of a particular kind, and
 - (b) continues to be domestic law on and after exit day by virtue of section 2, continues to be domestic law as an enactment of the same kind.
- (2) Retained direct principal EU legislation cannot be modified by any primary or subordinate legislation other than—
 - (a) an Act of Parliament,
 - (b) any other primary legislation (so far as it has the power to make such a modification), or
 - (c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—
 - (i) paragraph 3, 5(3)(a) or (4)(a), 8(3), 10(3)(a) or (4)(a), 11(2)(a) or 12(3) of Schedule 8,
 - (ii) any other provision made by or under this Act,
 - (iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or
 - (iv) any provision made on or after the passing of this Act by or under primary legislation.
- (3) Retained direct minor EU legislation cannot be modified by any primary or subordinate legislation other than—
 - (a) an Act of Parliament,
 - (b) any other primary legislation (so far as it has the power to make such a modification), or
 - (c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—
 - (i) paragraph 3, 5(2) or (4)(a), 8(3), 10(2) or (4)(a) or 12(3) of Schedule 8,
 - (ii) any other provision made by or under this Act,
 - (iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or
 - (iv) any provision made on or after the passing of this Act by or under primary legislation.
- (4) Anything which is retained EU law by virtue of section 4 cannot be modified by any primary or subordinate legislation other than—
 - (a) an Act of Parliament,
 - (b) any other primary legislation (so far as it has the power to make such a modification), or
 - (c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—

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- (i) paragraph 3, 5(3)(b) or (4)(b), 8(3), 10(3)(b) or (4)(b), 11(2)(b) or 12(3) of Schedule 8,
 - (ii) any other provision made by or under this Act,
 - (iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or
 - (iv) any provision made on or after the passing of this Act by or under primary legislation.
- (5) For other provisions about the status of retained EU law, see—
- (a) section 5(1) to (3) (status of retained EU law in relation to other enactments or rules of law),
 - (b) section 6 (status of retained case law and retained general principles of EU law),
 - (c) section 15(2) and Part 2 of Schedule 5 (status of retained EU law for the purposes of the rules of evidence),
 - (d) paragraphs 13 to 16 of Schedule 8 (affirmative and enhanced scrutiny procedure for, and information about, instruments which amend or revoke subordinate legislation under section 2(2) of the European Communities Act 1972 including subordinate legislation implementing EU directives),
 - (e) paragraphs 19 and 20 of that Schedule (status of certain retained direct EU legislation for the purposes of the Interpretation Act 1978), and
 - (f) paragraph 30 of that Schedule (status of retained direct EU legislation for the purposes of the Human Rights Act 1998).
- (6) In this Act—
- “retained direct minor EU legislation” means any retained direct EU legislation which is not retained direct principal EU legislation;
- “retained direct principal EU legislation” means—
- (a) any EU regulation so far as it—
 - (i) forms part of domestic law on and after exit day by virtue of section 3, and
 - (ii) was not EU tertiary legislation immediately before exit day, or
 - (b) any Annex to the EEA agreement so far as it—
 - (i) forms part of domestic law on and after exit day by virtue of section 3, and
 - (ii) refers to, or contains adaptations of, any EU regulation so far as it falls within paragraph (a),
- (as modified by or under this Act or by other domestic law from time to time).

Main powers in connection with withdrawal

8 Dealing with deficiencies arising from withdrawal

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate to prevent, remedy or mitigate—
- (a) any failure of retained EU law to operate effectively, or
 - (b) any other deficiency in retained EU law,

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arising from the withdrawal of the United Kingdom from the EU.

- (2) Deficiencies in retained EU law are where the Minister considers that retained EU law—
- (a) contains anything which has no practical application in relation to the United Kingdom or any part of it or is otherwise redundant or substantially redundant,
 - (b) confers functions on, or in relation to, EU entities which no longer have functions in that respect under EU law in relation to the United Kingdom or any part of it,
 - (c) makes provision for, or in connection with, reciprocal arrangements between—
 - (i) the United Kingdom or any part of it 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 appropriate,
 - (d) makes 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 appropriate,
 - (e) makes 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 appropriate, as a result of the United Kingdom ceasing to be a party to any of the EU Treaties,
 - (f) does not contain any functions or restrictions which—
 - (i) were in an EU directive and in force immediately before exit day (including any power to make EU tertiary legislation), and
 - (ii) it is appropriate to retain, or
 - (g) contains EU references which are no longer appropriate.
- (3) There is also a deficiency in retained EU law where the Minister considers that there is—
- (a) anything in retained EU law which is of a similar kind to any deficiency which falls within subsection (2), or
 - (b) a deficiency in retained EU law of a kind described, or provided for, in regulations made by a Minister of the Crown.
- (4) But retained EU law is not deficient merely because it does not contain any modification of EU law which is adopted or notified, comes into force or only applies on or after exit day.
- (5) Regulations under subsection (1) may make any provision that could be made by an Act of Parliament.
- (6) Regulations under subsection (1) may (among other things) 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 public authority (whether or not established for the purpose) in the United Kingdom, or

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- (b) replaced, abolished or otherwise modified.
- (7) But regulations under subsection (1) may not—
- (a) impose or increase taxation or fees,
 - (b) make retrospective provision,
 - (c) create a relevant criminal offence,
 - (d) establish a public authority,
 - (e) be made to implement the withdrawal agreement,
 - (f) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it, or
 - (g) amend or repeal the Scotland Act 1998, the Government of Wales Act 2006 or the Northern Ireland Act 1998 (unless the regulations are made by virtue of paragraph 21(b) of Schedule 7 to this Act or are amending or repealing any provision of those Acts which modifies another enactment).
- (8) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (9) The reference in subsection (1) to a failure or other deficiency arising from the withdrawal of the United Kingdom from the EU includes a reference to any failure or other deficiency arising from that withdrawal taken together with the operation of any provision, or the interaction between any provisions, made by or under this Act.

Modifications etc. (not altering text)

- C6** S. 8 applied in part (with modifications) (26.10.2018) by [The Financial Regulators Powers \(Technical Standards etc.\) \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1115\)](#), regs. 1(2), **3(3)**

9 Implementing the withdrawal agreement

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate for the purposes of implementing the withdrawal agreement if the Minister considers that such provision should be in force on or before exit day, subject to the prior enactment of a statute by Parliament approving the final terms of withdrawal of the United Kingdom from the EU.
- (2) Regulations under this section may make any provision that could be made by an Act of Parliament.
- (3) But regulations under this section may not—
- (a) impose or increase taxation or fees,
 - (b) make retrospective provision,
 - (c) create a relevant criminal offence,
 - (d) establish a public authority, or
 - (e) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it.
- (4) No regulations may be made under this section after exit day.

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Devolution

10 Continuation of North-South co-operation and the prevention of new border arrangements

- (1) In exercising any of the powers under this Act, a Minister of the Crown or devolved authority must—
- (a) act in a way that is compatible with the terms of the Northern Ireland Act 1998, and
 - (b) have due regard to the joint report from the negotiators of the EU and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 of the Treaty on European Union.
- (2) Nothing in section 8, 9 or 23(1) or (6) of this Act authorises regulations which—
- (a) diminish any form of North-South cooperation provided for by the Belfast Agreement (as defined by section 98 of the Northern Ireland Act 1998), or
 - (b) create or facilitate border arrangements between Northern Ireland and the Republic of Ireland after exit day which feature physical infrastructure, including border posts, or checks and controls, that did not exist before exit day and are not in accordance with an agreement between the United Kingdom and the EU.

11 Powers involving devolved authorities corresponding to sections 8 and 9

Schedule 2 (which confers powers to make regulations involving devolved authorities which correspond to the powers conferred by sections 8 and 9) has effect.

12 Retaining EU restrictions in devolution legislation etc.

- (1) In section 29(2)(d) of the Scotland Act 1998 (no competence for the Scottish Parliament to legislate incompatibly with EU law) for “with EU law” substitute “ in breach of the restriction in section 30A(1) ”.
- (2) After section 30 of that Act (legislative competence: supplementary) insert—

“30A Legislative competence: restriction relating to retained EU law

- (1) An Act of the Scottish Parliament cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.
- (2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the legislative competence of the Parliament.
- (3) A Minister of the Crown must not lay for approval before each House of the Parliament of the United Kingdom a draft of a statutory instrument containing regulations under this section unless—
 - (a) the Scottish Parliament has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Parliament having made such a decision.

Status: Point in time view as at 28/03/2019. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: European Union (Withdrawal) Act 2018 is up to date with all changes known to be in force on or before 03 June 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)

- (4) For the purposes of subsection (3) a consent decision is—
- (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;
- and a consent decision is made when the Parliament first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (5) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must—
- (a) provide a copy of the draft to the Scottish Ministers, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (6) See also paragraph 6 of Schedule 7 (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Parliament).
- (7) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (8) Subsection (7) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.
- (9) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Scottish Parliament which receives Royal Assent after the end of that period.
- (10) Subsections (3) to (8) do not apply in relation to regulations which only relate to a revocation of a specification.
- (11) In this section—
- “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Scottish Ministers,
- and, in calculating that period, no account is to be taken of any time during which the Parliament is dissolved or during which it is in recess for more than four days.”
- (3) In section 108A(2)(e) of the Government of Wales Act 2006 (no competence for the National Assembly for Wales to legislate incompatibly with EU law) for “with EU law” substitute “in breach of the restriction in section 109A(1)”.
- (4) After section 109 of that Act (legislative competence: supplementary) insert—

“109A Legislative competence: restriction relating to retained EU law

- (1) An Act of the Assembly cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.

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- (2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the Assembly's legislative competence.
- (3) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A Minister of the Crown must not lay a draft as mentioned in subsection (3) unless—
 - (a) the Assembly has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Assembly having made such a decision.
- (5) For the purposes of subsection (4) a consent decision is—
 - (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (6) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must—
 - (a) provide a copy of the draft to the Welsh Ministers, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (7) See also section 157ZA (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (8) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (9) Subsection (8) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.
- (10) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Assembly which receives Royal Assent after the end of that period.
- (11) Subsections (4) to (9) do not apply in relation to regulations which only relate to a revocation of a specification.
- (12) In this section—

“the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Welsh Ministers,

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and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.”

- (5) In section 6(2)(d) of the Northern Ireland Act 1998 (no competence for the Northern Ireland Assembly to legislate incompatibly with EU law) for “incompatible with EU law” substitute “in breach of the restriction in section 6A(1)”.
- (6) After section 6 of that Act (legislative competence) insert—

“6A Restriction relating to retained EU law

- (1) An Act of the Assembly cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.
- (2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the legislative competence of the Assembly.
- (3) A Minister of the Crown must not lay for approval before each House of Parliament a draft of a statutory instrument containing regulations under this section unless—
 - (a) the Assembly has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Assembly having made such a decision.
- (4) For the purposes of subsection (3) a consent decision is—
 - (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;

and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (5) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must—
 - (a) provide a copy of the draft to the relevant Northern Ireland department, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (6) See also section 96A (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (7) No regulations may be made under this section after the end of the period of two years beginning with exit day.
- (8) Subsection (7) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.

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- (9) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Assembly which receives Royal Assent after the end of that period.
- (10) Subsections (3) to (8) do not apply in relation to regulations which only relate to a revocation of a specification.
- (11) Regulations under this section may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Minister of the Crown making them considers appropriate.
- (12) In this section—
- “the relevant Northern Ireland department” means such Northern Ireland department as the Minister of the Crown concerned considers appropriate;
- “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the relevant Northern Ireland department,
- and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.”
- (7) Part 1 of Schedule 3 (which makes corresponding provision in relation to executive competence to that made by subsections (1) to (6) in relation to legislative competence) has effect.
- (8) Part 2 of Schedule 3 (which imposes reporting obligations on a Minister of the Crown in recognition of the fact that the powers to make regulations conferred by subsections (1) to (6) and Part 1 of Schedule 3, and any restrictions arising by virtue of them, are intended to be temporary) has effect.
- (9) A Minister of the Crown may by regulations—
- (a) repeal any of the following provisions—
- (i) section 30A or 57(4) to (15) of the Scotland Act 1998,
- (ii) section 80(8) to (8L) or 109A of the Government of Wales Act 2006,
- or
- (iii) section 6A or 24(3) to (15) of the Northern Ireland Act 1998, or
- (b) modify any enactment in consequence of any such repeal.
- (10) Until all of the provisions mentioned in subsection (9)(a) have been repealed, a Minister of the Crown must, after the end of each review period, consider whether it is appropriate—
- (a) to repeal each of those provisions so far as it has not been repealed, or
- (b) to revoke any regulations made under any of those provisions so far as they have not been revoked.
- (11) In considering whether to exercise the power to make regulations under subsection (9), a Minister of the Crown must have regard (among other things) to—
- (a) the fact that the powers to make regulations conferred by the provisions mentioned in subsection (9)(a), and any restrictions arising by virtue of them, are intended to be temporary and, where appropriate, replaced with other arrangements, and

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- (b) any progress which has been made in implementing those other arrangements.
- (12) Part 3 of Schedule 3 (which contains amendments of devolution legislation not dealt with elsewhere) has effect.
- (13) In this section—
 - “arrangement” means any enactment or other arrangement (whether or not legally enforceable);
 - “review period” means—
 - (a) the period of three months beginning with the day on which subsection (10) comes into force, and
 - (b) after that, each successive period of three months.

Commencement Information

I6 S. 12(2)(4)(6)(7)(8)(12) in force for specified purposes at Royal Assent, see [s. 25\(1\)\(b\)\(2\)\(3\)](#)

I7 S. 12(9)-(11)(13) in force at 4.7.2018 by [S.I. 2018/808](#), [reg. 3\(c\)](#)

Parliamentary approval of outcome of EU negotiations

13 Parliamentary approval of the outcome of negotiations with the EU

- (1) The withdrawal agreement may be ratified only if—
 - (a) a Minister of the Crown has laid before each House of Parliament—
 - (i) a statement that political agreement has been reached,
 - (ii) a copy of the negotiated withdrawal agreement, and
 - (iii) a copy of the framework for the future relationship,
 - (b) the negotiated withdrawal agreement and the framework for the future relationship have been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown,
 - (c) a motion for the House of Lords to take note of the negotiated withdrawal agreement and the framework for the future relationship has been tabled in the House of Lords by a Minister of the Crown and—
 - (i) the House of Lords has debated the motion, or
 - (ii) the House of Lords has not concluded a debate on the motion before the end of the period of five Lords sitting days beginning with the first Lords sitting day after the day on which the House of Commons passes the resolution mentioned in paragraph (b), and
 - (d) an Act of Parliament has been passed which contains provision for the implementation of the withdrawal agreement.
- (2) So far as practicable, a Minister of the Crown must make arrangements for the motion mentioned in subsection (1)(b) to be debated and voted on by the House of Commons before the European Parliament decides whether it consents to the withdrawal agreement being concluded on behalf of the EU in accordance with Article 50(2) of the Treaty on European Union.
- (3) Subsection (4) applies if the House of Commons decides not to pass the resolution mentioned in subsection (1)(b).

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- (4) A Minister of the Crown must, within the period of 21 days beginning with the day on which the House of Commons decides not to pass the resolution, make a statement setting out how Her Majesty's Government proposes to proceed in relation to negotiations for the United Kingdom's withdrawal from the EU under Article 50(2) of the Treaty on European Union.
- (5) A statement under subsection (4) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (6) A Minister of the Crown must make arrangements for—
 - (a) a motion in neutral terms, to the effect that the House of Commons has considered the matter of the statement mentioned in subsection (4), to be moved in that House by a Minister of the Crown within the period of seven Commons sitting days beginning with the day on which the statement is made, and
 - (b) a motion for the House of Lords to take note of the statement to be moved in that House by a Minister of the Crown within the period of seven Lords sitting days beginning with the day on which the statement is made.
- (7) Subsection (8) applies if the Prime Minister makes a statement before the end of 21 January 2019 that no agreement in principle can be reached in negotiations under Article 50(2) of the Treaty on European Union on the substance of—
 - (a) the arrangements for the United Kingdom's withdrawal from the EU, and
 - (b) the framework for the future relationship between the EU and the United Kingdom after withdrawal.
- (8) A Minister of the Crown must, within the period of 14 days beginning with the day on which the statement mentioned in subsection (7) is made—
 - (a) make a statement setting out how Her Majesty's Government proposes to proceed, and
 - (b) make arrangements for—
 - (i) a motion in neutral terms, to the effect that the House of Commons has considered the matter of the statement mentioned in paragraph (a), to be moved in that House by a Minister of the Crown within the period of seven Commons sitting days beginning with the day on which the statement mentioned in paragraph (a) is made, and
 - (ii) a motion for the House of Lords to take note of the statement mentioned in paragraph (a) to be moved in that House by a Minister of the Crown within the period of seven Lords sitting days beginning with the day on which the statement mentioned in paragraph (a) is made.
- (9) A statement under subsection (7) or (8)(a) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (10) Subsection (11) applies if, at the end of 21 January 2019, there is no agreement in principle in negotiations under Article 50(2) of the Treaty on European Union on the substance of—
 - (a) the arrangements for the United Kingdom's withdrawal from the EU, and
 - (b) the framework for the future relationship between the EU and the United Kingdom after withdrawal.

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- (11) A Minister of the Crown must, within the period of five days beginning with the end of 21 January 2019—
- (a) make a statement setting out how Her Majesty's Government proposes to proceed, and
 - (b) make arrangements for—
 - (i) a motion in neutral terms, to the effect that the House of Commons has considered the matter of the statement mentioned in paragraph (a), to be moved in that House by a Minister of the Crown within the period of five Commons sitting days beginning with the end of 21 January 2019, and
 - (ii) a motion for the House of Lords to take note of the statement mentioned in paragraph (a) to be moved in that House by a Minister of the Crown within the period of five Lords sitting days beginning with the end of 21 January 2019.
- (12) A statement under subsection (11)(a) must be made in writing and be published in such manner as the Minister making it considers appropriate
- (13) For the purposes of this section—
- (a) a statement made under subsection (4), (8)(a) or (11)(a) may be combined with a statement made under another of those provisions,
 - (b) a motion falling within subsection (6)(a), (8)(b)(i) or (11)(b)(i) may be combined into a single motion with another motion falling within another of those provisions, and
 - (c) a motion falling within subsection (6)(b), (8)(b)(ii) or (11)(b)(ii) may be combined into a single motion with another motion falling within another of those provisions.
- (14) This section does not affect the operation of Part 2 of the Constitutional Reform and Governance Act 2010 (ratification of treaties) in relation to the withdrawal agreement.
- (15) In subsection (1) “framework for the future relationship” means the document or documents identified, by the statement that political agreement has been reached, as reflecting the agreement in principle on the substance of the framework for the future relationship between the EU and the United Kingdom after withdrawal.
- (16) In this section—
- “Commons sitting day” means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day);
- “Lords sitting day” means a day on which the House of Lords is sitting (and a day is only a day on which the House of Lords is sitting if the House begins to sit on that day);
- “negotiated withdrawal agreement” means the draft of the withdrawal agreement identified by the statement that political agreement has been reached;
- “ratified”, in relation to the withdrawal agreement, has the same meaning as it does for the purposes of Part 2 of the Constitutional Reform and Governance Act 2010 in relation to a treaty (see section 25 of that Act);
- “statement that political agreement has been reached” means a statement made in writing by a Minister of the Crown which—

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- (a) states that, in the Minister's opinion, an agreement in principle has been reached in negotiations under Article 50(2) of the Treaty on European Union on the substance of—
 - (i) the arrangements for the United Kingdom's withdrawal from the EU, and
 - (ii) the framework for the future relationship between the EU and the United Kingdom after withdrawal,
- (b) identifies a draft of the withdrawal agreement which, in the Minister's opinion, reflects the agreement in principle so far as relating to the arrangements for withdrawal, and
- (c) identifies one or more documents which, in the Minister's opinion, reflect the agreement in principle so far as relating to the framework.

Financial and other matters

14 Financial provision

- (1) Schedule 4 (which contains powers in connection with fees and charges) has effect.
- (2) A Minister of the Crown, government department or devolved authority may incur expenditure, for the purpose of, or in connection with, preparing for anything about which provision may be made under a power to make subordinate legislation conferred or modified by or under this Act, before any such provision is made.
- (3) There is to be paid out of money provided by Parliament—
 - (a) any expenditure incurred by a Minister of the Crown, government department or other public authority by virtue of this Act, and
 - (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.
- (4) Subsection (3) is subject to any other provision made by or under this Act or any other enactment.

15 Publication and rules of evidence

- (1) Part 1 of Schedule 5 (which makes provision for the publication by the Queen's Printer of copies of retained direct EU legislation and related information) has effect.
- (2) Part 2 of Schedule 5 (which makes provision about rules of evidence) has effect.

Commencement Information

I8 [S. 15](#) in force at 4.7.2018 for specified purposes by [S.I. 2018/808](#), [reg. 3\(d\)\(e\)](#)

16 Maintenance of environmental principles etc.

- (1) The Secretary of State must, within the period of six months beginning with the day on which this Act is passed, publish a draft Bill consisting of—
 - (a) a set of environmental principles,

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- (b) a duty on the Secretary of State to publish a statement of policy in relation to the application and interpretation of those principles in connection with the making and development of policies by Ministers of the Crown,
 - (c) a duty which ensures that Ministers of the Crown must have regard, in circumstances provided for by or under the Bill, to the statement mentioned in paragraph (b),
 - (d) provisions for the establishment of a public authority with functions for taking, in circumstances provided for by or under the Bill, proportionate enforcement action (including legal proceedings if necessary) where the authority considers that a Minister of the Crown is not complying with environmental law (as it is defined in the Bill), and
 - (e) such other provisions as the Secretary of State considers appropriate.
- (2) The set of environmental principles mentioned in subsection (1)(a) must (however worded) consist of—
- (a) the precautionary principle so far as relating to the environment,
 - (b) the principle of preventative action to avert environmental damage,
 - (c) the principle that environmental damage should as a priority be rectified at source,
 - (d) the polluter pays principle,
 - (e) the principle of sustainable development,
 - (f) the principle that environmental protection requirements must be integrated into the definition and implementation of policies and activities,
 - (g) public access to environmental information,
 - (h) public participation in environmental decision-making, and
 - (i) access to justice in relation to environmental matters.

17 Family unity for those seeking asylum or other protection in Europe

- (1) A Minister of the Crown must seek to negotiate, on behalf of the United Kingdom, an agreement with the EU under which, after the United Kingdom's withdrawal from the EU, in accordance with the agreement—
- (a) an unaccompanied child who has made an application for international protection to a member State may, if it is in the child's best interests, come to the United Kingdom to join a relative who—
 - (i) is a lawful resident of the United Kingdom, or
 - (ii) has made a protection claim which has not been decided, and
 - (b) an unaccompanied child in the United Kingdom, who has made a protection claim, may go to a member State to join a relative there, in equivalent circumstances.
- (2) For the purposes of subsection (1)(a)(i) a person is not a lawful resident of the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.
- (3) For the purposes of subsection (1)(a)(ii), a protection claim is decided—
- (a) when the Secretary of State notifies the claimant of the Secretary of State's decision on the claim, unless the claimant appeals against the decision, or
 - (b) if the claimant appeals against the Secretary of State's decision on the claim, when the appeal is disposed of.

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(4) In this section—

“application for international protection” has the meaning given by Article 2(h) of [Directive 2011/95/EU](#) of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted;

“protection claim” has the same meaning as in Part 5 of the Nationality, Immigration and Asylum Act 2002 (see section 82(2) of that Act);

“relative”, in relation to an unaccompanied child, means—

(a) a spouse or civil partner of the child or any person with whom the child has a durable relationship that is similar to marriage or civil partnership, or

(b) a parent, grandparent, uncle, aunt, brother or sister of the child;

“unaccompanied child” means a person under the age of 18 (“the child”) who is not in the care of a person who—

(a) is aged 18 or over, and

(b) by law or custom of the country or territory in which the child is present, has responsibility for caring for the child.

18 Customs arrangement as part of the framework for the future relationship

(1) A Minister of the Crown must lay before each House of Parliament a statement in writing outlining the steps taken by Her Majesty's Government, in negotiations under Article 50(2) of the Treaty on European Union, to seek to negotiate an agreement, as part of the framework for the United Kingdom's future relationship with the EU, for the United Kingdom to participate in a customs arrangement with the EU.

(2) The statement under subsection (1) must be laid before both Houses of Parliament before the end of 31 October 2018.

19 Future interaction with the law and agencies of the EU

Nothing in this Act shall prevent the United Kingdom from—

(a) replicating in domestic law any EU law made on or after exit day, or

(b) continuing to participate in, or have a formal relationship with, the agencies of the EU after exit day.

Commencement Information

19 [S. 19](#) in force at 4.7.2018 by [S.I. 2018/808](#), [reg. 3\(f\)](#)

General and final provision

20 Interpretation

(1) In this Act—

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“Charter of Fundamental Rights” means the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg on 12 December 2007;

“devolved authority” means—

- (a) the Scottish Ministers,
- (b) the Welsh Ministers, or
- (c) a Northern Ireland department;

“domestic law” means—

- (a) in section 3, the law of England and Wales, Scotland and Northern Ireland, and
- (b) in any other case, the law of England and Wales, Scotland or Northern Ireland;

“the EEA” means the European Economic Area;

“enactment” means an enactment whenever passed or made and includes—

- (a) an enactment contained in any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made under an Act,
- (b) an enactment contained in any Order in Council made in exercise of Her Majesty's Prerogative,
- (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
- (d) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales,
- (e) an enactment contained in, or in an instrument made under, Northern Ireland legislation,
- (f) an enactment contained in any instrument made by a member of the Scottish Government, the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government, a Northern Ireland Minister, the First Minister in Northern Ireland, the deputy First Minister in Northern Ireland or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty,
- (g) an enactment contained in, or in an instrument made under, a Measure of the Church Assembly or of the General Synod of the Church of England, and
- (h) except in sections 2 and 7 or where there is otherwise a contrary intention, any retained direct EU legislation;

“EU decision” means—

- (a) a decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union, or
- (b) a decision under former Article 34(2)(c) of the Treaty on European Union;

“EU directive” means a directive within the meaning of Article 288 of the Treaty on the Functioning of the European Union;

“EU entity” means an EU institution or any office, body or agency of the EU;

“EU reference” means—

- (a) any reference to the EU, an EU entity or a member State,

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(b) any reference to an EU directive or any other EU law, or

(c) any other reference which relates to the EU;

“EU regulation” means a regulation within the meaning of Article 288 of the Treaty on the Functioning of the European Union;

“EU tertiary legislation” means—

(a) any provision made under—

(i) an EU regulation,

(ii) a decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union, or

(iii) an EU directive,

by virtue of Article 290 or 291(2) of the Treaty on the Functioning of the European Union or former Article 202 of the Treaty establishing the European Community, or

(b) any measure adopted in accordance with former Article 34(2)(c) of the Treaty on European Union to implement decisions under former Article 34(2)(c),

but does not include any such provision or measure which is an EU directive;

“exempt EU instrument” means anything which is an exempt EU instrument by virtue of Schedule 6;

“exit day” means ^{F19}—

(a) if, in accordance with Article 1 of European Council Decision (EU) 2019/476 of 22 March 2019, the period provided for in Article 50(3) of the Treaty on European Union is extended until 22 May 2019, 11.00 p.m. on that day, or

(b) if not, 11.00 p.m. on 12 April 2019,

(and] see subsections (2) to (5));

“member State” (except in the definitions of “direct EU legislation” and “EU reference”) does not include the United Kingdom;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 and also includes the Commissioners for Her Majesty's Revenue and Customs;

“modify” includes amend, repeal or revoke (and related expressions are to be read accordingly);

“Northern Ireland devolved authority” means the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department;

“primary legislation” means—

(a) an Act of Parliament,

(b) an Act of the Scottish Parliament,

(c) a Measure or Act of the National Assembly for Wales, or

(d) Northern Ireland legislation;

“public authority” means a public authority within the meaning of section 6 of the Human Rights Act 1998;

“relevant criminal offence” means an offence for which an individual who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) is capable of being sentenced to imprisonment for a term of more than 2

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years (ignoring any enactment prohibiting or restricting the imprisonment of individuals who have no previous convictions);

“retained direct EU legislation” means any direct EU legislation which forms part of domestic law by virtue of section 3 (as modified by or under this Act or by other domestic law from time to time, and including any instruments made under it on or after exit day);

“retrospective provision”, in relation to provision made by regulations, means provision taking effect from a date earlier than the date on which the regulations are made;

“subordinate legislation” means—

- (a) any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made under any Act, or
- (b) any instrument made under an Act of the Scottish Parliament, Northern Ireland legislation or a Measure or Act of the National Assembly for Wales,

and (except in section 7 or Schedule 2 or where there is a contrary intention) includes any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made on or after exit day under any retained direct EU legislation;

“tribunal” means any tribunal in which legal proceedings may be brought;

“Wales” and “Welsh zone” have the same meaning as in the Government of Wales Act 2006 (see section 158 of that Act);

“withdrawal agreement” means an agreement (whether or not ratified) between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for the United Kingdom's withdrawal from the EU.

(2) In this Act [F20—

- (a) references to before, after or on exit day are to be read as references to before, after or at 11.00 p.m. on 22 May 2019 or (as the case may be) 12 April 2019, and
- (b) references to beginning with exit day are to be read as references to beginning with 11.00 p.m. on the day concerned.]

(3) Subsection (4) applies if the day or time on or at which the Treaties are to cease to apply to the United Kingdom in accordance with Article 50(3) of the Treaty on European Union is different from that specified in the definition of “exit day” in subsection (1).

(4) A Minister of the Crown may by regulations—

- (a) amend the definition of “exit day” in subsection (1) to ensure that the day and time specified in the definition are the day and time that the Treaties are to cease to apply to the United Kingdom, and
- (b) amend subsection (2) in consequence of any such amendment.

(5) In subsections (3) and (4) “the Treaties” means the Treaty on European Union and the Treaty on the Functioning of the European Union.

(6) In this Act references to anything which continues to be domestic law by virtue of section 2 include references to anything to which subsection (1) of that section applies which continues to be domestic law on or after exit day (whether or not it would have done so irrespective of that section).

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- (7) In this Act references to anything which is retained EU law by virtue of section 4 include references to any modifications, made by or under this Act or by other domestic law from time to time, of the rights, powers, liabilities, obligations, restrictions, remedies or procedures concerned.
- (8) References in this Act (however expressed) to a public authority in the United Kingdom include references to a public authority in any part of the United Kingdom.
- (9) References in this Act to former Article 34(2)(c) of the Treaty on European Union are references to that Article as it had effect at any time before the coming into force of the Treaty of Lisbon.
- (10) Any other reference in this Act to—
- (a) an Article of the Treaty on European Union or the Treaty on the Functioning of the European Union, or
 - (b) Article 10 of Title VII of Protocol 36 to those treaties,
- includes a reference to that Article as applied by Article 106a of the Euratom Treaty.

Textual Amendments

- F19** Words in s. 20(1) substituted (28.3.2019 at 12.40 p.m.) by [The European Union \(Withdrawal\) Act 2018 \(Exit Day\) \(Amendment\) Regulations 2019 \(S.I. 2019/718\)](#), regs. 1, **2(2)**
- F20** Words in s. 20(2) substituted (28.3.2019 at 12.40 p.m.) by [The European Union \(Withdrawal\) Act 2018 \(Exit Day\) \(Amendment\) Regulations 2019 \(S.I. 2019/718\)](#), regs. 1, **2(3)**

21 Index of defined expressions

- (1) In this Act, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

<i>Expression</i>	<i>Provision</i>
Anything which continues to be domestic law by virtue of section 2	Section 20(6)
Anything which is retained EU law by virtue of section 4	Section 20(7)
Article (in relation to the Treaty on European Union or the Treaty on the Functioning of the European Union)	Section 20(10)
Charter of Fundamental Rights	Section 20(1)
Devolved authority	Section 20(1)
Direct EU legislation	Section 3(2)
Domestic law	Section 20(1)
The EEA	Section 20(1)
EEA agreement	Schedule 1 to the Interpretation Act 1978
Enactment	Section 20(1)

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The EU	Schedule 1 to the Interpretation Act 1978
EU decision	Section 20(1)
EU directive	Section 20(1)
EU entity	Section 20(1)
EU institution	Schedule 1 to the Interpretation Act 1978
EU instrument	Schedule 1 to the Interpretation Act 1978
Euratom Treaty	Schedule 1 to the Interpretation Act 1978
EU reference	Section 20(1)
EU regulation	Section 20(1)
European Court	Schedule 1 to the Interpretation Act 1978
EU tertiary legislation	Section 20(1)
EU Treaties	Schedule 1 to the Interpretation Act 1978
Exempt EU instrument	Section 20(1)
Exit day (and related expressions)	Section 20(1) to (5)
Former Article 34(2)(c) of Treaty on European Union	Section 20(9)
Member State	Section 20(1) and Schedule 1 to the Interpretation Act 1978
Minister of the Crown	Section 20(1)
Modify (and related expressions)	Section 20(1)
Northern Ireland devolved authority	Section 20(1)
Operative (in relation to direct EU legislation)	Section 3(3)
Primary legislation	Section 20(1)
Public authority	Section 20(1)
Public authority in the United Kingdom (however expressed)	Section 20(8)
Relevant criminal offence	Section 20(1) (and paragraph 44 of Schedule 8)
Retained case law	Section 6(7)
Retained direct EU legislation	Section 20(1)
Retained direct minor EU legislation	Section 7(6)
Retained direct principal EU legislation	Section 7(6)

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Retained domestic case law	Section 6(7)
Retained EU case law	Section 6(7)
Retained EU law	Section 6(7)
Retained general principles of EU law	Section 6(7)
Retrospective provision	Section 20(1)
Subordinate legislation	Section 20(1)
Tribunal	Section 20(1)
Wales	Section 20(1)
Welsh zone	Section 20(1)
Withdrawal agreement	Section 20(1)

- (2) See paragraph 22 of Schedule 8 for amendments made by this Act to Schedule 1 to the Interpretation Act 1978.

22 Regulations

Schedule 7 (which makes provision about the scrutiny by Parliament and the devolved legislatures of regulations under this Act and contains other general provision about such regulations) has effect.

23 Consequential and transitional provision

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate in consequence of this Act.
- (2) The power to make regulations under subsection (1) may (among other things) be exercised by modifying any provision made by or under an enactment.
- (3) In subsection (2) “enactment” does not include primary legislation passed or made after the end of the Session in which this Act is passed.
- (4) No regulations may be made under subsection (1) after the end of the period of 10 years beginning with exit day.
- (5) Parts 1 and 2 of Schedule 8 (which contain consequential provision) have effect.
- (6) A Minister of the Crown may by regulations make such transitional, transitory or saving provision as the Minister considers appropriate in connection with the coming into force of any provision of this Act (including its operation in connection with exit day).
- (7) Parts 3 and 4 of Schedule 8 (which contain transitional, transitory and saving provision) have effect.
- (8) The enactments mentioned in Schedule 9 (which contains repeals not made elsewhere in this Act) are repealed to the extent specified.

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Commencement Information

- I10** S. 23(1)-(4)(6) in force at Royal Assent and s. 23(7) in force for specified purposes at Royal Assent, see s. 25(1)(f)(g)
- I11** S. 23(5)(7)(8) in force at 4.7.2018 for specified purposes and s. 23(8) in force for further specified purposes on exit day by [S.I. 2018/808](#), [regs. 3\(g\)\(h\)\(i\)](#), [4\(a\)](#)
- I12** S. 23(7) in force at 1.3.2019 for specified purposes by [S.I. 2019/399](#), [reg. 2\(b\)](#)

24 Extent

- (1) Subject to subsections (2) and (3), this Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Any provision of this Act which amends or repeals an enactment has the same extent as the enactment amended or repealed.
- (3) Regulations under section 8(1) or 23 may make provision which extends to Gibraltar—
 - (a) modifying any enactment which—
 - (i) extends to Gibraltar and relates to European Parliamentary elections, or
 - (ii) extends to Gibraltar for any purpose which is connected with Gibraltar forming part of an electoral region, under the European Parliamentary Elections Act 2002, for the purposes of such elections, or
 - (b) which is supplementary, incidental, consequential, transitional, transitory or saving provision in connection with a modification within paragraph (a).

25 Commencement and short title

- (1) The following provisions—
 - (a) sections 8 to 11 (including Schedule 2),
 - (b) paragraphs 4, 5, 21(2)(b), 48(b), 51(2)(c) and (d) and (4) of Schedule 3 (and section 12(8) and (12) so far as relating to those paragraphs),
 - (c) sections 13 and 14 (including Schedule 4),
 - (d) sections 16 to 18,
 - (e) sections 20 to 22 (including Schedules 6 and 7),
 - (f) section 23(1) to (4) and (6),
 - (g) paragraph 41(10), 43 and 44 of Schedule 8 (and section 23(7) so far as relating to those paragraphs),
 - (h) section 24, and
 - (i) this section,
 come into force on the day on which this Act is passed.
- (2) In section 12—
 - (a) subsection (2) comes into force on the day on which this Act is passed for the purposes of making regulations under section 30A of the Scotland Act 1998,
 - (b) subsection (4) comes into force on that day for the purposes of making regulations under section 109A of the Government of Wales Act 2006, and

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- (c) subsection (6) comes into force on that day for the purposes of making regulations under section 6A of the Northern Ireland Act 1998.
- (3) In Schedule 3—
- (a) paragraph 1(b) comes into force on the day on which this Act is passed for the purposes of making regulations under section 57(4) of the Scotland Act 1998,
 - (b) paragraph 2 comes into force on that day for the purposes of making regulations under section 80(8) of the Government of Wales Act 2006,
 - (c) paragraph 3(b) comes into force on that day for the purposes of making regulations under section 24(3) of the Northern Ireland Act 1998,
 - (d) paragraph 24(2) comes into force on that day for the purposes of making regulations under section 30A of the Scotland Act 1998,
 - (e) paragraph 24(3) comes into force on that day for the purposes of making regulations under section 57(4) of the Scotland Act 1998,
 - (f) paragraph 25 comes into force on that day for the purposes of making regulations under section 30A or 57(4) of the Scotland Act 1998,
 - (g) paragraph 43 comes into force on that day for the purposes of making regulations under section 80(8) or 109A of the Government of Wales Act 2006, and
 - (h) paragraphs 57 and 58 come into force on that day for the purposes of making regulations under section 6A or 24(3) of the Northern Ireland Act 1998;
- and section 12(7) and (12), so far as relating to each of those paragraphs, comes into force on that day for the purposes of making the regulations mentioned above in relation to that paragraph.
- (4) The provisions of this Act, so far as they are not brought into force by subsections (1) to (3), come into force on such day as a Minister of the Crown may by regulations appoint; and different days may be appointed for different purposes.
 - (5) This Act may be cited as the European Union (Withdrawal) Act 2018.

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