

## SCHEDULES

### SCHEDULE 8

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

#### PART 2

##### SPECIFIC CONSEQUENTIAL PROVISION

##### *Finance Act 1973*

- 17 In section 56 of the Finance Act 1973 (charges for services etc. by Government departments), in subsection (1), omit “any EU obligation or”.

##### *Interpretation Act 1978*

- 18 The Interpretation Act 1978 is amended as follows.
- 19 In section 21(1) (meaning of “subordinate legislation”) after “any Act” insert “or made or to be made on or after exit day under any retained direct EU legislation”.
- 20 After section 23 (application to other instruments) insert—

##### **“23ZA Retained direct EU legislation**

- (1) The provisions of this Act (except sections 1 to 4, 13 and 19(2)) apply, so far as applicable and unless the contrary intention appears, to any retained direct EU legislation so far as it—
- (a) is amended by an Act, subordinate legislation or devolution legislation, and
  - (b) is not subordinate legislation,
- as they apply to an Act passed at the corresponding time.
- (2) In their application by virtue of subsection (1)—
- (a) section 10 has effect as if the reference to the passing of the Act were a reference to the corresponding time,
  - (b) section 11 has effect as if the second reference to an Act included a reference to the retained direct EU legislation so far as unamended (as well as a reference to that legislation so far as amended), and
  - (c) section 16(1) has effect as if the reference to the repealing Act not being passed were a reference to the repeal not having been made.
- (3) References in this Act to the repeal of an enactment are to be read, in the case of an enactment which is retained direct EU legislation, as references to the revocation of the enactment.
- (4) In Schedule 1—

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- (a) in the definition of “Commencement”, the references to an enactment do not include any retained direct EU legislation other than—
    - (i) any such legislation to which subsection (1) applies, or
    - (ii) any instrument made on or after exit day under any retained direct EU legislation, and
  - (b) in the definitions of “The Corporation Tax Acts” and “The Income Tax Acts”, the references to an enactment do not include any retained direct EU legislation.
- (5) For the application of this Act to retained direct EU legislation which is subordinate legislation, see section 23(1) and (2).
- (6) In this section—
- “corresponding time” means the time when the amending Act, subordinate legislation or devolution legislation was passed or (as the case may be) made, and
- “devolution legislation” means—
- (a) an Act of the Scottish Parliament,
  - (b) a Measure or Act of the National Assembly for Wales,
  - (c) Northern Ireland legislation (for the meaning of which see section 24(5)), or
  - (d) an instrument made under anything falling within paragraph (a), (b) or (c).”
- 21 In section 24 (application to Northern Ireland), in subsection (4)—
- (a) omit “and related expressions”,
  - (b) after “Corporation Tax Acts,” insert—  
 “E.C.S.C. Treaty;  
 E.E.C. Treaty;”,
  - (c) after “state;” insert—  
 “Entry date;  
 The EU or the European Union;  
 EU institution;  
 EU instrument;  
 Euratom, Economic Community and Coal and Steel Community;  
 Euratom Treaty;  
 European Court;”,
  - (d) after “Income Tax Acts;” insert—  
 “Member (in the expression “member State”);”, and
  - (e) after “The Tax Acts” insert “;  
 The Treaties or the EU Treaties”.
- 22 In Schedule 1 (words and expressions defined)—
- (a) omit ““The EU” or “the EU Treaties” and other expressions defined by section 1 of and Schedule 1 to the European Communities Act 1972 have the meanings prescribed by that Act.”,
  - (b) omit the definition of “EEA agreement”,
  - (c) omit the definition of “EEA state”,

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(d) in the definition of “enactment”, before “does” insert “includes any retained direct EU legislation but”, and

(e) at the end insert—

*“Definitions relating to the EU and the United Kingdom’s withdrawal*

“The Communities” means Euratom, the Economic Community and the Coal and Steel Community, but a reference to any or all of those Communities is to be treated as being or including (as the context requires) a reference to the EU.

“E.C.S.C. Treaty” means the Treaty establishing the European Coal and Steel Community, signed at Paris on 18 April 1951.

“EEA agreement” means the agreement on the European Economic Area signed at Oporto on 2 May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17 March 1993, as modified or supplemented from time to time, but does not include any retained direct EU legislation. [8 January 2007]

“EEA state”, in relation to a time, means—

(a) a state which at that time is a member State, or

(b) any other state which at that time is a party to the EEA agreement. [8 January 2007]

“E.E.C. Treaty” means the Treaty establishing the European Economic Community, signed at Rome on 25 March 1957.

“Entry date” means the date on which the United Kingdom became a member of the Communities (which neither includes nor is a reference to the EU).

“The EU” or “the European Union” means the European Union, being the Union established by the Treaty on European Union signed at Maastricht on 7 February 1992 (as amended by any later Treaty); and includes, so far as the context permits or requires, Euratom.

“EU institution” means any institution of the EU.

“EU instrument” means any instrument issued by an EU institution other than any retained direct EU legislation.

“Euratom”, “Economic Community” and “Coal and Steel Community” mean respectively the European Atomic Energy Community, the European Economic Community and the European Coal and Steel Community (but see the definition of “the Communities” for provision as to the construction of references to those Communities).

“Euratom Treaty” means the Treaty establishing the European Atomic Energy Community, signed at Rome on 25 March 1957.

“European Court” means the Court of Justice of the European Union.

“Exit day” (and related expressions) have the same meaning as in the European Union (Withdrawal) Act 2018 (see section 20(1) to (5) of that Act).

“Member”, in the expression “member State”, refers to membership of the EU.

“Retained EU law”, “retained direct minor EU legislation”, “retained direct principal EU legislation” and “retained direct EU legislation” have the same meaning as in the European Union (Withdrawal) Act 2018 (see sections 6(7), 7(6) and 20(1) of that Act).

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“Retained EU obligation” means an obligation that—

- (a) was created or arose by or under the EU Treaties before exit day, and
- (b) forms part of retained EU law,

as modified from time to time.

“The Treaties” or “the EU Treaties” means the Treaties or EU Treaties, within the meaning given by section 1(2) of the European Communities Act 1972 as that Act had effect immediately before its repeal by section 1 of the European Union (Withdrawal) Act 2018, as at immediately before exit day.”

*European Economic Area Act 1993*

- 23 The European Economic Area Act 1993 is amended as follows.
- 24 Omit section 1 (EEA agreement to be an EU Treaty).
- 25 (1) Section 2 (consistent application of law to the whole of the EEA) is amended as follows.
- (2) In subsection (3)—
- (a) in paragraph (a), after “Act” insert “as at immediately before exit day”, and
  - (b) omit paragraph (b), the “or” before that paragraph and the words after that paragraph.
- (3) After that subsection insert—
- “(3A) This section is subject to any amendment, repeal, revocation or other modification of retained EU law on or after exit day.”
- (4) Omit subsections (4) to (6).
- 26 (1) Section 3 (general implementation of the EEA agreement) is amended as follows.
- (2) In subsection (3)—
- (a) in paragraph (a), after “Act” insert “as at immediately before exit day”, and
  - (b) omit paragraph (b), the “or” before that paragraph and the words after that paragraph.
- (3) After subsection (4) insert—
- “(4A) This section is subject to any amendment, repeal, revocation or other modification of retained EU law on or after exit day.”
- 27 Omit section 4 (modification of section 3 of the European Communities Act 1972).
- 28 In section 6 (interpretation), in subsection (1), in the definition of “the 1972 Act”, after “1972” insert (before its repeal by section 1 of the European Union (Withdrawal) Act 2018)“.

*Criminal Procedure (Scotland) Act 1995*

- 29 (1) Section 288ZA of the Criminal Procedure (Scotland) Act 1995 (right of Advocate General to take part in proceedings) is amended as follows.
- (2) In subsection (2)—

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- (a) in paragraph (a)(ii), for “incompatible with EU law” substitute “made unlawful by section 57(4) of the Scotland Act 1998 (restriction on subordinate legislation modifying retained EU law)”, and
- (b) in paragraph (b), for “with EU law” substitute “in breach of the restriction in section 30A(1) of the Scotland Act 1998 (restriction on the modification of retained EU law)”.

(3) In subsection (3), omit paragraph (c).

#### *Human Rights Act 1998*

- 30 (1) This paragraph has effect for the purposes of the Human Rights Act 1998.
- (2) Any retained direct principal EU legislation is to be treated as primary legislation.
- (3) Any retained direct minor EU legislation is to be treated as primary legislation so far as it amends any primary legislation but otherwise is to be treated as subordinate legislation.
- (4) In this paragraph “amend”, “primary legislation” and “subordinate legislation” have the same meaning as in the Human Rights Act 1998.

#### *Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)*

- 31 The Interpretation and Legislative Reform (Scotland) Act 2010 is amended as follows.
- 32 (1) Section 1 (application of Part 1 of the Act) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b), after “day” insert “, in the case of Scottish instruments made as mentioned in paragraph (a) or (b) of the definition of “Scottish instrument” in subsection (4),”, and
  - (b) after paragraph (b) (but before the “and” at the end of that paragraph) insert—
    - “(ba) Scottish instruments made on or after exit day, in the case of Scottish instruments made as mentioned in paragraph (c) or (d) of the definition of “Scottish instrument” in subsection (4),”.
- (3) In subsection (4)—
- (a) omit the “or” at the end of paragraph (a), and
  - (b) after paragraph (b) insert—
    - “(c) an Act of the Scottish Parliament (whenever passed) and any retained direct EU legislation (whenever made), or
    - (d) an Act of the Scottish Parliament and an Act of Parliament (in each case, whenever passed) and any retained direct EU legislation (whenever made).”
- (4) After subsection (9) insert—
- “(10) In this section “exit day” (and related expressions) and “retained direct EU legislation” have the same meaning as in the European Union (Withdrawal) Act 2018 (see section 20(1) to (5) of that Act).”

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- 33 In section 30 (other instruments laid before the Scottish Parliament), after subsection (6), insert—
- “(7) This section does not apply in relation to any regulations made in accordance with paragraph 6 of Schedule 7 to the European Union (Withdrawal) Act 2018 (including that paragraph as applied by paragraph 19(7) of that Schedule).”
- 34 In section 37 (interpretation of Part 2 of the Act)—
- (a) in the definition of “enactment”, at the end insert “and any retained direct EU legislation”,
- (b) after that definition insert—
- ““retained direct EU legislation” has the same meaning as in the European Union (Withdrawal) Act 2018 (see section 20(1) of that Act),” and
- (c) at the end insert—
- ““subordinate legislation” includes an instrument made or to be made under any retained direct EU legislation on or after exit day (within the meaning of the European Union (Withdrawal) Act 2018 (see section 20(1) to (5) of that Act)).”
- 35 In Schedule 1 (definitions of words and expressions)—
- (a) omit from “the EU” to “meanings given by that Act”, and
- (b) at the end insert—
- “Definitions relating to the EU*
- “The Communities” means Euratom, the Economic Community and the Coal and Steel Community, but a reference to any or all of those Communities is to be treated as being or including (as the context requires) a reference to the EU.
- “E.C.S.C. Treaty” means the Treaty establishing the European Coal and Steel Community, signed at Paris on 18 April 1951.
- “E.E.C. Treaty” means the Treaty establishing the European Economic Community, signed at Rome on 25 March 1957.
- “Entry date” means the date on which the United Kingdom became a member of the Communities (which neither includes nor is a reference to the EU).
- “The EU” or “the European Union” means the European Union, being the Union established by the Treaty on European Union signed at Maastricht on 7 February 1992 (as amended by any later Treaty); and includes, so far as the context permits or requires, Euratom.
- “EU institution” means any institution of the EU.
- “EU instrument” means any instrument issued by an EU institution other than any retained direct EU legislation (within the meaning of the European Union (Withdrawal) Act 2018 (see section 20(1) of that Act)).
- “Euratom”, “Economic Community” and “Coal and Steel Community” mean respectively the European Atomic Energy Community, the European Economic Community and the European Coal and Steel Community (but see the definition of “the Communities” for provision as to the construction of references to those Communities).

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“Euratom Treaty” means the Treaty establishing the European Atomic Energy Community, signed at Rome on 25 March 1957.

“European Court” means the Court of Justice of the European Union.

“Member”, in the expression “member State”, refers to membership of the EU.

“The Treaties” or “the EU Treaties” means the Treaties or EU Treaties, within the meaning given by section 1(2) of the European Communities Act 1972 as that Act had effect immediately before its repeal by section 1 of the European Union (Withdrawal) Act 2018, as at immediately before exit day (within the meaning of that Act (see section 20(1) to (5) of that Act)).”

*Small Business, Enterprise and Employment Act 2015*

- 36 In section 30 of the Small Business, Enterprise and Employment Act 2015 (meaning of “provision for review”), in subsection (3)—
- (a) omit “EU obligation or any other”, and
  - (b) omit “Member States or”.