

**Changes to legislation:** European Union (Withdrawal) Act 2018, Cross Heading: Existing powers to make subordinate legislation etc. is up to date with all changes known to be in force on or before 20 July 2023. 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) View outstanding changes

## SCHEDULES

### SCHEDULE 8

#### CONSEQUENTIAL, TRANSITIONAL, TRANSITORY AND SAVING PROVISION

#### PART 1

##### GENERAL CONSEQUENTIAL PROVISION

*Existing powers to make subordinate legislation etc.*

- 3 (1) Any power to make, confirm or approve subordinate legislation which—
- (a) was conferred before the day on which this Act is passed, <sup>F1</sup>...
- <sup>F1</sup>(b) .....  
is to be read, so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of) any retained direct EU legislation or anything which is retained EU law by virtue of section 4.
- <sup>F2</sup>(2) .....

##### Textual Amendments

- F1** Sch. 8 para. 3(1)(b) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), [ss. 9\(2\)\(a\), 22\(1\)\(d\)](#)
- F2** Sch. 8 para. 3(2) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), [ss. 9\(2\)\(b\), 22\(1\)\(d\)](#)

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

- C1** Sch. 8 paras. 3-8 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

- I1** Sch. 8 para. 3 in force at 30.1.2020 for specified purposes by [2020 c. 2, s. 2\(11\)\(a\)\(b\)](#)
- I2** Sch. 8 para. 3 in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1622, reg. 3\(n\)](#)

- 4 <sup>F3</sup>(1) .....
- <sup>F3</sup>(2) .....
- <sup>F3</sup>(3) .....
- <sup>F3</sup>(4) .....
- <sup>F3</sup>(5) .....

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- [<sup>F4</sup>(5A) Any subordinate legislation which is (or is to be) made, confirmed or approved by virtue of paragraph 3 is subject to the same procedure (if any) before Parliament, the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly as would apply to that legislation if it were amending or revoking an enactment contained in subordinate legislation made under a different power.]
- (6) Any provision which may be made, confirmed or approved by virtue of paragraph 3 may be included in the same instrument as any other provision which may be so made, confirmed or approved.
- (7) Where more than one procedure of a kind falling within sub-paragraph (8) would otherwise apply in the same legislature for an instrument falling within sub-paragraph (6), the higher procedure is to apply in the legislature concerned.
- (8) The order of procedures is as follows (the highest first)—
- (a) a procedure which requires a statement of urgency before the instrument is made and the approval of the instrument after it is made to enable it to remain in force,
  - (b) a procedure which requires the approval of the instrument in draft before it is made,
  - (c) a procedure not falling within paragraph (a) which requires the approval of the instrument after it is made to enable it to come into, or remain in, force,
  - (d) a procedure which provides for the annulment of the instrument after it is made,
  - (e) a procedure not falling within any of the above paragraphs which provides for the laying of the instrument after it is made,
  - (f) no procedure.
- (9) The references in this paragraph to <sup>F5</sup>... amending or revoking an enactment contained in subordinate legislation do not include references to <sup>F5</sup>... amending or revoking an enactment contained in any Northern Ireland legislation which is an Order in Council.

<sup>F6</sup>(10) .....

#### Textual Amendments

- F3** Sch. 8 para. 4(1)–(5) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 9\(3\)\(a\), 22\(1\)\(d\)](#)
- F4** Sch. 8 para. 4(5A) inserted (29.6.2023) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 9\(3\)\(b\), 22\(1\)\(d\)](#)
- F5** Words in Sch. 8 para. 4(9) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 9\(3\)\(c\), 22\(1\)\(d\)](#)
- F6** Sch. 8 para. 4(10) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 9\(3\)\(d\), 22\(1\)\(d\)](#)

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

- C1** Sch. 8 paras. 3–8 applied (with modifications) (30.1.2020) by [Direct Payments to Farmers \(Legislative Continuity\) Act 2020 \(c. 2\), ss. 2\(3\)–\(5\), 9\(3\)](#)
- C2** Sch. 8 para. 4 excluded (29.6.2023) by 2006 c. 51, s. 12(3) (as inserted by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 16\(3\), 22\(1\)\(d\)](#))

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#### Commencement Information

- I3** Sch. 8 para. 4 in force at 30.1.2020 for specified purposes by [2020 c. 2, s. 2\(11\)\(a\)\(b\)](#)  
**I4** Sch. 8 para. 4 in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1622, reg. 3\(n\)](#)

<sup>F7</sup>5 . . . . .

#### Textual Amendments

- F7** [Sch. 8 para. 5](#) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 9\(4\), 22\(1\)\(d\)](#)

<sup>F8</sup>6 . . . . .

#### Textual Amendments

- F8** [Sch. 8 para. 6](#) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 9\(4\), 22\(1\)\(d\)](#)

[<sup>F9</sup>7 Any power to make, confirm or approve subordinate legislation which, immediately before exit day, is subject to an implied restriction that it is exercisable only compatibly with EU law is to be read—  
(a) on or after exit day, without that restriction, and  
(b) on or after IP completion day, without any corresponding restriction in relation to compatibility with retained EU law,  
so far as the restriction concerned is not applicable to and in the United Kingdom by virtue of the withdrawal agreement.]

#### Textual Amendments

- F9** [Sch. 8 para. 7](#) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 54\(4\)](#) (with [s. 38\(3\)](#), [Sch. 5 para. 66](#)); [S.I. 2020/75, reg. 4\(n\)\(xxv\)](#)

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

- C1** [Sch. 8 paras. 3-8](#) 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

- I5** [Sch. 8 para. 7](#) in force at 30.1.2020 for specified purposes by [2020 c. 2, s. 2\(11\)\(a\)\(b\)](#)  
**I6** [Sch. 8 para. 7](#) in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1622, reg. 3\(n\)](#)

- 8 (1) Paragraphs 3 to 7 and this paragraph—  
(a) do not prevent the conferral of wider powers,  
<sup>F10</sup>(b) ... and  
(c) are subject to any other provision made by or under this Act or any other enactment.  
(2) For the purposes of paragraphs 3 and 5—  
(a) a power is conferred whether or not it is in force, and

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- (b) a power in retained direct EU legislation is not conferred before the day on which this Act is passed.
- (3) A power which, by virtue of paragraph 3 or 5 or any Act of Parliament passed before, and in the same Session as, this Act, is capable of being exercised to modify any retained EU law is capable of being so exercised before [<sup>F11</sup>IP completion day] so as to come into force on or after [<sup>F11</sup>IP completion day].

#### Textual Amendments

- F10** Sch. 8 para. 8(1)(b) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), **6(4)(c)**
- F11** Words in Sch. 8 para. 8(3) substituted (30.1.2020 for specified purposes, 31.1.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(7), **Sch. 5 para. 54(5)(b)** (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, **s. 2(11)(c)**; S.I. 2020/75, **reg. 4(n)(xxv)**

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

- C1** Sch. 8 paras. 3-8 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

- I7** Sch. 8 para. 8 in force at 30.1.2020 for specified purposes by 2020 c. 2, **s. 2(11)(a)(b)**
- I8** Sch. 8 para. 8 in force at 31.1.2020 in so far as not already in force by S.I. 2020/74, **reg. 2(c)(i)**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(A1)-(A3) inserted by [2023 c. 28 s. 3\(1\)](#)
- s. 5(A4) inserted by [2023 c. 28 s. 4\(2\)\(a\)](#)
- s. 5(A2) words substituted by [2023 c. 28 Sch. 2 para. 8\(2\)](#)
- s. 5(8) inserted by [2023 c. 28 s. 3\(2\)](#)
- s. 5(8) words substituted by [2023 c. 28 Sch. 2 para. 8\(2\)](#)
- s. 6(4)-(5ZA) word substituted by [2023 c. 28 Sch. 2 para. 8\(3\)\(c\)](#)
- s. 6(5ZA) inserted by [2023 c. 28 s. 6\(5ZA\)](#)
- s. 6(6B) inserted by [2023 c. 28 s. 6\(6\)](#)
- s. 6A-6C inserted by [2023 c. 28 s. 6\(8\)](#)
- s. 6A word substituted by [2023 c. 28 Sch. 2 para. 8\(4\)](#)
- s. 6B word substituted by [2023 c. 28 Sch. 2 para. 8\(5\)](#)
- s. 6C word substituted by [2023 c. 28 Sch. 2 para. 8\(6\)](#)
- s. 6D inserted by [2023 c. 28 s. 8](#)
- s. 6D(1)(a) words substituted by [2023 c. 28 Sch. 2 para. 8\(7\)](#)
- s. 6D(1)(b) words substituted by [2023 c. 28 Sch. 2 para. 8\(7\)](#)
- s. 7(4A) words substituted by [2023 c. 28 Sch. 2 para. 8\(8\)\(b\)](#)
- Sch. 8 para. 11A(2) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(b\)](#)
- Sch. 8 para. 11B(2) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(b\)](#)
- Sch. 8 para. 11A(3) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(d\)\(i\)](#)
- Sch. 8 para. 11B(3) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(d\)\(i\)](#)
- Sch. 8 para. 11A(3) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(d\)\(ii\)](#)
- Sch. 8 para. 11B(3) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(d\)\(ii\)](#)