

SCHEDULES

SCHEDULE 8

CONSEQUENTIAL, TRANSITIONAL, TRANSITORY AND SAVING PROVISION

PART 4

SPECIFIC TRANSITIONAL, TRANSITORY AND SAVING PROVISION

Devolution

- 41 (1) The amendments made by section 12 and Part 1 of Schedule 3 do not affect the validity of—
- (a) any provision of an Act of the Scottish Parliament, Act of the National Assembly for Wales or Act of the Northern Ireland Assembly made before exit day,
 - (b) any subordinate legislation which is subject to confirmation or approval and is made and confirmed or approved before exit day, or
 - (c) any other subordinate legislation made before exit day.
- (2) Accordingly and subject to sub-paragraphs (3) to (10), the validity of anything falling within sub-paragraph (1)(a), (b) or (c) is to be decided by reference to the law before exit day.
- (3) Section 29(2)(d) of the Scotland Act 1998, so far as relating to EU law, does not apply to any provision of an Act of the Scottish Parliament made before exit day if the provision—
- (a) comes into force on or after exit day or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and
 - (b) is made when there are no regulations under section 30A of the Scotland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before exit day, on or after exit day) if the provision were made and the regulations were in force at that time.
- (4) Section 108A(2)(e) of the Government of Wales Act 2006, so far as relating to EU law, does not apply to any provision of an Act of the National Assembly for Wales made before exit day if the provision—
- (a) comes into force on or after exit day or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and
 - (b) is made when there are no regulations under section 109A of the Government of Wales Act 2006 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before exit day, on or after exit day) if the provision were made and the regulations were in force at that time.

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- (5) Section 6(2)(d) of the Northern Ireland Act 1998, so far as relating to EU law, does not apply to any provision of an Act of the Northern Ireland Assembly made before exit day if the provision—
- (a) comes into force on or after exit day or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and
 - (b) is made when there are no regulations under section 6A of the Northern Ireland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before exit day, on or after exit day) if the provision were made and the regulations were in force at that time.
- (6) Section 57(2) of the Scotland Act 1998, so far as relating to EU law, does not apply to the making, confirming or approving before exit day of any subordinate legislation if the legislation—
- (a) comes into force on or after exit day, and
 - (b) is made, confirmed or approved when there are no regulations under subsection (4) of section 57 of the Scotland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection when the legislation comes into force if—
 - (i) the making, confirming or approving had occurred at that time,
 - (ii) in the case of legislation confirmed or approved, the legislation was made at that time, and
 - (iii) the regulations were in force at that time.
- (7) Section 80(8) of the Government of Wales Act 2006, so far as relating to EU law, does not apply to the making, confirming or approving before exit day of any subordinate legislation if the legislation—
- (a) comes into force on or after exit day, and
 - (b) is made, confirmed or approved when there are no regulations under subsection (8) of section 80 of the Government of Wales Act 2006 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection, so far as relating to retained EU law, when the legislation comes into force if—
 - (i) the making, confirming or approving had occurred at that time,
 - (ii) in the case of legislation confirmed or approved, the legislation was made at that time, and
 - (iii) the regulations were in force at that time.
- (8) Section 24(1)(b) of the Northern Ireland Act 1998, so far as relating to EU law, does not apply to the making, confirming or approving before exit day of any subordinate legislation if the legislation—
- (a) comes into force on or after exit day, and
 - (b) is made, confirmed or approved when there are no regulations under subsection (3) of section 24 of the Northern Ireland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection when the legislation comes into force if—
 - (i) the making, confirming or approving had occurred at that time,
 - (ii) in the case of legislation confirmed or approved, the legislation was made at that time, and

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(iii) the regulations were in force at that time.

- (9) For the purposes of sub-paragraphs (3) to (8) assume that the restrictions relating to retained EU law in—
- (a) sections 30A(1) and 57(4) of the Scotland Act 1998,
 - (b) sections 80(8) and 109A(1) of the Government of Wales Act 2006, and
 - (c) sections 6A(1) and 24(3) of the Northern Ireland Act 1998,
- come into force on exit day.
- (10) Section 57(2) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 and section 24(1)(b) of the Northern Ireland Act 1998, so far as relating to EU law, do not apply to the making of regulations under Schedule 2 or 4.