

Changes to legislation: European Union (Withdrawal) Act 2018, Cross Heading: Future powers to make subordinate legislation is up to date with all changes known to be in force on or before 23 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

Future powers to make subordinate legislation

^{F1}10

Textual Amendments

F1 Sch. 8 para. 10 omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), ss. 9(5), 22(1)(d)

^{F2}11

Textual Amendments

F2 Sch. 8 para. 11 omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), ss. 9(5), 22(1)(d)

[^{F3}11A —

- (1) This paragraph applies to a power to make, confirm or approve subordinate legislation which is conferred—
 - (a) on or after the day on which this Act is passed, and
 - (b) before the day on which [section 9](#) of the Retained EU Law (Revocation and Reform) Act 2023 comes into force.
- (2) The power 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.
- (3) But [sub-paragraph \(2\)](#) enables a power in retained direct minor EU legislation to be exercised to modify (or result in the modification of) any retained direct principal EU legislation or anything which is retained EU law by virtue of section 4 only if—
 - (a) the modification is—
 - (i) consistent with any retained direct principal EU legislation or anything which is retained EU law by virtue of section 4, and

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- (ii) supplementary, incidental or consequential in connection with any modification of any retained direct minor EU legislation, or
- (b) the power is a power to make, confirm or approve transitional, transitory or saving provision.]

Textual Amendments

F3 Sch. 8 paras. 11A, 11B inserted (29.6.2023) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 9(6), 22(1)(d)

[^{F3}11B —

- (1) This paragraph applies to a power to make, confirm or approve subordinate legislation which is conferred on or after the day on which [section 9](#) of the Retained EU Law (Revocation and Reform) Act 2023 comes into force.
- (2) The power is to be read, so far as applicable and unless the contrary intention appears, 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.
- (3) But [sub-paragraph \(2\)](#) enables a power in retained direct minor EU legislation to be exercised to modify (or result in the modification of) any retained direct principal EU legislation or anything which is retained EU law by virtue of section 4 only if—
 - (a) the modification is—
 - (i) consistent with any retained direct principal EU legislation or anything which is retained EU law by virtue of section 4, and
 - (ii) supplementary, incidental or consequential in connection with any modification of any retained direct minor EU legislation, or
 - (b) the power is a power to make, confirm or approve transitional, transitory or saving provision.
- (4) For the purposes of [sub-paragraph \(2\)](#), there is no contrary intention merely because a power is expressed as being capable of being exercised—
 - (a) to modify all enactments or a particular category of enactments, or
 - (b) to make a particular category of modifications to all enactments or to a particular category of enactments.]

Textual Amendments

F3 Sch. 8 paras. 11A, 11B inserted (29.6.2023) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 9(6), 22(1)(d)

- 12 (1) Paragraphs [^{F4}11A and 11B] and this paragraph—
 - (a) do not prevent the conferral of wider powers,
 - ^{F5}(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 [^{F6}11A and 11B]—
 - (a) a power is conferred whether or not it is in force,

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- (b) a power in retained direct EU legislation is conferred on or after the day on which this Act is passed, and
 - (c) the references to powers conferred include powers conferred by regulations under this Act (but not powers conferred by this Act).
- (3) A power which, by virtue of paragraph 10 or 11 or any Act of Parliament passed after [F7this Act and before IP completion day], is capable of being exercised to modify any retained EU law is capable of being so exercised before [F8IP completion day] so as to come into force on or after [F8IP completion day].
- [F9(4) Sub-paragraph (5) applies in relation to a power if—
- (a) paragraph 11A applies in relation to the power, and
 - (b) immediately before the coming into force of section 9 of the Retained EU Law (Revocation and Reform) Act 2023, and by virtue of a combination of provision in the power and paragraph 10 or 11 as it then had effect, the power was 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.
- (5) The continued existence of the provision in the power does not prevent the context from permitting or requiring the power to be read in accordance with paragraph 11A so far as the reading provided for by that paragraph is not provided for by the provision concerned (and, accordingly, the power continues to be capable of being exercised as mentioned in sub-paragraph (4) on and after the coming into force of section 9 of the Retained EU Law (Revocation and Reform) Act 2023).]

Textual Amendments

- F4** Words in Sch. 8 para. 12(1) substituted (29.6.2023) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 9(7)(a), 22(1)(d)
- F5** Sch. 8 para. 12(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)
- F6** Words in Sch. 8 para. 12(2) substituted (29.6.2023) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 9(7)(a), 22(1)(d)
- F7** Words in Sch. 8 para. 12(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(7)(b)(i) (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, s. 2(11)(c); S.I. 2020/75, reg. 4(n)(xxv)
- F8** Words in Sch. 8 para. 12(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(7)(b)(ii) (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, s. 2(11)(c); S.I. 2020/75, reg. 4(n)(xxv)
- F9** Sch. 8 para. 12(4)(5) inserted (29.6.2023) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 9(7)(b), 22(1)(d)

Modifications etc. (not altering text)

- C1** Sch. 8 paras. 10-12 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. 12 in force at 30.1.2020 for specified purposes by 2020 c. 2, s. 2(11)(a)(b)
- I2** Sch. 8 para. 12 in force at 31.1.2020 in so far as not already in force by S.I. 2020/74, reg. 2(c)(ii)

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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\(15\)\(d\)\(ii\)](#)