



# European Union (Withdrawal Agreement) Act 2020

## 2020 CHAPTER 1

### PART 4

#### OTHER SUBJECT AREAS

VALID FROM 19/05/2020

#### *Other separation issues*

#### **18 Main power in connection with other separation issues**

After section 8A of the European Union (Withdrawal) Act 2018 (supplementary power in connection with implementation period) (for which see section 3 above) insert—

#### **“8B Power in connection with certain other separation issues**

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate—
  - (a) to implement Part 3 of the withdrawal agreement (separation provisions),
  - (b) to supplement the effect of section 7A in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7A and that Part).
- (2) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate—

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- (a) to implement Part 3 of the EEA EFTA separation agreement (separation provisions),
  - (b) to supplement the effect of section 7B in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7B and that Part).
- (3) Regulations under this section may make any provision that could be made by an Act of Parliament.
- (4) Regulations under this section may (among other things) restate, for the purposes of making the law clearer or more accessible, anything that forms part of domestic law by virtue of—
- (a) section 7A above and Part 3 of the withdrawal agreement, or
  - (b) section 7B above and Part 3 of the EEA EFTA separation agreement.
- (5) But regulations under this section may not—
- (a) impose or increase taxation or fees,
  - (b) make retrospective provision,
  - (c) create a relevant criminal offence,
  - (d) establish a public authority,
  - (e) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it, or
  - (f) amend or repeal the Scotland Act 1998, the Government of Wales Act 2006 or the Northern Ireland Act 1998 (unless the regulations are made by virtue of paragraph 21(b) of Schedule 7 to this Act or are amending or repealing any provision of those Acts which modifies another enactment).
- (6) In this section references to Part 3 of the withdrawal agreement or of the EEA EFTA separation agreement include references to any provision of EU law which is applied by, or referred to in, that Part (to the extent of the application or reference).”

## **19 Powers corresponding to section 18 involving devolved authorities**

After Part 1A of Schedule 2 to the European Union (Withdrawal) Act 2018 (corresponding powers involving devolved authorities: provision in connection with implementation period) (for which see section 4 above) insert—

### **“PART 1B**

#### PROVISION IN CONNECTION WITH CERTAIN OTHER SEPARATION ISSUES

#### ***Powers in connection with Part 3 of withdrawal agreement and EEA EFTA separation agreement***

- 11G (1) A devolved authority may by regulations make such provision as the devolved authority considers appropriate—
- (a) to implement Part 3 of the withdrawal agreement (separation provisions),

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- (b) to supplement the effect of section 7A in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7A and that Part).
- (2) A Minister of the Crown acting jointly with a devolved authority may by regulations make such provision as they consider appropriate—
- (a) to implement Part 3 of the withdrawal agreement (separation provisions),
  - (b) to supplement the effect of section 7A in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7A and that Part).
- (3) A devolved authority may by regulations make such provision as the devolved authority considers appropriate—
- (a) to implement Part 3 of the EEA EFTA separation agreement (separation provisions),
  - (b) to supplement the effect of section 7B in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7B and that Part).
- (4) A Minister of the Crown acting jointly with a devolved authority may by regulations make such provision as they consider appropriate—
- (a) to implement Part 3 of the EEA EFTA separation agreement (separation provisions),
  - (b) to supplement the effect of section 7B in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7B and that Part).
- (5) Regulations under this Part may make any provision that could be made by an Act of Parliament.
- (6) Regulations under this Part may (among other things) restate, for the purposes of making the law clearer or more accessible, anything that forms part of domestic law by virtue of—
- (a) section 7A above and Part 3 of the withdrawal agreement, or
  - (b) section 7B above and Part 3 of the EEA EFTA separation agreement.
- (7) But regulations under this Part may not—
- (a) impose or increase taxation or fees,
  - (b) make retrospective provision,
  - (c) create a relevant criminal offence,
  - (d) establish a public authority,
  - (e) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it, or
  - (f) amend or repeal the Scotland Act 1998, the Government of Wales Act 2006 or the Northern Ireland Act 1998 (unless the regulations are made by virtue of paragraph 21(b) of Schedule 7

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to this Act or are amending or repealing any provision of those Acts which modifies another enactment).

- (8) Regulations under sub-paragraph (1) or (3) are also subject to paragraphs 11H and 11I.
- (9) In this paragraph references to Part 3 of the withdrawal agreement or of the EEA EFTA separation agreement include references to any provision of EU law which is applied by, or referred to in, that Part (to the extent of the application or reference).

***No power to make provision outside devolved competence***

- 11H (1) No provision may be made by a devolved authority acting alone in regulations under this Part unless the provision is within the devolved competence of the devolved authority.
- (2) See paragraphs 11J to 11L for the meaning of “devolved competence” for the purposes of this Part.

***Certain requirements for consent, joint exercise or consultation***

- 11I Paragraphs 5 to 7 apply for the purposes of this Part as they apply for the purposes of Part 1.

***Meaning of devolved competence: Part 1B***

- 11J A provision is within the devolved competence of the Scottish Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament (ignoring section 29(2)(d) of the Scotland Act 1998 so far as relating to EU law and retained EU law), or
  - (b) it is provision which could be made in other subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone (ignoring section 57(2) of the Scotland Act 1998 so far as relating to EU law and section 57(4) of that Act).
- 11K A provision is within the devolved competence of the Welsh Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (ignoring section 108A(2)(e) of the Government of Wales Act 2006 so far as relating to EU law and retained EU law but including any provision that could be made only with the consent of a Minister of the Crown), or
  - (b) it is provision which could be made in other subordinate legislation by the Welsh Ministers acting alone (ignoring section 80(8) of the Government of Wales Act 2006).
- 11L A provision is within the devolved competence of a Northern Ireland department for the purposes of this Part if—

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- (a) the provision, if it were contained in an Act of the Northern Ireland Assembly—
  - (i) would be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998), and
  - (ii) would not require the consent of the Secretary of State,
- (b) the provision—
  - (i) amends or repeals Northern Ireland legislation, and
  - (ii) would, if it were contained in an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998) and require the consent of the Secretary of State, or
- (c) the provision is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority acting alone (ignoring section 24(1)(b) and (3) of the Northern Ireland Act 1998).”

#### *Main financial provision*

## **20 Financial provision**

- (1) Any sum that is required to be paid to the EU or an EU entity to meet any obligation that the United Kingdom has by virtue of the withdrawal agreement is to be charged on and paid out of the Consolidated Fund or, if the Treasury so decides, the National Loans Fund.
- (2) After 31 March 2021, subsection (1) does not apply in relation to any expenditure other than sums required to be paid in respect of the traditional own resources of the EU.
- (3) Any money received by a Minister of the Crown or a government department by virtue of the withdrawal agreement is to be paid into the Consolidated Fund or, if the Treasury so decides, the National Loans Fund.
- (4) A Minister of the Crown, government department or devolved authority may incur expenditure, for the purpose of, or in connection with, preparing for anything about which provision may be made under a power to make subordinate legislation conferred or modified by or under this Act, before any such provision is made.
- (5) There is to be paid out of money provided by Parliament—
  - (a) any expenditure in relation to which subsection (1) does not apply which is incurred by a Minister of the Crown, government department or other public authority by virtue of this Act, and
  - (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.
- (6) Subsections (1), (3) and (5) are subject to any other provision made by or under this Act or any other enactment.
- (7) In this section—

“EU entity” means an EU institution or any office, body or agency of the EU;

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“government department” means any department of the Government of the United Kingdom;

“the traditional own resources of the EU” means the EU's traditional own resources referred to in Article 2(1)(a) of the Council Decision of 26 May 2014 on the system of own resources of the European Union (2014/335/EU, Euratom).

VALID FROM 19/05/2020

*Ireland/Northern Ireland Protocol*

**21 Main power in connection with Ireland/Northern Ireland Protocol**

After section 8B of the European Union (Withdrawal) Act 2018 (power in connection with certain other separation issues) (for which see section 18 above) insert—

**“8C Power in connection with Ireland/Northern Ireland Protocol in withdrawal agreement**

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate—
  - (a) to implement the Protocol on Ireland/Northern Ireland in the withdrawal agreement,
  - (b) to supplement the effect of section 7A in relation to the Protocol, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, the Protocol (including matters arising by virtue of section 7A and the Protocol).
- (2) Regulations under subsection (1) may make any provision that could be made by an Act of Parliament (including modifying this Act).
- (3) Regulations under subsection (1) may (among other things) make provision facilitating the access to the market within Great Britain of qualifying Northern Ireland goods.
- (4) Such provision may (among other things) include provision about the recognition within Great Britain of technical regulations, assessments, registrations, certificates, approvals and authorisations issued by—
  - (a) the authorities of a member State, or
  - (b) bodies established in a member State,
 in respect of qualifying Northern Ireland goods.
- (5) Regulations under subsection (1) may (among other things) restate, for the purposes of making the law clearer or more accessible, anything that forms part of domestic law by virtue of section 7A and the Protocol.
- (6) A Minister of the Crown may by regulations define “qualifying Northern Ireland goods” for the purposes of this Act.

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(7) In this section any reference to the Protocol on Ireland/Northern Ireland includes a reference to—

- (a) any other provision of the withdrawal agreement so far as applying to the Protocol, and
- (b) any provision of EU law which is applied by, or referred to in, the Protocol (to the extent of the application or reference),

but does not include the second sentence of Article 11(1) of the Protocol (which provides that the United Kingdom and the Republic of Ireland may continue to make new arrangements that build on the provisions of the Belfast Agreement in other areas of North-South cooperation on the island of Ireland).”

## **22 Powers corresponding to section 21 involving devolved authorities**

After Part 1B of Schedule 2 to the European Union (Withdrawal) Act 2018 (corresponding powers involving devolved authorities: provision in connection with certain other separation issues) (for which see section 19 above) insert—

### **“PART 1C**

#### **PROVISION IN CONNECTION WITH PROTOCOL ON IRELAND/NORTHERN IRELAND**

##### ***Power in connection with Protocol on Ireland/Northern Ireland***

- 11M (1) A devolved authority may by regulations make such provision as the devolved authority considers appropriate—
- (a) to implement the Protocol on Ireland/Northern Ireland in the withdrawal agreement,
  - (b) to supplement the effect of section 7A in relation to the Protocol, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, the Protocol (including matters arising by virtue of section 7A and the Protocol).
- (2) A Minister of the Crown acting jointly with a devolved authority may by regulations make such provision as they consider appropriate—
- (a) to implement the Protocol on Ireland/Northern Ireland in the withdrawal agreement,
  - (b) to supplement the effect of section 7A in relation to the Protocol, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, the Protocol (including matters arising by virtue of section 7A and the Protocol).
- (3) Regulations under this Part may make any provision that could be made by an Act of Parliament.
- (4) Regulations under this Part may (among other things) make provision facilitating the access to the market within Great Britain of qualifying Northern Ireland goods.

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- (5) Such provision may (among other things) include provision about the recognition within Great Britain of technical regulations, assessments, registrations, certificates, approvals and authorisations issued by—
  - (a) the authorities of a member State, or
  - (b) bodies established in a member State,
 in respect of qualifying Northern Ireland goods.
- (6) Regulations under this Part may (among other things) restate, for the purposes of making the law clearer or more accessible, anything that forms part of domestic law by virtue of section 7A and the Protocol.
- (7) Regulations under sub-paragraph (1) are also subject to paragraphs 11N and 11O.
- (8) In this paragraph any reference to the Protocol on Ireland/Northern Ireland includes a reference to—
  - (a) any other provision of the withdrawal agreement so far as applying to the Protocol, and
  - (b) any provision of EU law which is applied by, or referred to in, the Protocol (to the extent of the application or reference),
 but does not include the second sentence of Article 11(1) of the Protocol (which provides that the United Kingdom and the Republic of Ireland may continue to make new arrangements that build on the provisions of the Belfast Agreement in other areas of North-South cooperation on the island of Ireland).

***No power to make provision outside devolved competence***

- 11N (1) No provision may be made by a devolved authority acting alone in regulations under this Part unless the provision is within the devolved competence of the devolved authority.
- (2) See paragraphs 11P to 11R for the meaning of “devolved competence” for the purposes of this Part.

***Certain requirements for consent, joint exercise or consultation***

- 11O Paragraphs 5 to 7 apply for the purposes of this Part as they apply for the purposes of Part 1.

***Meaning of devolved competence: Part 1C***

- 11P A provision is within the devolved competence of the Scottish Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament (ignoring section 29(2)(d) of the Scotland Act 1998 so far as relating to EU law), or
  - (b) it is provision which could be made in other subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone (ignoring section 57(2) of the Scotland Act 1998 so far as relating to EU law).



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- 11Q A provision is within the devolved competence of the Welsh Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (ignoring section 108A(2)(e) of the Government of Wales Act 2006 so far as relating to EU law but including any provision that could be made only with the consent of a Minister of the Crown), or
  - (b) it is provision which could be made in other subordinate legislation by the Welsh Ministers acting alone (ignoring section 80(8) of the Government of Wales Act 2006 so far as relating to EU law).
- 11R A provision is within the devolved competence of a Northern Ireland department for the purposes of this Part if—
- (a) the provision, if it were contained in an Act of the Northern Ireland Assembly—
    - (i) would be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998 so far as relating to EU law), and
    - (ii) would not require the consent of the Secretary of State,
  - (b) the provision—
    - (i) amends or repeals Northern Ireland legislation, and
    - (ii) would, if it were contained in an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998 so far as relating to EU law) and require the consent of the Secretary of State, or
  - (c) the provision is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority acting alone (ignoring section 24(1)(b) of the Northern Ireland Act 1998).”

### **23 Protection for certain rights, safeguards etc. in Belfast Agreement**

Schedule 3 contains provision about the implementation of Article 2(1) of the Protocol on Ireland/Northern Ireland in the withdrawal agreement.

VALID FROM 31/12/2020

### **24 No alteration of North-South co-operation**

In section 10 of the European Union (Withdrawal) Act 2018 (continuation of North-South co-operation and the prevention of new border arrangements), after subsection (2), insert—

“(3) A Minister of the Crown may not agree to the making of a recommendation by the Joint Committee under Article 11(2) of the Protocol on Ireland/Northern Ireland in the withdrawal agreement (recommendations as to North-South cooperation) to—

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- (a) alter the arrangements for North-South co-operation as provided for by the Belfast Agreement,
  - (b) establish a new implementation body, or
  - (c) alter the functions of an existing implementation body.
- (4) In this section—
- “the Belfast Agreement” has the meaning given by section 98 of the Northern Ireland Act 1998;
  - “implementation body” has the meaning given by section 55(3) of that Act.”

### *Relationship to EUWA 2018*

## **25 Retention of saved EU law at end of implementation period**

- (1) In section 2 of the European Union (Withdrawal) Act 2018 (saving for EU-derived domestic legislation)—
- (a) in subsection (1) for “exit day”, in both places where it appears, substitute “IP completion day”,
  - (b) omit subsection (2), and
  - (c) in subsection (3) after “incorporation” insert “ and section 5A (savings and incorporation: supplementary) ”.
- (2) In section 3 of that Act (incorporation of direct EU legislation)—
- (a) in subsection (1) for “exit day”, in both places where it appears, substitute “IP completion day”,
  - (b) in subsection (2)(a)—
    - (i) for “exit day” substitute “IP completion day”,
    - (ii) before sub-paragraph (i) insert—
      - “(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,”,
    - (iii) at the end of sub-paragraph (i) insert “ and ”, and
    - (iv) omit sub-paragraph (ii) and the word “and” at the end of the sub-paragraph,
  - (c) in subsection (2)(b)—
    - (i) for “exit day” substitute “IP completion day”, and
    - (ii) before sub-paragraph (i) insert—
      - “(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,”,
  - (d) in subsection (2)(c) for “exit day” substitute “IP completion day and so far as—

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- (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”,
  - (e) in subsection (3) for “exit day”, wherever it appears, substitute “ IP completion day ”, and
  - (f) in subsection (5) after “incorporation)” insert “ and section 5A (savings and incorporation: supplementary) ”.
- (3) In section 4 of that Act (saving for rights etc. under section 2(1) of the ECA)—
  - (a) in subsection (1) for “exit day”, in both places where it appears, substitute “ IP completion day ”,
  - (b) in subsection (2)—
    - (i) after paragraph (a) (and before the “or” at the end of the paragraph) insert—
      - “(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,”
    - (ii) in paragraph (b) for “exit day” substitute “ IP completion day ”, and
  - (c) in subsection (3) after “incorporation)” insert “ and section 5A (savings and incorporation: supplementary) ”.
- (4) In section 5 of that Act (exceptions to savings and incorporation)—
  - (a) in subsections (1) to (5) for “exit day”, wherever it appears, substitute “ IP completion day ”, and
  - (b) after subsection (6) insert—
    - “(7) Subsections (1) to (6) and Schedule 1 are subject to relevant separation agreement law (for which see section 7C).”
- (5) After section 5 of that Act insert—

#### **“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.”

- (6) In Schedule 1 to that Act (further provision about exceptions to savings and incorporation)—
  - (a) for “exit day”, wherever it appears, substitute “ IP completion day ”, and
  - (b) in paragraph 5(1) for “in accordance with this Act” substitute “ by virtue of section 2, 3, 4 or 6(3) or (6) and otherwise in accordance with this Act ”.

#### **Commencement Information**

**II** S. 25(4)(b)(6)(a) in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(h)

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## 26 Interpretation of retained EU law and relevant separation agreement law

(1) In section 6 of the European Union (Withdrawal) Act 2018 (interpretation of retained EU law)—

- (a) for “exit day”, wherever it appears, substitute “ IP completion day ”,
- (b) in subsection (4), after paragraph (b) (but before the “and” at the end of the paragraph) insert—
  - “(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).”,
- (c) in subsection (5) after “EU case law” insert “ by virtue of subsection (4)(a) or (b) ”,
- (d) after subsection (5) insert—

“(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.”, and

(e) after subsection (6) insert—

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

(2) After section 7B of that Act (general implementation of EEA EFTA and Swiss agreements) (for which see section 6 above) insert—

#### **“7C Interpretation of relevant separation agreement law**

(1) Any question as to the validity, meaning or effect of any relevant separation agreement law is to be decided, so far as they are applicable—

- (a) in accordance with the withdrawal agreement, the EEA EFTA separation agreement and the Swiss citizens' rights agreement, and
- (b) having regard (among other things) to the desirability of ensuring that, where one of those agreements makes provision which corresponds to provision made by another of those agreements, the effect of relevant separation agreement law in relation to the matters dealt with by the corresponding provision in each agreement is consistent.

(2) See (among other things)—

- (a) Article 4 of the withdrawal agreement (methods and principles relating to the effect, the implementation and the application of the agreement),
- (b) Articles 158 and 160 of the withdrawal agreement (jurisdiction of the European Court in relation to Part 2 and certain provisions of Part 5 of the agreement),
- (c) Articles 12 and 13 of the Protocol on Ireland/Northern Ireland in the withdrawal agreement (implementation, application, supervision and enforcement of the Protocol and common provisions),
- (d) Article 4 of the EEA EFTA separation agreement (methods and principles relating to the effect, the implementation and the application of the agreement), and
- (e) Article 4 of the Swiss citizens' rights agreement (methods and principles relating to the effect, the implementation and the application of the agreement).

(3) In this Act “relevant separation agreement law” means—

- (a) any of the following provisions or anything which is domestic law by virtue of any of them—
  - (i) section 7A, 7B, 8B or 8C or Part 1B or 1C of Schedule 2 or this section, or

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- (ii) Part 3, or section 20, of the European Union (Withdrawal Agreement) Act 2020 (citizens' rights and financial provision), or
- (b) anything not falling within paragraph (a) so far as it is domestic law for the purposes of, or otherwise within the scope of—
  - (i) the withdrawal agreement (other than Part 4 of that agreement),
  - (ii) the EEA EFTA separation agreement, or
  - (iii) the Swiss citizens' rights agreement,
 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.”

#### Commencement Information

- I2** S. 26(1) in force at 30.1.2020 for specified purposes by 2020 c. 2, reg. 2(11)(c)
- I3** S. 26(1)(a) in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(i)
- I4** S. 26(2) in force at 31.1.2020 by S.I. 2020/75, reg. 4(j)

## 27 Dealing with deficiencies in retained EU law

- (1) Section 8 of the European Union (Withdrawal) Act 2018 (dealing with deficiencies arising from withdrawal) is amended in accordance with subsections (2) to (6).
- (2) In subsection (2)—
  - (a) in paragraph (d)(ii), after “membership of the EU” insert “ or Part 4 of the withdrawal agreement ”,
  - (b) in paragraph (e), after “Treaties” insert “ or as a result of either the end of the implementation period or any other effect of the withdrawal agreement ”,
  - (c) after paragraph (e) insert—
    - “(ea) is not clear in its effect as a result of the operation of any provision of sections 2 to 6 or Schedule 1,” and
  - (d) in paragraph (f)(i) for “exit day” substitute “ IP completion day ”.
- (3) In subsection (4) for “exit day” substitute “ IP completion day ”.
- (4) In subsection (7), omit paragraph (e).
- (5) In subsection (8) for “exit day” substitute “ IP completion day ”.
- (6) In subsection (9)—
  - (a) for “that withdrawal taken together” substitute “—
    - (a) any aspect of that withdrawal, including (among other things) —
      - (i) the end of the implementation period, or
      - (ii) any other effect of the withdrawal agreement, or
    - (b) that withdrawal, or any such aspect of it, taken together”, and
  - (b) after “Act” insert “ or the European Union (Withdrawal Agreement) Act 2020 ”.

**Status:** Point in time view as at 31/01/2020. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, PART 4. (See end of Document for details)

- (7) In the following provisions of Part 1 of Schedule 2 to the European Union (Withdrawal) Act 2018 (dealing with deficiencies arising from withdrawal: devolved authorities) for “exit day” substitute “ IP completion day ”
- (a) paragraph 4(a),
  - (b) paragraph 8(2)(a)(i),
  - (c) paragraph 9(2)(a)(i), and
  - (d) paragraph 10(2)(a)(i).

#### Commencement Information

**I5** S. 27 in force at 31.1.2020 by S.I. 2020/75, reg. 4(k)

VALID FROM 19/05/2020

#### 28 Ancillary fee-charging powers

In Part 1 of Schedule 4 to the European Union (Withdrawal) Act 2018 (charging in connection with certain new functions)—

- (a) in paragraph 1(1), after paragraph (a) (but before the “or” at the end of that paragraph) insert—
  - “(aa) section 8B or Part 1B of Schedule 2 (powers in connection with Part 3 of the withdrawal agreement and Part 3 of the EEA EFTA separation agreement), or
  - (ab) section 8C or Part 1C of Schedule 2 (powers in connection with the Ireland/Northern Ireland Protocol in the withdrawal agreement)”, and
- (b) in paragraph 5—
  - (i) in sub-paragraph (1), for “sub-paragraph (2)” substitute “ sub-paragraphs (2) and (2A) ”, and
  - (ii) after sub-paragraph (2) insert—
    - “(2A) This paragraph does not apply in relation to regulations made under paragraph 1(1)(aa) or (ab).”

#### *Parliamentary oversight*

#### 29 Review of EU legislation during implementation period

After section 13 of the European Union (Withdrawal) Act 2018 (Parliamentary approval of the outcome of negotiations with the EU) insert—

##### “13A Review of EU legislation during implementation period

- (1) Subsection (2) applies where the European Scrutiny Select Committee of the House of Commons (“the ESC”) publishes a report in respect of any EU legislation made, or which may be made, during the implementation period and the report—

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- (a) states that, in the opinion of the ESC, the EU legislation raises a matter of vital national interest to the United Kingdom,
  - (b) confirms that the ESC has taken such evidence as it considers appropriate as to the effect of the EU legislation and has consulted any Departmental Select Committee of the House of Commons which the ESC considers also has an interest in the EU legislation, and
  - (c) sets out the wording of a motion to be moved in the House of Commons in accordance with subsection (2).
- (2) A Minister of the Crown must, within the period of 14 Commons sitting days beginning with the day on which the report is published, make arrangements for the motion mentioned in subsection (1)(c) to be debated and voted on by the House of Commons.
- (3) Subsection (4) applies where the EU Select Committee of the House of Lords (“the EUC”) publishes a report in respect of any EU legislation made, or which may be made, during the implementation period and the report—
- (a) states that, in the opinion of the EUC, the EU legislation raises a matter of vital national interest to the United Kingdom,
  - (b) confirms that the EUC has taken such evidence as it considers appropriate as to the effect of the EU legislation, and
  - (c) sets out the wording of a motion to be moved in the House of Lords in accordance with subsection (4).
- (4) A Minister of the Crown must, within the period of 14 Lords sitting days beginning with the day on which the report is published, make arrangements for the motion mentioned in subsection (3)(c) to be debated and voted on by the House of Lords.
- (5) In this section—
- “EU legislation” means—
- (a) any amendment to the Treaty on European Union, the Treaty on the Functioning of the European Union, the Euratom Treaty or the EEA agreement,
  - (b) any EU directive, or
  - (c) any EU regulation or EU decision which is not EU tertiary legislation;
- “the European Scrutiny Select Committee of the House of Commons” means the Select Committee of the House of Commons known as the European Scrutiny Select Committee or any successor of that committee;
- “the EU Select Committee of the House of Lords” means the Select Committee of the House of Lords known as the EU Select Committee or any successor of that committee.”

VALID FROM 31/12/2020

### **30 Certain dispute procedures under withdrawal agreement**

After section 13A of the European Union (Withdrawal) Act 2018 (review of EU legislation during implementation period) (for which see section 29 above) insert—



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*Changes to legislation:* There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, PART 4. (See end of Document for details)

### **“13B Certain dispute procedures under withdrawal agreement**

- (1) Subsection (2) applies if a request has been made under Article 170 of the withdrawal agreement to the other party in a dispute (request to establish an arbitration panel in relation to a dispute between the EU and the United Kingdom).
- (2) A Minister of the Crown must, within the 14 day period beginning with the day on which the request is made, make a statement in writing to each House of Parliament that the request has been made and setting out the details of it.
- (3) Subsection (4) applies if the European Court has given a ruling in response to a request by an arbitration panel under Article 174(1) of the withdrawal agreement (request for ruling by European Court on certain questions arising in a dispute submitted to arbitration).
- (4) A Minister of the Crown must, within the 14 day period beginning with the publication in the Official Journal of the European Union of the ruling of the European Court, make a statement in writing to each House of Parliament that the ruling has been made and setting out the details of it contained in the Official Journal.
- (5) After the end of each reporting period, a Minister of the Crown must lay before each House of Parliament a report setting out the number of times within the reporting period that the Joint Committee has been provided with notice under Article 169(1) of the withdrawal agreement (notice concerning the commencement of consultations in the Joint Committee to resolve a dispute between the EU and the United Kingdom about the interpretation and application of the withdrawal agreement).
- (6) In this section—
  - “reporting period” means—
    - (a) the period of one year beginning with the day on which IP completion day falls, and
    - (b) each subsequent year;
  - “the 14 day period” means—
    - (a) in relation to the House of Commons, the period of 14 Commons sitting days, and
    - (b) in relation to the House of Lords, the period of 14 Lords sitting days.”

## **31 Repeal of section 13 of EUWA 2018**

- (1) Section 13 of the European Union (Withdrawal) Act 2018 (Parliamentary approval of the outcome of negotiations with the EU) is repealed.
- (2) Accordingly, none of the conditions set out in paragraphs (a) to (d) of subsection (1) of that section apply in relation to the ratification of the withdrawal agreement.

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## **32 Requirements in Part 2 of CRAGA**

Section 20 of the Constitutional Reform and Governance Act 2010 (treaties to be laid before Parliament before ratification) does not apply in relation to the withdrawal agreement (but this does not affect whether that section applies in relation to any modification of the agreement).

*Other matters*

## **33 Prohibition on extending implementation period**

After section 15 of the European Union (Withdrawal) Act 2018 (publication and rules of evidence) insert—

### **“15A Prohibition on extending implementation period**

A Minister of the Crown may not agree in the Joint Committee to an extension of the implementation period.”

## **34 Ministerial co-chairs of the Joint Committee**

After section 15A of the European Union (Withdrawal) Act 2018 (prohibition on extending implementation period) (for which see section 33 above) insert—

### **“15B Ministerial co-chairs of the Joint Committee**

The functions of the United Kingdom's co-chair of the Joint Committee, under Annex VIII of the withdrawal agreement (rules of procedure of the Joint Committee and specialised committees), are to be exercised personally by a Minister of the Crown (and, accordingly, only a Minister of the Crown may be designated as a replacement under Rule 1(3)).”

## **35 No use of written procedure in the Joint Committee**

After section 15B of the European Union (Withdrawal) Act 2018 (ministerial co-chairs of the Joint Committee) (for which see section 34 above) insert—

### **“15C No use of written procedure in the Joint Committee**

- (1) The United Kingdom's co-chair of the Joint Committee may not consent to the Joint Committee using the written procedure provided for in Rule 9(1) of Annex VIII of the withdrawal agreement.
- (2) In subsection (1) the reference to the United Kingdom's co-chair of the Joint Committee includes a reference to any designee of the co-chair designated under Rule 1(3) of Annex VIII of the withdrawal agreement.”

## **36 Repeal of unnecessary or spent enactments**

The following enactments are repealed—

- (a) section 9 of the European Union (Withdrawal) Act 2018 (implementing the withdrawal agreement),

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- (b) sections 16 and 18 of that Act (spent duties in relation to environmental principles etc. and a customs arrangement),
- (c) section 19 of that Act (future interaction with the law and agencies of the EU),
- (d) Part 2 of Schedule 2 to that Act (implementing the withdrawal agreement),
- (e) the European Union (Withdrawal) Act 2019 (provisions in connection with an extension under Article 50(3) of the Treaty on European Union), and
- (f) the European Union (Withdrawal) (No. 2) Act 2019 (duties in connection with an extension under Article 50(3) of the Treaty on European Union).

### **37 Arrangements with EU about unaccompanied children seeking asylum**

In section 17 of the European Union (Withdrawal) Act 2018 (family unity for those seeking asylum or other protection in Europe), for subsection (1) substitute—

- “(1) A Minister of the Crown must, within the period of two months beginning with the day on which the European Union (Withdrawal Agreement) Act 2020 is passed, lay before Parliament a statement of policy in relation to any future arrangements between the United Kingdom and the EU about—
- (a) unaccompanied children, who make an application for international protection to a member State, coming to the United Kingdom where it is in their best interests to join a relative who—
    - (i) is a lawful resident of the United Kingdom, or
    - (ii) has made a protection claim which has not been decided, and
  - (b) unaccompanied children in the United Kingdom, who make a protection claim, going to a member State to join a relative there in equivalent circumstances.”

**Status:**

Point in time view as at 31/01/2020. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, PART 4.