



# European Union (Withdrawal) Act 2018

## 2018 CHAPTER 16

### *General and final provision*

#### **20 Interpretation**

(1) In this Act—

“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,

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(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,

(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 29 March 2019 at 11.00 p.m. (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;

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“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 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 references to before, after or on exit day, or to beginning with exit day, are to be read as references to before, after or at 11.00 p.m. on 29 March 2019 or (as the case may be) to beginning with 11.00 p.m. on that day.

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- (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).
- (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.

## 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)

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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)
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)

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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)
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).

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- (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.

#### Commencement Information

- I1** 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)
- I2** 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\(a\)](#)

## 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—

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- (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
- (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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