
Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Cross Heading: Subordinate legislation with commencement by reference to exit day. (See end of Document for details)

SCHEDULES

SCHEDULE 5

CONSEQUENTIAL AND TRANSITIONAL PROVISION ETC.

PART 1

GENERAL CONSEQUENTIAL PROVISION

Subordinate legislation with commencement by reference to exit day

- 1 (1) Any provision in subordinate legislation made before exit day under—
- (a) any provision of the European Union (Withdrawal) Act 2018 (or any provision made under any such provision), or
 - (b) any other enactment,
- which provides, by reference to exit day (however expressed), for all or part of that or any other subordinate legislation to come into force immediately before exit day, on exit day or at any time after exit day is to be read instead as providing for the subordinate legislation or (as the case may be) the part to come into force immediately before IP completion day, on IP completion day or (as the case may be) at the time concerned after IP completion day.
- (2) Sub-paragraph (1) does not apply so far as it is expressly disapplied by the subordinate legislation that provides as mentioned in that sub-paragraph.
- (3) An appropriate authority may by regulations—
- (a) provide for sub-paragraph (1) not to apply to any extent in particular cases or descriptions of case, or
 - (b) make different provision in particular cases or descriptions of case to that made by sub-paragraph (1).
- (4) But see paragraph 2 for further provision about the power of a devolved authority acting alone to make regulations under sub-paragraph (3).
- (5) No regulations may be made under sub-paragraph (3) after the end of the period of one year beginning with IP completion day.
- (6) In this paragraph “appropriate authority” means—
- (a) a Minister of the Crown,
 - (b) a devolved authority, or
 - (c) a Minister of the Crown acting jointly with a devolved authority.

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Modifications etc. (not altering text)

- C1** Sch. 5 para. 1(1) disappplied (30.1.2020) by [The Value Added Tax \(Miscellaneous Amendments, Revocation and Transitional Provisions\) \(EU Exit\) Regulations 2019 \(Appointed Day No. 1\) \(EU Exit\) Regulations 2020 \(S.I. 2020/87\)](#), **reg. 3**
- C2** Sch. 5 para. 1(1) disappplied (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), **reg. 1**
- C3** Sch. 5 para. 1(1) disappplied (31.1.2020) by [The Immigration \(Citizens' Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), **reg. 1(2)**
- C4** Sch. 5 para. 1(1) disappplied (31.1.2020) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), **reg. 1(2)**
- C5** Sch. 5 para. 1(1) disappplied (31.1.2020) by [The Rules for Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/91\)](#), **reg. 1(2)**
- C6** Sch. 5 para. 1(1) disappplied (31.1.2020) by [The European Union \(Withdrawal Agreement\) Act 2020 \(Disapplication of the Deferral of Subordinate Legislation\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/93\)](#), **regs. 1, 2**
- C7** Sch. 5 para. 1(1) disappplied (31.1.2020) by [The Direct Payments to Farmers \(Legislative Continuity\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2020 \(S.S.I. 2020/18\)](#), **reg. 1(2)**
- C8** Sch. 5 para. 1(1) disappplied (31.1.2020) by [The Common Agricultural Policy \(Direct Payments to Farmers\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2020 \(S.I. 2020/104\)](#), **reg. 1(2)**

Commencement Information

- I1** Sch. 5 para. 1(3)-(6) in force at 23.1.2020, see s. 42(6)(e)(i)
- I2** Sch. 5 para. 1(1)(2) in force at 31.1.2020 by [S.I. 2020/75](#), **reg. 3(b)**

- 2 (1) No provision may be made by a devolved authority acting alone in regulations under paragraph 1(3) so far as those regulations relate to the coming into force of regulations under section 23(1) or (6) of, or paragraph 1(2)(b) of Schedule 1 to, the European Union (Withdrawal) Act 2018.
- (2) Subject to this, no provision may be made by a devolved authority acting alone in regulations under paragraph 1(3) relating to the coming into force of all or part of any subordinate legislation unless—
 - (a) the devolved authority acting alone otherwise than under paragraph 1(3) made the provision for the coming into force of the subordinate legislation or part and either—
 - (i) the regulations provide for paragraph 1(1) not to apply to the subordinate legislation or part, or
 - (ii) the devolved authority acting alone otherwise than under paragraph 1(3) could provide for the subordinate legislation or part to come into force at the same time as is provided for by virtue of the regulations, or
 - (b) the devolved authority acting alone could make provision corresponding to that made by the subordinate legislation or part and could provide for that provision to come into force at the same time as is provided for by virtue of the regulations.
- (3) Where the test in sub-paragraph (2)(a) or (b) is (to any extent) only met by a devolved authority acting alone with the consent of a Minister of the Crown, the consent of a Minister of the Crown is required before the regulations under paragraph 1(3) may be made by the devolved authority acting alone.

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- (4) Except where sub-paragraph (3) applies, no provision may be made under paragraph 1(3) by a devolved authority acting alone unless the devolved authority has consulted a Minister of the Crown.

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