

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, SCHEDULE 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

Section 23

#### PROTECTION FOR CERTAIN RIGHTS, SAFEGUARDS ETC. IN BELFAST AGREEMENT

1 The Northern Ireland Act 1998 is amended as follows.

##### Commencement Information

**I1** Sch. 3 para. 1 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(i)

2 In section 6(2) (legislative competence), after paragraph (c), insert—  
“(ca) it is incompatible with Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals);”.

##### Commencement Information

**I2** Sch. 3 para. 2 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(i)

3 In section 24(1) (restrictions on powers of Northern Ireland Ministers and departments), after paragraph (a), insert—  
“(aa) is incompatible with Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals);”.

##### Commencement Information

**I3** Sch. 3 para. 3 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(i)

4 In section 69 (functions of the Northern Ireland Human Rights Commission), after subsection (10), insert—  
“(10A) For functions of the Commission in relation to Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals), see sections 78A to 78E.”

##### Commencement Information

**I4** Sch. 3 para. 4 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(i)

5 In section 71 of the Northern Ireland Act 1998 (restrictions on proceedings)—  
(a) in subsection (2B), for “human rights proceedings” substitute “proceedings which rely on section 7(1)(b) of the Human Rights Act 1998”, and  
(b) in subsection (2C), omit paragraph (a) (including the “and” at the end).

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**Commencement Information**

- I5** Sch. 3 para. 5 in force at 23.3.2020 by [S.I. 2020/317](#), **reg. 4**  
**I6** Sch. 3 para. 5 in force at 19.5.2020 in so far as not already in force by virtue of the commencement of s. 23 by [S.I. 2020/518](#), **reg. 2(k)**

- 6 In section 74 (principal functions of the Equality Commission for Northern Ireland), after subsection (6), insert—

“(7) For functions of the Commission in relation to Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals), see sections 78A to 78E.”

**Commencement Information**

- I7** [Sch. 3 para. 6](#) in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 5(i)**

- 7 After section 78 insert—

*“Protections deriving from EU withdrawal agreement*

**78A NIHRC functions in relation to EU withdrawal agreement**

- (1) The Northern Ireland Human Rights Commission must monitor the implementation of Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals).
- (2) The Commission must report to the Secretary of State and the Executive Office in Northern Ireland on the implementation of Article 2(1)—
  - (a) as soon as reasonably practicable after receipt of a general or specific request for such a report, and
  - (b) on such other occasions as the Commission thinks appropriate.
- (3) A report under subsection (2) may require the Secretary of State or the Executive Office in Northern Ireland to reply in writing to any recommendations contained in the report, explaining what steps have been taken or are planned in response to the recommendations.
- (4) On receiving a report under subsection (2)—
  - (a) the Secretary of State must lay a copy of it before Parliament, and
  - (b) the Executive Office in Northern Ireland must lay a copy of it before the Assembly.
- (5) The Commission must advise the Secretary of State and the Executive Committee of the Assembly of legislative and other measures which ought to be taken to implement Article 2(1)—
  - (a) as soon as reasonably practicable after receipt of a general or specific request for advice, and
  - (b) on such other occasions as the Commission thinks appropriate.
- (6) The Commission must advise the Assembly (or a committee of the Assembly) whether a Bill is compatible with Article 2(1)—

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- (a) as soon as reasonably practicable after receipt of a request for advice, and
  - (b) on such other occasions as the Commission thinks appropriate.
- (7) The Commission must promote understanding and awareness of the importance of Article 2(1); and for this purpose it may undertake, commission or provide financial or other assistance for—
  - (a) research, and
  - (b) educational activities.
- (8) The Commission may decide to publish its advice and the outcome of its research.
- (9) The Commission may, for the purposes of Article 14(c) of the Protocol, bring any appropriate matters to the attention of the Specialised Committee referred to in that Article.

#### **78B ECNI functions in relation to EU withdrawal agreement**

- (1) The Equality Commission for Northern Ireland must monitor the implementation of Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.
- (2) The Commission must report to the Secretary of State and the Executive Office in Northern Ireland on the implementation of Article 2(1)—
  - (a) as soon as reasonably practicable after receipt of a general or specific request for such a report, and
  - (b) on such other occasions as the Commission thinks appropriate.
- (3) A report under subsection (2) may require the Secretary of State or the Executive Office in Northern Ireland to reply in writing to any recommendations contained in the report, explaining what steps have been taken or are planned in response to the recommendations.
- (4) On receiving a report under subsection (2)—
  - (a) the Secretary of State must lay a copy of it before Parliament, and
  - (b) the Executive Office in Northern Ireland must lay a copy of it before the Assembly.
- (5) The Commission must advise the Secretary of State and the Executive Committee of the Assembly of legislative and other measures which ought to be taken to implement Article 2(1)—
  - (a) as soon as reasonably practicable after receipt of a general or specific request for advice, and
  - (b) on such other occasions as the Commission thinks appropriate.
- (6) The Commission must advise the Assembly (or a Committee of the Assembly) whether a Bill is compatible with Article 2(1)—
  - (a) as soon as reasonably practicable after receipt of a request for advice, and
  - (b) on such other occasions as the Commission thinks appropriate.

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- (7) The Commission must promote understanding and awareness of the importance of Article 2(1); and for this purpose it may undertake, commission or provide financial or other assistance for—
  - (a) research, and
  - (b) educational activities.
- (8) The Commission may decide to publish its advice and the outcome of its research.
- (9) The Commission may, for the purposes of Article 14(c) of the Protocol, bring any appropriate matters to the attention of the Specialised Committee referred to in that Article.

#### **78C Power of Commissions to bring, or intervene in, legal proceedings**

- (1) The Northern Ireland Human Rights Commission or Equality Commission for Northern Ireland may—
  - (a) bring judicial review proceedings in respect of an alleged breach (or potential future breach) of Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;
  - (b) intervene in legal proceedings, whether for judicial review or otherwise, in so far as they relate to an alleged breach (or potential future breach) of Article 2(1).
- (2) Subsection (1)(a) does not create a cause of action.

#### **78D Power of Commissions to assist persons in legal proceedings**

- (1) This section applies to proceedings or proposed proceedings by a person in respect of an alleged breach (or potential future breach) of Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.
- (2) Where the person applies to the Northern Ireland Human Rights Commission, or the Equality Commission for Northern Ireland, for assistance in relation to the proceedings, the Commission may grant the application, so far as it relates to the alleged breach (or potential future breach) of Article 2(1), on any of the following grounds—
  - (a) that the case raises a question of principle;
  - (b) that it would be unreasonable to expect the person to deal with the case without assistance because of its complexity, or because of the person's position in relation to another person involved, or for some other reason;
  - (c) that there are other special circumstances which make it appropriate for the Commission to provide assistance.
- (3) Where an application under subsection (2) is granted, the Commission in question may—
  - (a) provide, or arrange for the provision of, legal advice;
  - (b) arrange for the provision of legal representation;
  - (c) provide any other assistance which it thinks appropriate.

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- (4) Arrangements made under this section for the provision of assistance to a person may include provision for recovery of expenses from the person in certain circumstances.

### **78E Collaborative working**

The Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland may arrange for any of their functions under sections 78A to 78D to be carried out by one of them acting on behalf of the other (or by them acting jointly).”

#### **Commencement Information**

**I8** Sch. 3 para. 7 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(i)

- 8 In Schedule 3 (reserved matters), in paragraph 42, after paragraph (b), insert—  
“(ba) in Part VII, sections 78A to 78E;”.

#### **Commencement Information**

**I9** Sch. 3 para. 8 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(i)

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