



# European Union (Withdrawal) Act 2018

## 2018 CHAPTER 16

### *Retention of <sup>F1</sup>saved EU law at end of implementation period*

#### Textual Amendments

- F1** Words in s. 2 cross-heading substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 39](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)

## 2 Saving for EU-derived domestic legislation

- (1) EU-derived domestic legislation, as it has effect in domestic law immediately before <sup>F2</sup>IP completion day], continues to have effect in domestic law on and after <sup>F2</sup>IP completion day].

<sup>F3</sup>(2) .....

- (3) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation) <sup>F4</sup>and section 5A (savings and incorporation: supplementary)].

#### Textual Amendments

- F2** 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)
- F3** 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)
- F4** 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\(a\)](#)

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*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: European Union (Withdrawal) Act 2018, Cross Heading: Retention of saved EU law at end of implementation period is up to date with all changes known to be in force on or before 20 March 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)*

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### 3 Incorporation of direct EU legislation

- (1) Direct EU legislation, so far as operative immediately before [F5IP completion day], forms part of domestic law on and after [F5IP 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 [F6IP completion day] and so far as—
    - [F7(ai) it is applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement,
    - [F8(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), [F9and]
      - F10(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 [F11IP completion day] and so far as—
      - [F12(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 [F13IP 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 [F14IP 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 [F14IP completion day],
    - (b) in the case of a decision which specifies to whom it is addressed, it has been notified to that person before [F14IP completion day], and
    - (c) in any other case, it is in force immediately before [F14IP 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.

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- (5) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation) [<sup>F15</sup>and section 5A (savings and incorporation: supplementary)].

#### Textual Amendments

- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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)
- F12** 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)
- F13** 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)
- F14** 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)
- F15** 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) 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)**

## 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 [<sup>F16</sup>IP completion day]—
- are recognised and available in domestic law by virtue of section 2(1) of the European Communities Act 1972, and
  - are enforced, allowed and followed accordingly,
- continue on and after [<sup>F16</sup>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—
- form part of domestic law by virtue of section 3,
- [<sup>F17</sup>(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

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- (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 [F18IP 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) [F19] and section 5A (savings and incorporation: supplementary)].

#### Textual Amendments

- F16** 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\(d\)](#)
- F17** 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\(d\)](#)
- F18** 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\(d\)](#)
- F19** 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)

- C2** S. 4 excluded (31.12.2020) by [Private International Law \(Implementation of Agreements\) Act 2020 \(c. 24\), s. 4\(3\), Sch. 5 para. 2](#)
- C3** 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\(a\)](#)
- C4** 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\(c\)](#)

## 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 [F20IP completion day].
- (2) Accordingly, the principle of the supremacy of EU law continues to apply on or after [F20IP completion day] so far as relevant to the interpretation, disapplication or quashing of any enactment or rule of law passed or made before [F20IP completion day].
- (3) Subsection (1) does not prevent the principle of the supremacy of EU law from applying to a modification made on or after [F20IP completion day] of any enactment or rule of law passed or made before [F20IP completion 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 [F20IP completion day].
- (5) Subsection (4) does not affect the retention in domestic law on or after [F20IP completion 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).

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(6) Schedule 1 (which makes further provision about exceptions to savings and incorporation) has effect.

[<sup>F21</sup>(7) Subsections (1) to (6) and Schedule 1 are subject to relevant separation agreement law (for which see section 7C).]

#### Textual Amendments

**F20** Words in s. 5(1)-(5) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), [ss. 25\(4\)\(a\)](#), [42\(7\)](#) (with [s. 38\(3\)](#), [Sch. 5 para. 66](#)); [S.I. 2020/1622](#), [reg. 5\(d\)](#)

**F21** S. 5(7) inserted (31.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), [ss. 25\(4\)\(b\)](#), [42\(7\)](#) (with [s. 38\(3\)](#), [Sch. 5 para. 66](#)); [S.I. 2020/75](#), [reg. 4\(h\)](#); [S.I. 2020/1622](#), [reg. 5\(d\)](#)

#### Commencement Information

**I4** S. 5(1)-(5)(7) in force at 31.12.2020 by [S.I. 2020/1622](#), [reg. 3\(d\)](#)

**I5** S. 5(6) in force at 4.7.2018 for specified purposes by [S.I. 2018/808](#), [reg. 3\(a\)](#)

**I6** S. 5(6) in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1622](#), [reg. 3\(d\)](#)

#### [<sup>F22</sup>5A Savings and incorporation: supplementary

The fact that anything which continues to be, or forms part of, domestic law on or after IP completion day by virtue of section 2, 3 or 4 has an effect immediately before IP completion day which is time-limited by reference to the implementation period does not prevent it from having an indefinite effect on and after IP completion day by virtue of section 2, 3 or 4.]

#### Textual Amendments

**F22** S. 5A inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), [ss. 25\(5\)](#), [42\(7\)](#) (with [s. 38\(3\)](#), [Sch. 5 para. 66](#) and [S.I. 2020/1622](#), [reg. 17](#)); [S.I. 2020/1622](#), [reg. 5\(d\)](#)

## 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 [<sup>F23</sup>IP completion day] by the European Court, and
- (b) cannot refer any matter to the European Court on or after [<sup>F23</sup>IP completion day].

(2) Subject to this and subsections (3) to (6), a court or tribunal may have regard to anything done on or after [<sup>F23</sup>IP completion 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 [<sup>F23</sup>IP completion 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

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- (b) having regard (among other things) to the limits, immediately before [<sup>F23</sup>IP completion 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 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,
- [<sup>F24</sup>(ba) a relevant court or relevant tribunal is not bound by any retained EU case law so far as is provided for by regulations under subsection (5A),] 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 [<sup>F25</sup>by virtue of subsection (4)(a) or (b)], 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.
- [<sup>F26</sup>(5A) A Minister of the Crown may by regulations provide for—
- (a) a court or tribunal to be a relevant court or (as the case may be) a relevant tribunal for the purposes of this section,
- (b) the extent to which, or circumstances in which, a relevant court or relevant tribunal is not to be bound by retained EU case law,
- (c) the test which a relevant court or relevant tribunal must apply in deciding whether to depart from any retained EU case law, or
- (d) considerations which are to be relevant to—
- (i) the Supreme Court or the High Court of Justiciary in applying the test mentioned in subsection (5), or
- (ii) a relevant court or relevant tribunal in applying any test provided for by virtue of paragraph (c) above.
- (5B) Regulations under subsection (5A) may (among other things) provide for—
- (a) the High Court of Justiciary to be a relevant court when sitting otherwise than as mentioned in subsection (4)(b)(i) and (ii),
- (b) the extent to which, or circumstances in which, a relevant court or relevant tribunal not being bound by retained EU case law includes (or does not include) that court or tribunal not being bound by retained domestic case law which relates to retained EU case law,
- (c) other matters arising in relation to retained domestic case law which relates to retained EU case law (including by making provision of a kind which could be made in relation to retained EU case law), or
- (d) the test mentioned in paragraph (c) of subsection (5A) or the considerations mentioned in paragraph (d) of that subsection to be determined (whether with or without the consent of a Minister of the Crown) by a person mentioned in subsection (5C)(a) to (e) or by more than one of those persons acting jointly.
- (5C) Before making regulations under subsection (5A), a Minister of the Crown must consult—

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- (a) the President of the Supreme Court,
- (b) the Lord Chief Justice of England and Wales,
- (c) the Lord President of the Court of Session,
- (d) the Lord Chief Justice of Northern Ireland,
- (e) the Senior President of Tribunals, and
- (f) such other persons as the Minister of the Crown considers appropriate.

(5D) No regulations may be made under subsection (5A) after IP completion day.]

(6) Subsection (3) does not prevent the validity, meaning or effect of any retained EU law which has been modified on or after [F23IP completion day] from being decided as provided for in that subsection if doing so is consistent with the intention of the modifications.

[F27(6A) Subsections (1) to (6) are subject to relevant separation agreement law (for which see section 7C).]

(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 [F23IP completion 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 [F23IP completion 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 [F23IP completion 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 [F23IP completion 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).

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### Textual Amendments

- F23** Words in s. 6 substituted (30.1.2020 for specified purposes, 31.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 26\(1\)\(a\), 42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, reg. 2(11)(c); S.I. 2020/75, reg. 4(i); S.I. 2020/1622, reg. 5(e)
- F24** S. 6(4)(ba) inserted (30.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 26\(1\)\(b\), 42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, reg. 2(11)(c); S.I. 2020/1622, reg. 5(e)
- F25** Words in s. 6(5) inserted (30.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 26\(1\)\(c\), 42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, reg. 2(11)(c); S.I. 2020/1622, reg. 5(e)
- F26** S. 6(5A)-(5D) inserted (30.1.2020 for specified purposes, 19.5.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 26\(1\)\(d\), 42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, s. 2(11)(c); S.I. 2020/518, reg. 2(l)
- F27** S. 6(6A) inserted (30.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 26\(1\)\(e\), 42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, reg. 2(11)(c); S.I. 2020/1622, reg. 5(e)

### Modifications etc. (not altering text)

- C5** S. 6 applied (with modifications) (30.1.2020) by [Direct Payments to Farmers \(Legislative Continuity\) Act 2020 \(c. 2\), ss. 2\(1\)\(2\)\(5\)-\(7\), 9\(3\)](#)

### Commencement Information

- I7** S. 6(7) in force at 4.7.2018 by [S.I. 2018/808, reg. 3\(b\)](#)
- I8** S. 6 in force at 30.1.2020 for specified purposes by [2020 c. 2, s. 2\(11\)\(a\)\(b\)](#)
- I9** S. 6(1)-(6) in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1622, reg. 3\(e\)](#)

## 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 [F28section 1A(2) or 1B(2)],

continues to be domestic law as an enactment of the same kind.

### [F29(1A) Anything which—

- (a) was, immediately before IP completion 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 IP completion 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



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- (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—
    - (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) [<sup>F30</sup>and (7)] (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),
  - [<sup>F31</sup>(ba) section 7C (status of case law of European Court etc. in relation to retained EU law which is relevant separation agreement 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

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: European Union (Withdrawal) Act 2018, Cross Heading: Retention of saved EU law at end of implementation period is up to date with all changes known to be in force on or before 20 March 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)*

- 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 [<sup>F32</sup>IP completion day] by virtue of section 3, and
  - (ii) was not EU tertiary legislation immediately before [<sup>F32</sup>IP completion day], or
- (b) any Annex to the EEA agreement so far as it—
  - (i) forms part of domestic law on and after [<sup>F32</sup>IP completion 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).

#### Textual Amendments

- F28** Words in s. 7(1)(b) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(7), **Sch. 5 para. 40(2)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(n)(xv)
- F29** S. 7(1A) inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(7), **Sch. 5 para. 40(3)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F30** Words in s. 7(5)(a) inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(7), **Sch. 5 para. 40(4)(a)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F31** S. 7(5)(ba) inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(7), **Sch. 5 para. 40(4)(b)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F32** Words in s. 7(6) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(7), **Sch. 5 para. 40(5)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(n)(xv)

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

- C6** S. 7(2)(3) applied (with modifications) (30.1.2020) by [Direct Payments to Farmers \(Legislative Continuity\) Act 2020](#) (c. 2), ss. 2(3)-(5), 9(3)

#### Commencement Information

- I10** S. 7(2)(3) in force at 30.1.2020 for specified purposes by [2020 c. 2](#), s. 2(11)(a)(b)
- I11** S. 7(1)(6) in force at 31.1.2020 by [S.I. 2020/74](#), **reg. 2(a)**
- I12** S. 7(2)(3) in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1622](#), **reg. 3(f)**
- I13** S. 7(4)(5) in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 3(f)**

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

European Union (Withdrawal) Act 2018, Cross Heading: Retention of saved EU law at end of implementation period is up to date with all changes known to be in force on or before 20 March 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.