

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

SCHEDULES

SCHEDULE 1

Sections 12, 13 and 14

POWERS OF DEVOLVED AUTHORITIES UNDER SECTIONS 12, 13 AND 14

No power to make provision outside devolved competence

- 1 No provision may be made by a devolved authority acting alone in regulations under section 12, 13 or 14 unless the provision is within the devolved competence of the devolved authority.

Commencement Information

- I1** Sch. 1 para. 1 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

- 2 A provision is within the devolved competence of the Scottish Ministers for the purposes of this Schedule if—
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament ^{F1} ..., 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 ^{F2}

Textual Amendments

- F1** Words in Sch. 1 para. 2(a) 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), 7(2)(a)(i)
- F2** Words in Sch. 1 para. 2(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), 7(2)(a)(ii)

Commencement Information

- I2** Sch. 1 para. 2 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

- 3 A provision is within the devolved competence of the Welsh Ministers for the purposes of this Schedule 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 (^{F3}... 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 ^{F4}....

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Textual Amendments

- F3** Words in Sch. 1 para. 3(a) 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), 7(2)(b)(i)
- F4** Words in Sch. 1 para. 3(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), 7(2)(b)(ii)

Commencement Information

- I3** Sch. 1 para. 3 in force at 19.5.2020 by [S.I. 2020/518](#), **reg. 2(o)**

- 4 A provision is within the devolved competence of a Northern Ireland department for the purposes of this Schedule 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 ^{F5} ..., 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 ^{F6} ... 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 ^{F7}

Textual Amendments

- F5** Words in Sch. 1 para. 4(a)(i) 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), 7(2)(c)
- F6** Words in Sch. 1 para. 4(b)(ii) 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), 7(2)(c)
- F7** Words in Sch. 1 para. 4(c) 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), 7(2)(c)

Commencement Information

- I4** Sch. 1 para. 4 in force at 19.5.2020 by [S.I. 2020/518](#), **reg. 2(o)**

Requirement for consent where it would otherwise be required

- 5 (1) The consent of a Minister of the Crown is required before any provision is made by the Welsh Ministers acting alone in regulations under section 12, 13 or 14 so far as that provision, if contained in an Act of the National Assembly for Wales, would require the consent of a Minister of the Crown.

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- (2) The consent of the Secretary of State is required before any provision is made by a Northern Ireland department acting alone in regulations under section 12, 13 or 14 so far as that provision, if contained in an Act of the Northern Ireland Assembly, would require the consent of the Secretary of State.
- (3) Sub-paragraph (1) or (2) does not apply if—
- (a) the provision could be contained in subordinate legislation made otherwise than under this Act by the Welsh Ministers acting alone or (as the case may be) a Northern Ireland devolved authority acting alone, and
 - (b) no such consent would be required in that case.
- (4) The consent of a Minister of the Crown is required before any provision is made by a devolved authority acting alone in regulations under section 12, 13 or 14 so far as that provision, if contained in—
- (a) subordinate legislation made otherwise than under this Act by the devolved authority, or
 - (b) subordinate legislation not falling within paragraph (a) and made otherwise than under this Act by—
 - (i) in the case of Scotland, the First Minister or Lord Advocate acting alone, or
 - (ii) in the case of Northern Ireland, a Northern Ireland devolved authority acting alone,
- would require the consent of a Minister of the Crown.
- (5) Sub-paragraph (4) does not apply if—
- (a) the provision could be contained in—
 - (i) an Act of the Scottish Parliament, an Act of the National Assembly for Wales or (as the case may be) an Act of the Northern Ireland Assembly, or
 - (ii) different subordinate legislation of the kind mentioned in sub-paragraph (4)(a) or (b) and of a devolved authority acting alone or (as the case may be) another person acting alone, and
 - (b) no such consent would be required in that case.

Commencement Information

I5 Sch. 1 para. 5 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

Requirement for joint exercise where it would otherwise be required

- 6 (1) No regulations may be made under section 12, 13 or 14 by the Scottish Ministers, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by—
- (a) the Scottish Ministers acting jointly with a Minister of the Crown, or
 - (b) the First Minister or Lord Advocate acting jointly with a Minister of the Crown,
- unless the regulations are, to that extent, made jointly with the Minister of the Crown.
- (2) No regulations may be made under section 12, 13 or 14 by the Welsh Ministers, so far as they contain provision which relates to a matter in respect of which a power

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to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers acting jointly with a Minister of the Crown, unless the regulations are, to that extent, made jointly with the Minister of the Crown.

- (3) No regulations may be made under section 12, 13 or 14 by a Northern Ireland department, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by—
- (a) a Northern Ireland department acting jointly with a Minister of the Crown, or
 - (b) another Northern Ireland devolved authority acting jointly with a Minister of the Crown,
- unless the regulations are, to that extent, made jointly with the Minister of the Crown.
- (4) Sub-paragraph (1), (2) or (3) does not apply if the provision could be contained in—
- (a) an Act of the Scottish Parliament, an Act of the National Assembly for Wales or (as the case may be) an Act of the Northern Ireland Assembly without the need for the consent of a Minister of the Crown, or
 - (b) different subordinate legislation made otherwise than under this Act by—
 - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
 - (ii) the Welsh Ministers acting alone, or
 - (iii) (as the case may be), a Northern Ireland devolved authority acting alone.

Commencement Information

16 Sch. 1 para. 6 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

Requirement for consultation where it would otherwise be required

- 7 (1) No regulations may be made under section 12, 13 or 14 by the Welsh Ministers acting alone, so far as they contain provision which, if contained in an Act of the National Assembly for Wales, would require consultation with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (2) No regulations may be made under section 12, 13 or 14 by the Scottish Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Scottish Ministers, the First Minister or the Lord Advocate after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (3) No regulations may be made under section 12, 13 or 14 by the Welsh Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (4) No regulations may be made under section 12, 13 or 14 by a Northern Ireland department acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this

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Act is exercisable by a Northern Ireland department after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.

- (5) Sub-paragraph (2), (3) or (4) does not apply if—
- (a) the provision could be contained in an Act of the Scottish Parliament, an Act of the National Assembly for Wales or (as the case may be) an Act of the Northern Ireland Assembly, and
 - (b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.
- (6) Sub-paragraph (2), (3) or (4) does not apply if—
- (a) the provision could be contained in different subordinate legislation made otherwise than under this Act by—
 - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
 - (ii) the Welsh Ministers acting alone, or
 - (iii) (as the case may be), a Northern Ireland devolved authority acting alone, and
 - (b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.

Commencement Information

I7 Sch. 1 para. 7 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

Interpretation

- 8 In this Schedule “Northern Ireland devolved authority” means—
- (a) the First Minister and deputy First Minister in Northern Ireland acting jointly,
 - (b) a Northern Ireland Minister, or
 - (c) a Northern Ireland department.

Commencement Information

I8 Sch. 1 para. 8 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

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SCHEDULE 2

Section 15

INDEPENDENT MONITORING AUTHORITY FOR THE CITIZENS' RIGHTS AGREEMENTS

PART 1

CONSTITUTION, PROCEEDINGS ETC.

Status

- 1 (1) The IMA is not to be regarded—
 - (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The IMA's property is not to be regarded—
 - (a) as the property of the Crown, or
 - (b) as property held on behalf of the Crown.

Commencement Information

19 Sch. 2 para. 1 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Membership

- 2 (1) The IMA is to consist of the following members—
 - (a) a chair (who is to be a non-executive member),
 - (b) at least 2 but not more than 6 other non-executive members,
 - (c) the chief executive (who is to be an executive member), and
 - (d) at least 1 but not more than 3 other executive members.
- (2) The Secretary of State is to appoint the non-executive members.
- (3) The non-executive members are to appoint the executive members (subject to paragraph 3).
- (4) The non-executive members may make appointments under sub-paragraph (3) only if the chair and at least 2 other non-executive members have been appointed.
- (5) The non-executive members must consult the Secretary of State before appointing the chief executive.
- (6) The Secretary of State and the non-executive members must, so far as possible, ensure that the number of non-executive members exceeds the number of executive members.
- (7) A person may not hold office as a member of the IMA if the person is a civil servant.
- (8) The executive members are employees of the IMA.
- (9) In sub-paragraphs (3) to (6), the references to the non-executive members are to all the non-executive members for the time being.

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Commencement Information

II0 Sch. 2 para. 2 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Interim chief executive

- 3
- (1) The Secretary of State may appoint a person to be the IMA's chief executive until the appointment of a chief executive by the non-executive members under paragraph 2(3) first takes effect.
 - (2) A chief executive appointed by the Secretary of State may incur expenditure and do other things in the name and on behalf of the IMA until the membership of the IMA is first constituted in accordance with paragraph 2(1).
 - (3) In exercising the power in sub-paragraph (2), a chief executive appointed by the Secretary of State must act in accordance with any directions given by the Secretary of State.

Commencement Information

III Sch. 2 para. 3 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Requirements relating to appointment

- 4
- (1) In making appointments, the Secretary of State and the non-executive members must have regard to the desirability of the IMA's members (between them) having knowledge of conditions in the United Kingdom relating to matters in relation to which provision is made in Part 2 of the withdrawal agreement and Part 2 of the EEA EFTA separation agreement (“the relevant matters”).
 - (2) The Secretary of State must, so far as possible, ensure that the non-executive members of the IMA include—
 - (a) a member who knows about conditions in Scotland relating to the relevant matters,
 - (b) a member who knows about conditions in Wales relating to the relevant matters, and
 - (c) a member who knows about conditions in Northern Ireland relating to the relevant matters.
 - (3) If the IMA has functions in relation to Gibraltar by virtue of paragraph 33, the Secretary of State must, so far as possible, ensure that the non-executive members of the IMA include a member who knows about conditions in Gibraltar relating to the relevant matters.
 - (4) Before appointing a person, the Secretary of State or the non-executive members (as the case may be) must be satisfied that the person does not have a conflict of interest.
 - (5) In sub-paragraph (4), “conflict of interest”, in relation to a person, means a financial or other interest which is likely to affect prejudicially the discharge by the person of the person's functions as a member of the IMA.

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Commencement Information

I12 Sch. 2 para. 4 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Procedure for appointing members with knowledge of conditions in devolved areas etc.

- 5 (1) This paragraph applies in relation to the appointment of non-executive members for the purposes of paragraph 4(2) and (3).
- (2) Before making an appointment, the Secretary of State must tell the relevant authority who the Secretary of State proposes to appoint and why.
- (3) If the relevant authority approves the proposed appointment within the period of one month beginning with the day on which the Secretary of State complies with sub-paragraph (2), the Secretary of State must appoint that person (subject to sub-paragraph (4)).
- (4) If that person is no longer available or the Secretary of State and the relevant authority agree, after the relevant authority has given its approval as mentioned in sub-paragraph (3), that it is no longer appropriate to appoint that person—
- (a) the Secretary of State must propose to appoint a different person, and
 - (b) sub-paragraphs (2) and (3) apply again.
- (5) If the relevant authority does not approve the proposed appointment as mentioned in sub-paragraph (3), the Secretary of State may—
- (a) make the proposed appointment without the approval of the relevant authority, or
 - (b) propose to appoint a different person.
- (6) If the Secretary of State proposes to appoint a different person, sub-paragraphs (2) to (5) apply again.
- (7) If the Secretary of State makes a proposed appointment without the approval of the relevant authority as mentioned in sub-paragraph (3), the Secretary of State must publish a statement explaining why the Secretary of State has proceeded with the appointment.
- (8) In this paragraph, the “relevant authority” means—
- (a) in relation to an appointment for the purposes of paragraph 4(2)(a), the Scottish Ministers,
 - (b) in relation to an appointment for the purposes of paragraph 4(2)(b), the Welsh Ministers,
 - (c) in relation to an appointment for the purposes of paragraph 4(2)(c), the Executive Office in Northern Ireland, and
 - (d) in relation to an appointment for the purposes of paragraph 4(3), the Gibraltar Ministers.

Commencement Information

I13 Sch. 2 para. 5 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

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

Non-executive members: terms of appointment and tenure etc.

- 6
- (1) A person holds and vacates office as a non-executive member of the IMA in accordance with the terms and conditions of the person's appointment.
 - (2) The terms and conditions of a person's appointment as a non-executive member of the IMA are to be determined by the Secretary of State, subject to the following provisions of this Schedule.
 - (3) The chair is to be appointed for a period of up to 5 years.
 - (4) Any other non-executive member of the IMA is to be appointed for a period of up to 4 years.
 - (5) A non-executive member may resign by giving notice in writing to the Secretary of State.
 - (6) The Secretary of State may by notice in writing remove a person from office as a non-executive member of the IMA on any of the grounds mentioned in sub-paragraph (7), but must consult the other non-executive members before doing so.
 - (7) The grounds are—
 - (a) that the person has been absent from the IMA's meetings for a continuous period of more than 6 months without the IMA's permission;
 - (b) that, in the opinion of the Secretary of State, the person has a conflict of interest (within the meaning of paragraph 4(5)) which prevents the person carrying out the functions of the office;
 - (c) that the person has been convicted of a criminal offence;
 - (d) that, in the opinion of the Secretary of State, the person is unable, unwilling or unfit to carry out the functions of the office;
 - (e) any other grounds specified in the person's terms of appointment.

Commencement Information

114 Sch. 2 para. 6 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Remuneration of non-executive members

- 7
- (1) The IMA must pay its non-executive members such remuneration as the Secretary of State may determine.
 - (2) The IMA must pay, or make provision for paying, to or in respect of any person who is or has been a non-executive member such sums as the Secretary of State may determine in respect of allowances and gratuities.
 - (3) Sub-paragraph (4) applies where—
 - (a) a person ceases to hold office as a non-executive member other than by reason of their term of office expiring, and
 - (b) the Secretary of State thinks there are special circumstances that make it right for the person to receive compensation.
 - (4) The IMA must make a payment to the person of such amount as the Secretary of State may determine.

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I15 Sch. 2 para. 7 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Staffing of the IMA

- 8 (1) The IMA may—
- (a) appoint employees (in addition to the executive members), and
 - (b) make such other arrangements for the staffing of the IMA as it considers appropriate.
- (2) The terms and conditions of appointment as an employee are to be determined—
- (a) in the case of employees other than a chief executive appointed by the Secretary of State, by the IMA with the approval of the Secretary of State, or
 - (b) in the case of a chief executive appointed by the Secretary of State, by the Secretary of State.
- (3) The IMA must pay its employees such remuneration—
- (a) in the case of employees other than a chief executive appointed by the Secretary of State, as the IMA may determine with the approval of the Secretary of State, or
 - (b) in the case of a chief executive appointed by the Secretary of State, as the Secretary of State may determine.
- (4) The IMA must pay, or make provision for paying, to or in respect of a person who is or has been an employee of the IMA, such sums in respect of pensions, allowances and gratuities—
- (a) in the case of employees other than a chief executive appointed by the Secretary of State, as the IMA may determine with the approval of the Secretary of State, or
 - (b) in the case of a chief executive appointed by the Secretary of State, as the Secretary of State may determine.
- (5) In the Superannuation Act 1972 (“the 1972 Act”), in Schedule 1 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), in the list of “Other Bodies”, at the appropriate place insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”
- (6) The IMA must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase in the sums payable out of money provided by Parliament which is attributable to the provision of pensions by virtue of section 1 of the 1972 Act or section 1 of the Public Service Pensions Act 2013 in respect of employees of the IMA.
- (7) In relation to executive members of the IMA, references in sub-paragraphs (2) to (4) to the IMA determining something with the approval of the Secretary of State are to be read as references to the non-executive members determining that thing with the approval of the Secretary of State.

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Commencement Information

I16 Sch. 2 para. 8 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Procedure

- 9
- (1) The IMA may regulate its own procedure, subject to the following.
 - (2) The IMA must establish and maintain a register of members' interests.
 - (3) The IMA must publish entries recorded in the register.
 - (4) A meeting of the IMA is not quorate unless—
 - (a) at least half the members appointed for the time being are present, and
 - (b) a majority of the members present are non-executive members.
 - (5) The IMA's procedures must include arrangements for dealing with conflicts of interests (within the meaning of paragraph 4(5)) of members.
 - (6) The arrangements must oblige each member—
 - (a) to declare all financial interests,
 - (b) to declare any other personal interest relevant to the exercise of a function, and
 - (c) to withdraw from the exercise of any function to which an interest of a sort mentioned in paragraph (a) or (b) is relevant, unless the IMA is satisfied that the interest will not influence the exercise of the function.
 - (7) The validity of any proceedings of the IMA, or of its committees or sub-committees, is not affected by a vacancy or a defective appointment.

Commencement Information

I17 Sch. 2 para. 9 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Discharge of functions

- 10
- (1) The IMA may authorise a committee, member or employee of the IMA to do anything the IMA may do apart from approving an annual report to be provided as mentioned in paragraph 31.
 - (2) A committee of the IMA may authorise the following to do anything which the committee may do under sub-paragraph (1)—
 - (a) a sub-committee,
 - (b) a member of the committee,
 - (c) a member of the IMA, or
 - (d) an employee of the IMA.
 - (3) Committees and sub-committees may include employees of the IMA who are not members of it.

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Commencement Information

I18 Sch. 2 para. 10 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Seal and evidence

- 11 (1) The application of the IMA's seal must be authenticated by the signature of—
- (a) the chief executive of the IMA, or
 - (b) some other person authorised for that purpose by the IMA.
- (2) A document purporting to be duly executed under the IMA's seal or signed on its behalf—
- (a) is to be received in evidence, and
 - (b) is to be taken to be executed or signed in that way, unless the contrary is shown.
- (3) But this paragraph does not apply in relation to any document which is, or is to be, signed in accordance with the law of Scotland.

Commencement Information

I19 Sch. 2 para. 11 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Funding

- 12 The Secretary of State must pay to the IMA such sums as the Secretary of State considers appropriate for the purpose of enabling the IMA to exercise its functions.

Commencement Information

I20 Sch. 2 para. 12 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Operational independence

- 13 In exercising functions in respect of the IMA, the Secretary of State must have regard to the need to protect—
- (a) its operational independence, and
 - (b) its ability to make impartial assessments when exercising its functions.

Commencement Information

I21 Sch. 2 para. 13 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Accounts and audit

- 14 (1) The IMA must—
- (a) keep proper accounts and proper records in relation to them, and
 - (b) prepare a statement of accounts in respect of each financial year.

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- (2) Each statement of accounts must comply with any directions given by the Secretary of State as to—
 - (a) its content and form;
 - (b) the methods and principles to be applied in preparing it;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The IMA must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General before the end of August next following the financial year to which the statement relates.
- (4) The Comptroller and Auditor General must—
 - (a) examine, certify and report on each statement of accounts, and
 - (b) lay a copy of each statement and the report on the statement before Parliament within the period of 4 months beginning with the day on which the Comptroller and Auditor General receives the statement.
- (5) In this Schedule, “financial year” means—
 - (a) the period beginning with the day on which the membership of the IMA is first constituted in accordance with paragraph 2(1) and ending with—
 - (i) the first 31 March after that day, if that results in the first financial year being a period of 6 months or more, or
 - (ii) otherwise, the second 31 March after that day, and
 - (b) each successive period of 12 months.

Commencement Information

I22 Sch. 2 para. 14 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(i)

Annual plan

- 15
- (1) The IMA—
 - (a) must prepare, for each financial year, a plan for the exercise during that year of its functions (“the annual plan”), and
 - (b) may revise the annual plan.
 - (2) The IMA must send the proposed annual plan or any revision of it to the Secretary of State.
 - (3) The first annual plan must—
 - (a) be completed within the period of three months beginning with the day on which the membership of the IMA is first constituted in accordance with paragraph 2(1), and
 - (b) relate to the remainder of the financial year that begins with that day.
 - (4) Each subsequent annual plan must be sent to the Secretary of State not later than one month before the beginning of the financial year to which the plan relates.

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Commencement Information

I23 Sch. 2 para. 15 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(i)

Public records

- 16 In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place, insert— “ Independent Monitoring Authority for the Citizens' Rights Agreements. ”

Commencement Information

I24 Sch. 2 para. 16 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(i)

Investigation by the Parliamentary Commissioner

- 17 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation), at the appropriate place, insert— “ Independent Monitoring Authority for the Citizens' Rights Agreements. ”

Commencement Information

I25 Sch. 2 para. 17 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(i)

House of Commons disqualification

- 18 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place, insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”

Commencement Information

I26 Sch. 2 para. 18 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Northern Ireland Assembly disqualification

- 19 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place, insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”

Commencement Information

I27 Sch. 2 para. 19 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

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

Freedom of information

- 20 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which that Act applies), at the appropriate place, insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”

Commencement Information

I28 Sch. 2 para. 20 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(ii)

Public sector equality duty

- 21 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), after the group of entries under the heading “Broadcasting”, insert—

“*Citizens' rights*

The Independent Monitoring Authority for the Citizens' Rights Agreements.”

Commencement Information

I29 Sch. 2 para. 21 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(ii)

PART 2

FUNCTIONS OF THE IMA ETC.

General duties

- 22 (1) The IMA must monitor the implementation and application in the United Kingdom of Part 2 of the withdrawal agreement and Part 2 of the EEA EFTA separation agreement.
- (2) The duty in sub-paragraph (1) includes keeping under review the adequacy and effectiveness of—
- (a) the legislative framework which implements or otherwise deals with matters arising out of, or related to, Part 2, and
 - (b) the exercise by relevant public authorities of functions in relation to Part 2.
- (3) In this Schedule—
- “Part 2” means Part 2 of the withdrawal agreement or (as the case may be) Part 2 of the EEA EFTA separation agreement, so far as the Part in question applies to and in the United Kingdom;
 - “relevant public authority” means the Secretary of State or any other person who exercises functions of a public nature, apart from—
 - (a) a court or tribunal;
 - (b) either House of Parliament or a person exercising functions in connection with proceedings in Parliament;

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

- (c) the devolved legislatures or a person exercising functions in connection with proceedings in any of the devolved legislatures.

Commencement Information

I30 Sch. 2 para. 22(1)(2) in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

I31 Sch. 2 para. 22(3) in force at 19.3.2020 for specified purposes by S.I. 2020/317, reg. 3(b)(iii)

- 23 (1) The IMA must promote the adequate and effective implementation and application in the United Kingdom of Part 2 of the withdrawal agreement and Part 2 of the EEA EFTA separation agreement.
- (2) For related functions see—
- (a) paragraph 27 (reports following an inquiry), and
 - (b) paragraph 30 (instituting or intervening in legal proceedings).

Commencement Information

I32 Sch. 2 para. 23 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

- 24 In exercising its functions, the IMA must have regard to the importance of addressing general or systemic failings in the implementation or application of Part 2.

Commencement Information

I33 Sch. 2 para. 24 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

Inquiries

- 25 (1) Subject to sub-paragraph (3), the IMA may carry out an inquiry—
- (a) in response to a request from the Secretary of State,
 - (b) in response to a request from the Scottish Ministers relating to a relevant public authority which is a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998),
 - (c) in response to a request from the Welsh Ministers relating to a relevant public authority which is a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006,
 - (d) in response to a request from the Executive Office in Northern Ireland relating to a relevant public authority—
 - (i) which exercises functions only in or as regards Northern Ireland, and
 - (ii) whose functions are wholly or mainly functions which relate to transferred matters (within the meaning of the Northern Ireland Act 1998),
 - (e) following a complaint by a person under paragraph 29, or
 - (f) on its own initiative.
- (2) The purposes of an inquiry are for the IMA—
- (a) to decide whether—
 - (i) the United Kingdom has failed to comply with Part 2, or

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

- (ii) a relevant public authority has acted or is proposing to act in a way that prevents a person exercising a relevant right (see paragraph 41(1)), and
 - (b) to identify any recommendations that it considers appropriate to be made to a relevant public authority to promote the adequate and effective implementation or application of Part 2.
- (3) The IMA may not carry out an inquiry under sub-paragraph (1)(e) or (f) unless satisfied that there are reasonable grounds to believe that the inquiry may conclude—
 - (a) that the United Kingdom has failed to comply with Part 2, or
 - (b) that a relevant public authority has acted or is proposing to act in a way that prevents a person exercising a relevant right.
- (4) The IMA may decide not to carry out an inquiry even if satisfied as mentioned in sub-paragraph (3).
- (5) Among the reasons the IMA may decide not to carry out an inquiry is if it considers that there are no reasonable grounds to believe that the inquiry may identify general or systemic failings in the implementation or application of Part 2.

Commencement Information

I34 Sch. 2 para. 25 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

- 26
- (1) The IMA must publish its intention to carry out an inquiry.
 - (2) Where an inquiry is about matters raised in a complaint by a person under paragraph 29(1)(a) or (b), the IMA must invite representations from—
 - (a) the person,
 - (b) any relevant public authority about which the person is complaining, and
 - (c) any other person the IMA considers appropriate.
 - (3) In any other inquiry, the IMA must invite representations from any person it considers appropriate.
 - (4) The IMA must publish information about how and when a person may submit representations in relation to an inquiry.
 - (5) The IMA must consider any representations which are submitted accordingly.

Commencement Information

I35 Sch. 2 para. 26 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

Reports following an inquiry

- 27
- (1) When the IMA has carried out an inquiry under paragraph 25, it must—
 - (a) prepare a written report of its conclusions, and
 - (b) include in the report any recommendations it considers appropriate to be made to a relevant public authority to promote the adequate and effective implementation or application of Part 2.
 - (2) The IMA must publish a report as soon as reasonably practicable after preparing it.

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

- (3) Before publishing a report that contains material relating to border security or terrorism (including material about individual cases), the IMA must give the Secretary of State an opportunity to require the IMA to remove from the report any material which, in the opinion of the Secretary of State, should not be published on the grounds that its publication—
- (a) is undesirable for reasons of national security, or
 - (b) might jeopardise an individual's safety.
- (4) As soon as reasonably practicable after publishing a report, the IMA must send it to—
- (a) the Secretary of State, the Scottish Ministers, the Welsh Ministers and the Executive Office in Northern Ireland,
 - (b) any relevant public authority which was invited to make representations in relation to the inquiry,
 - (c) any relevant public authority to which a recommendation is made in the report, and
 - (d) any other relevant public authority the IMA considers appropriate.

Commencement Information

I36 Sch. 2 para. 27 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

- 28 (1) Where a report under paragraph 27 includes recommendations to a relevant public authority, the authority must—
- (a) have regard to the recommendations, and
 - (b) publish a response to the recommendations expeditiously and, in any event, within the period of 3 months beginning with the day on which the IMA published its report.
- (2) The authority's response must explain—
- (a) what, if anything, it proposes to do in response to each recommendation, and
 - (b) its reasons.

Commencement Information

I37 Sch. 2 para. 28 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

Complaints

- 29 (1) A person who claims to have a relevant right may complain to the IMA that—
- (a) the United Kingdom has failed to comply with Part 2;
 - (b) a relevant public authority has acted or is proposing to act in a way that prevents the person exercising the right in question.
- (2) The IMA must carry out a preliminary review of each complaint in order to decide whether to carry out an inquiry under paragraph 25 in relation to it.
- (3) In deciding whether to carry out an inquiry in response to a complaint, the IMA must consider whether it would be more appropriate for the person who made the complaint to deal with its subject matter by other means (for example, court proceedings) than for the IMA to carry out an inquiry.

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

- (4) If the IMA decides not to carry out an inquiry, the IMA—
- (a) must inform the person who made the complaint, and
 - (b) may advise the person about other ways of dealing with the subject matter of the complaint.

Commencement Information

I38 Sch. 2 para. 29 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h) (with reg. 10)

Applying for review or intervening in legal proceedings

- 30 (1) The IMA may, if it considers it appropriate to do so in order to promote the adequate and effective implementation or application of Part 2—
- (a) make an application for review, or
 - (b) intervene in any legal proceedings (including proceedings on an application for review).
- (2) For the purposes of sub-paragraph (1), the IMA is to be treated as having title and interest in relation to the subject matter of any application which it may make, or of any legal proceedings in which it may intervene, in Scotland.
- (3) Sub-paragraph (1) does not create a cause of action.
- (4) In this paragraph, “application for review” means—
- (a) in relation to England and Wales or Northern Ireland, an application for judicial review, and
 - (b) in relation to Scotland, an application to the supervisory jurisdiction of the Court of Session.

Commencement Information

I39 Sch. 2 para. 30 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

Annual reports for specialised committee etc.

- 31 (1) The IMA must provide annual reports on the implementation and application of Part 2 of the withdrawal agreement to the specialised committee on citizens' rights established by Article 165(1)(a) of that agreement.
- (2) The IMA must provide annual reports on the implementation and application of Part 2 of the EEA EFTA separation agreement to the Joint Committee established by Article 65(1) of that agreement.
- (3) The annual reports must contain information on—
- (a) measures taken by relevant public authorities to implement or comply with Part 2,
 - (b) the number and nature of complaints made to the IMA under paragraph 29(1), and
 - (c) the exercise by the IMA of its functions in relation to Part 2.

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

- (4) The annual reports may contain any other information which the IMA considers appropriate.
- (5) The first annual reports must relate to the period of 12 months beginning with IP completion day.
- (6) Subsequent annual reports must relate to each successive period of 12 months.
- (7) The IMA must provide annual reports to the committees mentioned in sub-paragraphs (1) and (2) as soon as reasonably practicable after the end of the period to which they relate.
- (8) The IMA must, at the same time as providing an annual report to the committees mentioned in sub-paragraphs (1) and (2), provide it to—
 - (a) the Secretary of State,
 - (b) the Scottish Ministers,
 - (c) the Welsh Ministers, and
 - (d) the Executive Office in Northern Ireland.
- (9) The Secretary of State must, as soon as reasonably practicable after receiving an annual report, lay it before Parliament.
- (10) The Secretary of State must publish the annual report as soon as reasonably practicable after laying it before Parliament.
- (11) As soon as reasonably practicable after receiving an annual report, the Scottish Ministers, the Welsh Ministers and the Executive Office in Northern Ireland must lay the report before the appropriate devolved legislature.

Commencement Information

140 Sch. 2 para. 31 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

Guidance

- 32
- (1) The IMA must publish guidance on how it will exercise its functions under paragraphs 22 to 30.
 - (2) The guidance must explain how the IMA will give effect to the importance of addressing general or systemic failings in the implementation and application of Part 2.
 - (3) In preparing the guidance, the IMA must have regard to—
 - (a) the way in which the European Commission exercises its functions of monitoring and enforcement in relation to citizens' rights under EU law, and
 - (b) any guidance or other publications issued by the European Commission about how it exercises such functions.
 - (4) The IMA must first publish guidance within the period of 3 months beginning with the day on which the membership of the IMA is first constituted in accordance with paragraph 2(1).

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

Commencement Information

I41 Sch. 2 para. 32 in force at 19.3.2020 by S.I. 2020/317, reg. 3(b)(iv)

Gibraltar

- 33 The IMA is to exercise any function in relation to Gibraltar which—
- (a) the Gibraltar legislature confers on it, and
 - (b) corresponds to a function which the IMA has in relation to the United Kingdom by virtue of this Schedule.

Commencement Information

I42 Sch. 2 para. 33 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

Supplementary power

- 34 (1) Subject to sub-paragraph (2), the IMA may do anything which it thinks necessary or expedient for the purposes of, or in connection with, the exercise of its functions.
- (2) The IMA may not—
- (a) borrow money;
 - (b) accept gifts of money, land or other property.

Commencement Information

I43 Sch. 2 para. 34 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

Cooperation by relevant public authorities

- 35 A relevant public authority must, so far as reasonably practicable, comply with a request by the IMA to cooperate with it in the exercise of the IMA's functions (including a request to provide information or documents).

Commencement Information

I44 Sch. 2 para. 35 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

PART 3

FURTHER PROVISIONS

Disclosure of HMRC's information

- 36 (1) Her Majesty's Revenue and Customs (or anyone acting on their behalf) may disclose information for the purpose of—
- (a) facilitating the exercise by the IMA of any of its functions, or

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

- (b) facilitating the exercise by the Secretary of State or another relevant public authority of functions relating to the IMA.
- (2) A person who receives information as a result of sub-paragraph (1) may not—
- (a) use the information for a purpose other than one mentioned in sub-paragraph (1), or
- (b) further disclose the information,
- except with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (3) If a person discloses information in contravention of sub-paragraph (2) which relates to a person whose identity—
- (a) is specified in the disclosure, or
- (b) can be deduced from it,
- section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of information in contravention of section 20(9) of that Act.
- (4) This paragraph does not limit the circumstances in which information may be disclosed under section 18(2) of the Commissioners for Revenue and Customs Act 2005 or under any other enactment or rule of law.

Commencement Information

I45 Sch. 2 para. 36 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

Data protection and disclosure of information

- 37 Nothing in this Schedule authorises the making of a disclosure which—
- (a) contravenes the data protection legislation within the meaning of the Data Protection Act 2018 (see section 3 of that Act), or
- (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

Commencement Information

I46 Sch. 2 para. 37 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

Disclosure of information to IMA: national security

- 38 (1) A relevant public authority must not disclose information to the IMA if a Minister of the Crown certifies that the disclosure would be undesirable for reasons of national security.
- (2) The power conferred by sub-paragraph (1) on a Minister of the Crown is exercisable only by—
- (a) a Minister who is a member of the Cabinet, or
- (b) the Attorney General or the Advocate General for Scotland.

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

Commencement Information

I47 Sch. 2 para. 38 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

Transfer of IMA's functions and abolition

- 39 (1) The Secretary of State may by regulations—
- (a) transfer the functions of the IMA to another body that is a relevant public authority, and
 - (b) in view of that transfer of functions, make any modifications that the Secretary of State considers appropriate to the constitutional or funding arrangements or the functions of the transferee.
- (2) The Secretary of State may make regulations under sub-paragraph (1) only if satisfied that the transfer of functions serves the purpose of improving the exercise of the transferred functions, having regard to efficiency, effectiveness and economy.
- (3) In making regulations under sub-paragraph (1), the Secretary of State must have regard to the need to ensure that the transferee—
- (a) has operational independence when exercising the transferred functions and that it is able to make impartial assessments when exercising those functions, and
 - (b) has appropriate funding to exercise the transferred functions.
- (4) Regulations under sub-paragraph (1)—
- (a) may not provide for the transfer of the IMA's functions under paragraph 33 (which, accordingly, will lapse on the abolition of the IMA), but
 - (b) must make provision corresponding to that paragraph in relation to the transferee.
- (5) Regulations under sub-paragraph (1) may include provision—
- (a) transferring the IMA's property, rights and liabilities (including rights and liabilities in respect of contracts of employment);
 - (b) abolishing the IMA.
- (6) Before making regulations under this paragraph, the Secretary of State must consult—
- (a) the Scottish Ministers,
 - (b) the Welsh Ministers,
 - (c) the Executive Office in Northern Ireland, and
 - (d) if the IMA has functions in relation to Gibraltar by virtue of paragraph 33, the Gibraltar Ministers.
- (7) The power to make regulations under sub-paragraph (1) may (among other things) be exercised by modifying any provision made by or under an enactment (including this Act).
- (8) In this paragraph “constitutional arrangements” has the meaning given by section 3(2) of the Public Bodies Act 2011.

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

Commencement Information

I48 Sch. 2 para. 39 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

- 40 (1) The Secretary of State may by regulations—
- (a) remove functions of the IMA, if it appears to the Secretary of State that, in accordance with Article 159(3) of the withdrawal agreement or Article 64(4) of the EEA EFTA separation agreement, it is no longer necessary for the IMA to continue to exercise those functions, or
 - (b) abolish the IMA, if it appears to the Secretary of State that, in accordance with Article 159(3) of the withdrawal agreement and Article 64(4) of the EEA EFTA separation agreement, it is no longer necessary for the IMA to continue to exist.
- (2) Regulations under sub-paragraph (1) may include provision transferring the IMA's property, rights and liabilities (including rights and liabilities in respect of contracts of employment).
- (3) The power to make regulations under sub-paragraph (1) may (among other things) be exercised by modifying any provision made by or under an enactment (including this Act).

Commencement Information

I49 Sch. 2 para. 40 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

Interpretation

- 41 (1) In this Schedule—
- “civil servant” means a person employed in the civil service of the State;
 - “devolved legislature” means—
 - (a) the Scottish Parliament,
 - (b) the National Assembly for Wales, or
 - (c) the Northern Ireland Assembly;
 - “domestic law” means the law of England and Wales, Scotland or Northern Ireland;
 - “Part 2” has the meaning given by paragraph 22(3);
 - “relevant public authority” has the meaning given by paragraph 22(3);
 - “relevant right” means—
 - (a) a right created or arising by or under Part 2, or
 - (b) a right which—
 - (i) corresponds to such a right, and
 - (ii) is created or arises by or under a provision of domestic law so far as that provision has effect in connection with Part 2.
- (2) In this Schedule, references to a relevant public authority acting include references to the relevant public authority failing to act.

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

Commencement Information

I50 Sch. 2 para. 41 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

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

I51 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

I52 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

I53 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

I54 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).

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

Commencement Information

- I55** Sch. 3 para. 5 in force at 23.3.2020 by [S.I. 2020/317](#), [reg. 4](#)
I56 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

- I57** [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)—

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

- (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.

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

- (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.

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

- (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

I58 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

I59 Sch. 3 para. 8 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(i)

SCHEDULE 4

Section 40

REGULATIONS UNDER THIS ACT

PART 1

PROCEDURE

Rights in relation to entry and residence

- 1 (1) A statutory instrument containing—
(a) the first regulations under section 7(1)(b), (c), (d), (e), (f) or (g), 8(1) or 9, or
(b) regulations under section 7, 8 or 9 which amend, repeal or revoke primary legislation^{F8} ...,
may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Any other statutory instrument containing regulations under section 7, 8 or 9 is subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F8 Words in Sch. 4 para. 1(1)(b) omitted (29.6.2023) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(1)(d), Sch. 3 para. 4(2)

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

- 2 (1) A statutory instrument containing the first regulations under section 11—
- (a) must be laid before Parliament after being made, and
 - (b) ceases to have effect at the end of the period of 40 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (2) Any other statutory instrument containing regulations under section 11 which amend, repeal or revoke—
- (a) primary legislation, ^{F9}...
 - ^{F9}(b)
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (3) A statutory instrument containing regulations under section 11, other than a statutory instrument to which sub-paragraph (1) or (2) applies, is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In calculating the period of 40 days for the purposes of sub-paragraph (1) no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (5) If regulations cease to have effect as a result of sub-paragraph (1) that—
- (a) does not affect the validity of anything previously done under the regulations, and
 - (b) does not prevent the making of new regulations.

Textual Amendments

F9 Sch. 4 para. 2(2)(b) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(1)(d), [Sch. 3 para. 4\(3\)\(a\)](#)

Powers under sections 12, 13 and 14: sole exercise

- 3 (1) A statutory instrument containing regulations under section 12, 13 or 14 of a Minister of the Crown acting alone which amend, repeal or revoke—
- (a) primary legislation, ^{F10}...
 - ^{F10}(b)
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Any other statutory instrument containing regulations under section 12, 13 or 14 of a Minister of the Crown acting alone is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations under section 12, 13 or 14 of the Scottish Ministers acting alone which amend, repeal or revoke—
- (a) primary legislation, ^{F11}...
 - ^{F11}(b)

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

are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).

(4) Any other regulations under section 12, 13 or 14 of the Scottish Ministers acting alone are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

(5) A statutory instrument containing regulations under section 12, 13 or 14 of the Welsh Ministers acting alone which amend, repeal or revoke—

(a) primary legislation, ^{F12}...

^{F12}(b)

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(6) Any other statutory instrument containing regulations under section 12, 13 or 14 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(7) Regulations under section 12, 13 or 14 of a Northern Ireland department acting alone which amend, repeal or revoke—

(a) primary legislation, ^{F13}...

^{F13}(b)

may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(8) Any other regulations under section 12, 13 or 14 of a Northern Ireland department acting alone are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.

Textual Amendments

F10 Sch. 4 para. 3(1)(b) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(1)(d), **Sch. 3 para. 4(3)(b)**

F11 Sch. 4 para. 3(3)(b) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(1)(d), **Sch. 3 para. 4(3)(b)**

F12 Sch. 4 para. 3(5)(b) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(1)(d), **Sch. 3 para. 4(3)(b)**

F13 Sch. 4 para. 3(7)(b) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(1)(d), **Sch. 3 para. 4(3)(b)**

Powers under sections 12, 13 and 14: joint exercise

- 4
- (1) This paragraph applies to regulations under section 12, 13 or 14 of a Minister of the Crown acting jointly with a devolved authority.
 - (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
 - (3) A statutory instrument containing regulations to which this paragraph applies which amend, repeal or revoke—

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

- (a) primary legislation, ^{F14} ...
^{F14}(b)
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any other statutory instrument containing regulations to which this paragraph applies is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and amend, repeal or revoke—
- (a) primary legislation, ^{F15} ...
^{F15}(b)
- are subject to the affirmative procedure.
- (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the negative procedure.
- (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (6) applies as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and amend, repeal or revoke—
- (a) primary legislation, ^{F16} ...
^{F16}(b)
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and amend, repeal or revoke—
- (a) primary legislation, ^{F17} ...
^{F17}(b)

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

- may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (14) If in accordance with sub-paragraph (4), (6), (11) or (13)—
- (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
 - (b) a relevant devolved legislature resolves that an instrument be annulled,
- nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.
- (15) In sub-paragraph (14) “relevant devolved legislature” means—
- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
 - (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and
 - (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.

Textual Amendments

- F14** Sch. 4 para. 4(3)(b) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(1)(d), **Sch. 3 para. 4(3)(c)**
- F15** Sch. 4 para. 4(5)(b) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(1)(d), **Sch. 3 para. 4(3)(c)**
- F16** Sch. 4 para. 4(10)(b) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(1)(d), **Sch. 3 para. 4(3)(c)**
- F17** Sch. 4 para. 4(12)(b) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(1)(d), **Sch. 3 para. 4(3)(c)**

Power to amend definition of “IP completion day”

- 5 A statutory instrument containing regulations under section 39(4) is subject to annulment in pursuance of a resolution of either House of Parliament.

Consequential provision

- 6 A statutory instrument containing regulations under section 41(1) is subject to annulment in pursuance of a resolution of either House of Parliament.

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

The IMA

- 7 A statutory instrument containing regulations under paragraph 39 or 40 of Schedule 2 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Power under paragraph 1(3) of Schedule 5: sole exercise

- 8 (1) A statutory instrument containing regulations made by a Minister of the Crown acting alone under paragraph 1(3) of Schedule 5 on or after exit day is subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Regulations made by the Scottish Ministers acting alone under paragraph 1(3) of Schedule 5 on or after exit day are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (3) A statutory instrument containing regulations made by the Welsh Ministers acting alone under paragraph 1(3) of Schedule 5 on or after exit day is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4) Regulations made by a Northern Ireland department acting alone under paragraph 1(3) of Schedule 5 on or after exit day are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.

Power under paragraph 1(3) of Schedule 5: joint exercise

- 9 (1) This paragraph applies to regulations under paragraph 1(3) of Schedule 5 of a Minister of the Crown acting jointly with a devolved authority.
- (2) The procedure provided for by sub-paragraph (3) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
- (3) A statutory instrument containing regulations to which this paragraph applies which are made on or after exit day is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers on or after exit day are subject to the negative procedure.
- (5) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (4) applies as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (6) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (4) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).

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- (7) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers on or after exit day is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (8) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department on or after exit day are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (9) If in accordance with this paragraph—
- (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
 - (b) a relevant devolved legislature resolves that an instrument be annulled,
- nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.
- (10) In sub-paragraph (9) “relevant devolved legislature” means—
- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
 - (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and
 - (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (11) Sub-paragraph (9) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (12) Sub-paragraphs (9) to (11) apply in place of provision made by any other enactment about the effect of such a resolution.

Power under paragraph 3(2) of Schedule 5

- 10 (1) Regulations made by the Scottish Ministers under paragraph 3(2) of Schedule 5 on or after exit day are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (2) A statutory instrument containing regulations made by the Welsh Ministers under paragraph 3(2) of Schedule 5 on or after exit day is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) Regulations made by a Northern Ireland department under paragraph 3(2) of Schedule 5 on or after exit day are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.

PART 2

GENERAL PROVISION ABOUT POWERS UNDER ACT

Scope and nature of powers: general

- 11 (1) Any power to make regulations under this Act—

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

- (a) so far as exercisable by a Minister of the Crown or by a Minister of the Crown acting jointly with a devolved authority, is exercisable by statutory instrument,
 - (b) so far as exercisable by the Welsh Ministers or by the Welsh Ministers acting jointly with a Minister of the Crown, is exercisable by statutory instrument, and
 - (c) so far as exercisable by a Northern Ireland department (other than when acting jointly with a Minister of the Crown), is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (SI 1979/1573 (NI 12)) (and not by statutory instrument).
- (2) For regulations made under this Act by the Scottish Ministers, see also section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (Scottish statutory instruments).
- 12 Any power to make regulations under this Act—
- (a) may be exercised so as to make different provision for different cases or descriptions of case, different circumstances, different purposes or different areas, and
 - (b) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- 13 The fact that a power to make regulations is conferred by this Act does not affect the extent of any other power to make regulations under this Act.

Anticipatory exercise of powers in relation to withdrawal agreement etc.

- 14 Any power to make regulations under this Act in relation to the withdrawal agreement, the EEA EFTA separation agreement or the Swiss citizens' rights agreement, or any modification of any of them which requires ratification, is capable of being exercised before the agreement or (as the case may be) modification concerned is ratified.

Scope of appointed day power

- 15 The power of a Minister of the Crown under section 42(7) to appoint a day includes a power to appoint a time on that day if the Minister considers it appropriate to do so.

Hybrid instruments

- 16 If an instrument, or a draft of an instrument, containing regulations under this Act would, apart from this paragraph, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument.

Combinations of instruments

- 17 (1) Sub-paragraph (2) applies to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament for the approval of the instrument in draft before it is made or its approval after it is made.
- (2) The statutory instrument may also include regulations under this Act or another enactment which are made by statutory instrument which is subject to a procedure

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

before Parliament that provides for the annulment of the instrument after it has been made.

- (3) Where regulations are included as mentioned in sub-paragraph (2), the procedure applicable to the statutory instrument is the procedure mentioned in sub-paragraph (1) and not the procedure mentioned in sub-paragraph (2).
- (4) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before the National Assembly for Wales as they apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament but as if the references to Parliament were references to the National Assembly for Wales.
- (5) Sub-paragraphs (1) to (3) apply in relation to a statutory rule as they apply in relation to a statutory instrument but as if the references to Parliament were references to the Northern Ireland Assembly.
- (6) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as well as a procedure before Parliament as they apply to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament but as if the references to Parliament were references to Parliament and the Scottish Parliament, the National Assembly for Wales or (as the case may be) the Northern Ireland Assembly.
- (7) This paragraph does not prevent the inclusion of other regulations in a statutory instrument or statutory rule which contains regulations under this Act (and, accordingly, references in this Schedule to an instrument containing regulations are to be read as references to an instrument containing (whether alone or with other provision) regulations).

SCHEDULE 5

Section 41(4) and (6)

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

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

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.

Modifications etc. (not altering text)

- C1** Sch. 5 para. 1(1) disapplied (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) disapplied (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) disapplied (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) disapplied (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) disapplied (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) disapplied (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) disapplied (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) disapplied (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

- I60** Sch. 5 para. 1(3)-(6) in force at 23.1.2020, see s. 42(6)(e)(i)
- I61** 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.

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

- (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.
- (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.

*Devolved preparatory legislation of a kind mentioned
in paragraph 41(3) to (5) of Schedule 8 to EUWA 2018*

- 3 (1) Any provision of primary legislation which—
- (a) is made before exit day by virtue of any of sub-paragraphs (3) to (5) of paragraph 41 of Schedule 8 to the European Union (Withdrawal) Act 2018, and
 - (b) provides, by reference to exit day (however expressed), for itself or any other provision so made to come into force on exit day or at any time after exit day, is to be read instead as providing for the provision to come into force on IP completion day or (as the case may be) at that time after IP completion day.
- (2) But a relevant devolved authority may, by regulations and subject to sub-paragraphs (4) to (7)—
- (a) provide for sub-paragraph (1) not to apply to any extent in particular cases or descriptions of case,
 - (b) make different provision in particular cases or descriptions of case to that made by sub-paragraph (1), or
 - (c) make such provision as the relevant devolved authority considers appropriate in consequence of sub-paragraph (1) (including provision restating the effect of that sub-paragraph).
- (3) The power to make regulations under sub-paragraph (2) may (among other things) be exercised by modifying any provision made by or under an enactment.

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

- (4) No provision may be made by the Scottish Ministers in regulations under sub-paragraph (2) unless it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.
- (5) No provision may be made by the Welsh Ministers in regulations under sub-paragraph (2) unless it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (including any provision that could be made only with the consent of a Minister of the Crown).
- (6) No provision may be made by a Northern Ireland department in regulations under sub-paragraph (2) unless it would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of the Assembly (including any provision that could be made only with the consent of the Secretary of State).
- (7) No regulations may be made under sub-paragraph (2) after the end of the period of one year beginning with IP completion day.
- (8) In this paragraph “relevant devolved authority” means—
 - (a) in relation to any provision of an Act of the Scottish Parliament, the Scottish Ministers,
 - (b) in relation to any provision of an Act of the National Assembly for Wales, the Welsh Ministers, and
 - (c) in relation to any provision of an Act of the Northern Ireland Assembly, a Northern Ireland department.

Commencement Information

I62 Sch. 5 para. 3(2)-(8) in force at 23.1.2020, see s. 42(6)(e)(ii)

I63 Sch. 5 para. 3(1) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(i)

Power to make consequential regulations under EUWA 2018

- 4 (1) The power of a Minister of the Crown under section 23(1) of the European Union (Withdrawal) Act 2018 to make such provision as the Minister considers appropriate in consequence of that Act includes the power to make such provision as the Minister considers appropriate in consequence of that Act as modified, or to be modified, by or under this Act (and references in the Act of 2018 to the power under section 23(1) of that Act are to be read accordingly).
- (2) Sub-paragraph (1) does not limit the power conferred by section 41(1) above.
- (3) The reference in sub-paragraph (1) to any modification by or under this Act of the European Union (Withdrawal) Act 2018 includes a reference to any modification made by or under this Act of a provision of another Act which was inserted into that other Act or otherwise modified by the Act of 2018.

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

PART 2

SPECIFIC CONSEQUENTIAL PROVISION ETC.

Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.))

- 5 The Interpretation Act (Northern Ireland) 1954 is amended as follows.
- 6 In section 11 (references in enactments), in subsections (1C), (1D) and (1E), for “exit day” substitute “IP completion day”.

Commencement Information

I64 Sch. 5 para. 6 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

- 7 In section 44A (definitions relating to the United Kingdom's withdrawal from the EU)—
- (a) before the definition of “exit day” insert—
- ““EU withdrawal agreement” means the withdrawal agreement within the meaning of the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) and (6) of that Act),”
- (b) after the definition of “exit day” insert—
- ““IP completion day” (and related expressions) have the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) to (5) of that Act),” and
- (c) in the definition of “retained EU obligation” for “exit day” substitute “IP completion day”.

Commencement Information

I65 Sch. 5 para. 7(a)(b) in force at 23.1.2020, see s. 42(6)(e)(iv)

I66 Sch. 5 para. 7(c) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(ii)

Interpretation Act 1978

- 8 The Interpretation Act 1978 is amended as follows.
- 9 In section 20(3) (references to other enactments) for “exit day” substitute “IP completion day”.

Commencement Information

I67 Sch. 5 para. 9 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

- 10 In section 21(1) (meaning of “subordinate legislation”) for “exit day [F18 under any retained direct EU legislation]” substitute “IP completion day [F18 under any retained direct EU legislation]”.

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

Textual Amendments

F18 Words in Sch. 5 para. 10 inserted (30.4.2020) by [The Direct Payments to Farmers \(Legislative Continuity\) Act 2020 \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/463\)](#), regs. 1(1), **9**

Commencement Information

I68 [Sch. 5 para. 10](#) in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 5(j)**

- 11 In section 23ZA(4)(a)(ii) (retained direct EU legislation) for “exit day” substitute “IP completion day”.

Commencement Information

I69 [Sch. 5 para. 11](#) in force at 31.1.2020 by [S.I. 2020/75](#), **reg. 4(n)(iii)**

- 12 In Schedule 1 (words and expressions defined), under the italic heading “Definitions relating to the EU and the United Kingdom’s withdrawal”—
- (a) before the definition of “exit day” insert—
- ““EU withdrawal agreement” means the withdrawal agreement within the meaning of the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) and (6) of that Act).”
- (b) after the definition of “exit day” insert—
- ““IP completion day” (and related expressions) have the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) to (5) of that Act).”
- (c) in the definition of “retained EU obligation” for “exit day” substitute “IP completion day”, and
- (d) in the definition of ““The Treaties” or “the EU Treaties””—
- (i) for “or EU Treaties,” substitute “or EU Treaties as at immediately before IP completion day and”, and
- (ii) for the words from “its repeal” to the end of the definition substitute “IP completion day”.

Commencement Information

I70 [Sch. 5 para. 12\(a\)\(b\)](#) in force at 23.1.2020, see [s. 42\(6\)\(e\)\(v\)](#)

I71 [Sch. 5 para. 12\(c\)](#) in force at 31.1.2020 by [S.I. 2020/75](#), **reg. 4(n)(iv)**

I72 [Sch. 5 para. 12\(d\)](#) in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 5(j)**

European Economic Area Act 1993

- 13 The European Economic Area Act 1993 is amended as follows.

Commencement Information

I73 [Sch. 5 para. 13](#) in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 5(j)**

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

14 In section 2 (consistent application of law to the whole of the EEA), in subsections (3)(a) and (3A), for “exit day” substitute “ IP completion day ”.

Commencement Information

I74 Sch. 5 para. 14 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

15 In section 3 (general implementation of the EEA agreement), in subsections (3)(a) and (4A), for “exit day” substitute “ IP completion day ”.

Commencement Information

I75 Sch. 5 para. 15 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

16 In section 6(1) (interpretation), in the definition of “the 1972 Act”, for “its repeal by section 1” substitute “ it ceases to have effect by virtue of section 1A(5) ”.

Commencement Information

I76 Sch. 5 para. 16 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

Scotland Act 1998

17 The Scotland Act 1998 is amended as follows.

^{F19}18

Textual Amendments

F19 Sch. 5 para. 18 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), 7(3)

^{F20}19

Textual Amendments

F20 Sch. 5 para. 19 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), 7(3)

20 (1) Paragraph 1 of Schedule 4 (enactments etc. protected from modification) is amended as follows.

(2) In sub-paragraph (2)(g) for “paragraphs 31 to 35 of Schedule 8 to” substitute “ any excluded provision of ”.

(3) After sub-paragraph (2) insert—

“(3) For the purposes of sub-paragraph (2)(g), the following are excluded provisions of the European Union (Withdrawal) Act 2018—

- (a) section 1B(3) and (4),
- (b) sections 8A to 8C,

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

- (c) section 10(3) and (4),
- (d) sections 13A and 13B,
- (e) sections 15A to 15C,
- (f) Parts 1A to 1C of Schedule 2,
- (g) paragraphs 8A to 8G of Schedule 7, and
- (h) paragraphs 31 to 35 of Schedule 8.”

21 In Part 2 of Schedule 5 (specific reservations), in section C8 (product standards, safety and liability) for “exit day” substitute “ IP completion day ”.

Commencement Information

I77 Sch. 5 para. 21 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j) (with reg. 10)

Northern Ireland Act 1998

22 The Northern Ireland Act 1998 is amended as follows.

^{F21}23

Textual Amendments

F21 Sch. 5 para. 23 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), 7(3)

- 24 (1) Section 7 (entrenched enactments) is amended as follows.
- (2) In subsection (1) for “subsection (2A)” substitute “ subsections (2A) and (2B) ”.
- (3) In subsection (2A) for paragraphs (a) and (b) (but not the word “or” at the end of paragraph (b)) substitute—
- “(ba) any excluded provision of the European Union (Withdrawal) Act 2018,”.
- (4) After subsection (2A) insert—
- “(2B) For the purposes of subsection (2A)(ba), the following are excluded provisions of the European Union (Withdrawal) Act 2018—
- (a) section 1B(3) and (4),
 - (b) sections 8A to 8C,
 - (c) section 10(3) and (4),
 - (d) sections 13A and 13B,
 - (e) sections 15A to 15C,
 - (f) Parts 1A to 1C of Schedule 2,
 - (g) paragraphs 1(11) and (12), 2(12) and (13) and 8A to 8G of Schedule 7, and
 - (h) paragraph 21 of Schedule 8.”

^{F22}25

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

Textual Amendments

F22 Sch. 5 para. 25 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), **7(3)**

26 In Schedule 3 (reserved matters), in paragraph 38, for “exit day” substitute “ IP completion day ”.

Commencement Information

I78 Sch. 5 para. 26 in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 5(j)** (with [reg. 10](#))

Government of Wales Act 2006

27 The Government of Wales Act 2006 is amended as follows.

^{F23}28

Textual Amendments

F23 Sch. 5 para. 28 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), **7(3)**

^{F24}29

Textual Amendments

F24 Sch. 5 para. 29 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), **7(3)**

30 In Part 2 of Schedule 7A (specific reservations), in section C7 (product standards, safety and liability), in paragraph 77, for “exit day” substitute “ IP completion day ”.

Commencement Information

I79 Sch. 5 para. 30 in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 5(j)** (with [reg. 10](#))

- 31 (1) Paragraph 5 of Schedule 7B (protected enactments) is amended as follows.
- (2) In sub-paragraph (1), in the entry in the table for the European Union (Withdrawal) Act 2018, after “whole Act” insert “ other than any excluded provision ”.
- (3) After sub-paragraph (1) insert—
- “(1A) For the purposes of the entry in the table in sub-paragraph (1) for the European Union (Withdrawal) Act 2018, the following are excluded provisions of that Act—
- (a) section 1B(3) and (4),
 - (b) sections 8A to 8C,
 - (c) section 10(3) and (4),
 - (d) sections 13A and 13B,

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

- (e) sections 15A to 15C,
- (f) Parts 1A to 1C of Schedule 2, and
- (g) paragraphs 8A to 8G of Schedule 7.”

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

32 The Interpretation and Legislative Reform (Scotland) Act 2010 is amended as follows.

33 In section 1(1)(ba) (application of Part 1 of the Act) for “exit day” substitute “ IP completion day ”.

Commencement Information

I80 Sch. 5 para. 33 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xi)

34 In section 14(3) (references to other legislative provisions) for “exit day”, in both places where it appears, substitute “ IP completion day ”.

Commencement Information

I81 Sch. 5 para. 34 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

35 In section 30(7) (other instruments laid before the Scottish Parliament) omit “(including that paragraph as applied by paragraph 19(7) of that Schedule)”.

Commencement Information

I82 Sch. 5 para. 35 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xii)

36 In section 55(2B)(d) (transitional Orders: revocation and savings)—

- (a) before the definition of “exit day” (and after the italic heading “Definitions relating to EU exit”) insert—

““EU withdrawal agreement” means the withdrawal agreement within the meaning of the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) and (6) of that Act).”

- (b) after the definition of “exit day” insert—

““IP completion day” (and related expressions) have the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) to (5) of that Act).”

- (c) in the definition of “retained EU obligation” for “exit day” substitute “ IP completion day ”, and
- (d) in the definition of “ “The Treaties” or “the EU Treaties””—
 - (i) for “or EU Treaties,” substitute “ or EU Treaties as at immediately before IP completion day and ”, and
 - (ii) for the words from “its repeal” to the end of the definition substitute “ IP completion day ”.

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

Commencement Information

- I83** Sch. 5 para. 36(a)(b) in force at 23.1.2020, see s. 42(6)(e)(vii)
I84 Sch. 5 para. 36(c) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xiii)
I85 Sch. 5 para. 36(d) in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

- 37 In Schedule 1 (definitions of words and expressions)—
- (a) in the definition of “subordinate legislation” for “exit day” substitute “ IP completion day ”,
 - (b) before the definition of “exit day” (and after the italic heading “Definitions relating to EU exit”) insert—
 - ““EU withdrawal agreement” means the withdrawal agreement within the meaning of the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) and (6) of that Act).”,
 - (c) after the definition of “exit day” insert—
 - ““IP completion day” (and related expressions) have the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) to (5) of that Act).”,
 - (d) in the definition of “retained EU obligation” for “exit day” substitute “ IP completion day ”,
 - (e) in the definition of “EU instrument” omit “(within the meaning of the European Union (Withdrawal) Act 2018 (see section 20(1) of that Act))”, and
 - (f) in the definition of “ “The Treaties” or “the EU Treaties””—
 - (i) for “or EU Treaties,” substitute “ or EU Treaties as at immediately before IP completion day and ”, and
 - (ii) for the words from “its repeal” to the end of the definition substitute “ IP completion day ”.

Commencement Information

- I86** Sch. 5 para. 37(b)(c) in force at 23.1.2020, see s. 42(6)(e)(vii)
I87 Sch. 5 para. 37(a)(e)(f) in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j) (with reg. 13)
I88 Sch. 5 para. 37(d) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xiv)

European Union (Withdrawal) Act 2018

- 38 The European Union (Withdrawal) Act 2018 is amended as follows.
- 39 In the italic heading before section 2, for “existing EU law” substitute “ saved EU law at end of implementation period ”.

Commencement Information

- I89** Sch. 5 para. 39 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

- 40 (1) Section 7 (status of retained EU law) is amended as follows.
- (2) In subsection (1)(b) for “section 2” substitute “ section 1A(2) or 1B(2) ”.

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

(3) After subsection (1) insert—

“(1A) Anything which—

- (a) was, immediately before IP completion day, primary legislation of a particular kind, subordinate legislation of a particular kind or another enactment of a particular kind, and
- (b) continues to be domestic law on and after IP completion day by virtue of section 2,

continues to be domestic law as an enactment of the same kind.”

(4) In subsection (5)—

- (a) in paragraph (a) after “(3)” insert “ and (7) ”, and
- (b) after paragraph (b) insert—

“(ba) section 7C (status of case law of European Court etc. in relation to retained EU law which is relevant separation agreement law),”.

(5) In subsection (6) for “exit day”, wherever it appears, substitute “ IP completion day ”.

Commencement Information

I90 Sch. 5 para. 40(1)(2)(5) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xv)

I91 Sch. 5 para. 40(3)(4) in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

41 (1) Section 10 (continuation of North-South co-operation and the prevention of new border arrangements) is amended as follows.

(2) In the heading—

- (a) for “Continuation of” substitute “ Protection for ”, and
- (b) omit “the”.

(3) In subsection (2)—

- (a) omit “, 9”, and
- (b) in paragraph (a) omit “(as defined by section 98 of the Northern Ireland Act 1998)”.

Commencement Information

I92 Sch. 5 para. 41(1)(3)(a) in force at 23.1.2020, see s. 42(6)(e)(viii)

I93 Sch. 5 para. 41(2), (3)(b) in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

42 In section 11 (powers involving devolved authorities corresponding to sections 8 and 9), in the heading and the text of the section, for “and 9” substitute “ to 8C ”.

43 In the italic cross-heading before section 13, for “approval of outcome of EU negotiations” substitute “ oversight of withdrawal ”.

Commencement Information

I94 Sch. 5 para. 43 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xvi)

44 (1) Section 20 (interpretation) is amended as follows.

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

(2) In subsection (1)—

- (a) after the definition of “Charter of Fundamental Rights” insert—

““Commons sitting day” means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day);”,

- (b) in the definition of “domestic law”, in paragraph (a), for “section 3” substitute “ sections 3, 7A and 7B ”,

- (c) in the definition of “enactment”, in paragraph (h), for “2” substitute “ 1B ”,

- (d) after the definition of “exit day” insert—

““Joint Committee” means the Joint Committee established by Article 164(1) of the withdrawal agreement;

“Lords sitting day” means a day on which the House of Lords is sitting (and a day is only a day on which the House of Lords is sitting if the House begins to sit on that day);”,

- (e) after the definition of “public authority” insert—

““ratify”, whether in relation to the withdrawal agreement or otherwise, has the same meaning as it does for the purposes of Part 2 of the Constitutional Reform and Governance Act 2010 in relation to a treaty (see section 25 of that Act);”,

- (f) in the definition of “retained direct EU legislation” for “exit day” substitute “ IP completion day ”,

- (g) in the definition of “subordinate legislation” for “exit day” substitute “ IP completion day ”, and

- (h) omit the definition of “withdrawal agreement”.

(3) After subsection (5) insert—

“(5A) In this Act references to anything which continues to be domestic law by virtue of section 1B(2) include—

- (a) references to anything to which section 1B(2) applies which continues to be domestic law on or after exit day (whether or not it would have done so irrespective of that provision), and

- (b) references to anything which continues to be domestic law on or after exit day by virtue of section 1B(2) (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).”

(4) In subsection (6) for “exit day” substitute “ IP completion day ”.

Commencement Information

195 Sch. 5 para. 44(1)(2)(a)(d)(e)(3) in force at 23.1.2020, see s. 42(6)(e)(viii)

196 Sch. 5 para. 44(2)(b)(c)(f)-(h)(4) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xvii)

45 In the table in section 21(1) (index of defined expressions)—

- (a) before the entry for “Anything which continues to be domestic law by virtue of section 2” (and after the headings for the table) insert—

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

“Anything which continues to be domestic law by Section 20(5A)”, virtue of section 1B(2)	
(b) after the entry for “Charter of Fundamental Rights” insert—	
“Commons sitting day	Section 20(1)”,
(c) after the entry for “EEA agreement” insert—	
“EEA EFTA separation agreement	Section 7B(6)”,
(d) after the entry for “EU decision” insert—	
“EU-derived domestic legislation	Section 1B(7)”,
(e) after the entry for “EU regulation” insert—	
“European Communities Act 1972	Section 1A(7)(a)”,
(f) after the entry for “Former Article 34(2)(c) of Treaty on European Union” insert—	
“Implementation period	Section 1A(6)
IP completion day (and related expressions)	Section 1A(6)
Joint Committee	Section 20(1)
Lords sitting day	Section 20(1)”,
(g) after the entry for “Operative (in relation to direct EU legislation)” insert—	
“Part (of withdrawal agreement or EEA EFTA separation agreement)	Section 1A(7)(b)”,
(h) after the entry for “Public authority in the United Kingdom (however expressed)” insert—	
“Qualifying Northern Ireland goods	Section 8C(6)
Ratify	Section 20(1)”,
(i) after the entry for “relevant criminal offence” insert—	
“Relevant separation agreement law	Section 7C(3)”,
(j) after the entry for “subordinate legislation” insert—	
“Swiss citizens' rights agreement	Section 7B(6)”, and
(k) in the entry for “Withdrawal agreement” for “Section 20(1)” substitute “ Section 1A(6)”.	

Commencement Information

I97 Sch. 5 para. 45 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xviii)

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

- 46 (1) Section 23 (consequential and transitional provision) is amended as follows.
- (2) In subsection (3) for “the end of the Session in which this Act is passed” substitute “ IP completion day ”.
- (3) In subsection (4) for “exit day” substitute “ IP completion day ”.
- (4) In subsection (6) after “exit day” insert “ or IP completion day ”.

Commencement Information

I98 Sch. 5 para. 46 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xix)

- 47 (1) Schedule 4 (powers in connection with fees and charges) is amended as follows.
- (2) In paragraph 1(1) omit paragraph (b) and the word “or” before it.
- (3) In paragraph 5(1) for “exit day” substitute “ IP completion day ”.
- (4) In paragraph 6 for “section 8 or 9” substitute “ sections 8 to 8C ”.
- (5) In paragraph 8(a) for “the repeal of that section by section 1” substitute “ IP completion day ”.
- (6) In paragraph 11 for “section 8 or 9” substitute “ sections 8 to 8C ”.

Commencement Information

I99 Sch. 5 para. 47(1)(2)(4)(6) in force at 23.1.2020, see s. 42(6)(e)(viii)

I100 Sch. 5 para. 47(3)(5) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xx)

- 48 (1) Schedule 5 (publication and rules of evidence) is amended as follows.
- (2) In paragraphs 1(1)(a) and (5)(a) and (b) and 2(1) for “exit day” substitute “ IP completion day ”.
- (3) In paragraph 3—
- (a) in sub-paragraph (1)—
- (i) for “, for the purpose of interpreting retained EU law in legal proceedings,” substitute “ in legal proceedings ”, and
- (ii) omit “for that purpose”, and
- (b) in sub-paragraph (2) omit the definition of “interpreting retained EU law”.
- (4) In paragraph 4—
- (a) in sub-paragraph (4) for “the end of the Session in which this Act is passed” substitute “ IP completion day ”, and
- (b) in sub-paragraph (5)—
- (i) after paragraph (c) but before the “and” at the end of that paragraph insert—
- “(ca) the EEA EFTA separation agreement,
(cb) the Swiss citizens' rights agreement,
(cc) the withdrawal agreement,”, and
- (ii) in paragraph (d) for “or (c)” substitute “, (c), (ca), (cb) or (cc) ”.

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

Commencement Information

I101 Sch. 5 para. 48(1)(2)(4) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxi)

I102 Sch. 5 para. 48(3) in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

- 49 (1) Schedule 6 (instruments which are exempt EU instruments) is amended as follows.
- (2) Omit paragraphs 1(1), 2 and 4.
- (3) In paragraph 3—
- (a) omit “or EU regulation” in paragraph (a), and
 - (b) omit paragraph (b) and the word “or” before it.

Commencement Information

I103 Sch. 5 para. 49 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxii)

- 50 In Part 1 of Schedule 7 (scrutiny of powers to deal with deficiencies)—
- (a) in paragraph 2(17), for “and (15)” substitute “ to (16) ”,
 - (b) in paragraph 3(11), omit paragraphs (b) and (c) and the words after paragraph (c),
 - (c) omit paragraph 4(9),
 - (d) omit paragraph 6(7),
 - (e) omit paragraph 7(9), and
 - (f) omit paragraph 8(7).
- 51 After Part 1 of Schedule 7 insert—

“PART 1A

SCRUTINY OF SPECIFIC POWERS RELATING TO WITHDRAWAL AGREEMENT ETC.

Powers in connection with Part 4 of the withdrawal agreement

- 8A A statutory instrument containing regulations under section 1A(3)(a)(ii) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- 8B (1) A statutory instrument containing regulations under section 8A which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Any other statutory instrument containing regulations under section 8A is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations under Part 1A of Schedule 2 of the Scottish Ministers acting alone which amend, repeal or revoke—

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- (a) primary legislation, or
 - (b) retained direct principal EU legislation,are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
 - (4) Any other regulations under Part 1A of Schedule 2 of the Scottish Ministers acting alone are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
 - (5) A statutory instrument containing regulations under Part 1A of Schedule 2 of the Welsh Ministers acting alone which amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
 - (6) Any other statutory instrument containing regulations under Part 1A of Schedule 2 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
 - (7) Regulations under Part 1A of Schedule 2 of a Northern Ireland department acting alone which amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
 - (8) Any other regulations under Part 1A of Schedule 2 of a Northern Ireland department acting alone are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- 8C
- (1) This paragraph applies to regulations under Part 1A of Schedule 2 of a Minister of the Crown acting jointly with a devolved authority.
 - (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
 - (3) A statutory instrument containing regulations to which this paragraph applies which amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
 - (4) Any other statutory instrument containing regulations to which this paragraph applies is subject to annulment in pursuance of a resolution of either House of Parliament.

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- (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,are subject to the affirmative procedure.
- (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the negative procedure.
- (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (6) applies as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are subject to negative

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resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.

- (14) If in accordance with sub-paragraph (4), (6), (11) or (13)—
- (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
 - (b) a relevant devolved legislature resolves that an instrument be annulled,
- nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.
- (15) In sub-paragraph (14) “relevant devolved legislature” means—
- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
 - (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and
 - (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.

Powers in connection with other separation issues in the withdrawal agreement etc.

- 8D (1) A statutory instrument containing regulations under section 8B which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Any other statutory instrument containing regulations under section 8B is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations under Part 1B of Schedule 2 of the Scottish Ministers acting alone which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (4) Any other regulations under Part 1B of Schedule 2 of the Scottish Ministers acting alone are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

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- (5) A statutory instrument containing regulations under Part 1B of Schedule 2 of the Welsh Ministers acting alone which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (6) Any other statutory instrument containing regulations under Part 1B of Schedule 2 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (7) Regulations under Part 1B of Schedule 2 of a Northern Ireland department acting alone which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (8) Any other regulations under Part 1B of Schedule 2 of a Northern Ireland department acting alone are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- 8E (1) This paragraph applies to regulations under Part 1B of Schedule 2 of a Minister of the Crown acting jointly with a devolved authority.
- (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
- (3) A statutory instrument containing regulations to which this paragraph applies which amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any other statutory instrument containing regulations to which this paragraph applies is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and amend, repeal or revoke—
- (a) primary legislation, or
 - (b) retained direct principal EU legislation,
- are subject to the affirmative procedure.
- (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the negative procedure.

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- (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (6) applies as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and amend, repeal or revoke—
 - (a) primary legislation, or
 - (b) retained direct principal EU legislation,may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (14) If in accordance with sub-paragraph (4), (6), (11) or (13)—
 - (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
 - (b) a relevant devolved legislature resolves that an instrument be annulled,

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nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.

- (15) In sub-paragraph (14) “relevant devolved legislature” means—
- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
 - (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and
 - (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.

*Powers in connection with the Ireland/Northern
Ireland Protocol in the withdrawal agreement*

- 8F (1) A statutory instrument containing regulations under section 8C(1) which contain provision falling within sub-paragraph (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Provision falls within this sub-paragraph if it—
- (a) amends, repeals or revokes primary legislation or retained direct principal EU legislation,
 - (b) establishes a public authority,
 - (c) relates to a fee in respect of a function exercisable by a public authority in the United Kingdom,
 - (d) creates, or widens the scope of, a criminal offence,
 - (e) creates or amends a power to legislate, or
 - (f) facilitates the access to the market within Great Britain of qualifying Northern Ireland goods.
- (3) Any other statutory instrument containing regulations under section 8C(1) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing regulations under section 8C(6) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Regulations under Part 1C of Schedule 2 of the Scottish Ministers acting alone which contain provision falling within sub-paragraph (2) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (6) Any other regulations under Part 1C of Schedule 2 of the Scottish Ministers acting alone are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

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- (7) A statutory instrument containing regulations under Part 1C of Schedule 2 of the Welsh Ministers acting alone which contain provision falling within sub-paragraph (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
 - (8) Any other statutory instrument containing regulations under Part 1C of Schedule 2 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
 - (9) Regulations under Part 1C of Schedule 2 of a Northern Ireland department acting alone which contain provision falling within sub-paragraph (2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
 - (10) Any other regulations under Part 1C of Schedule 2 of a Northern Ireland department acting alone are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- 8G
- (1) This paragraph applies to regulations under Part 1C of Schedule 2 of a Minister of the Crown acting jointly with a devolved authority.
 - (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
 - (3) A statutory instrument containing regulations to which this paragraph applies which contain provision falling within paragraph 8F(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
 - (4) Any other statutory instrument containing regulations to which this paragraph applies is subject to annulment in pursuance of a resolution of either House of Parliament.
 - (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and contain provision falling within paragraph 8F(2) are subject to the affirmative procedure.
 - (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the negative procedure.
 - (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
 - (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (6) applies as they apply in

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relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).

(9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).

(10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and contain provision falling within paragraph 8F(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and contain provision falling within paragraph 8F(2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.

(14) If in accordance with sub-paragraph (4), (6), (11) or (13)—

- (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
- (b) a relevant devolved legislature resolves that an instrument be annulled,

nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.

(15) In sub-paragraph (14) “relevant devolved legislature” means—

- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
- (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and
- (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.

(16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.

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(17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.”

Commencement Information

I104 Sch. 5 para. 51 in force for specified purposes at 23.1.2020, see s. 42(6)(e)(ix)

I105 Sch. 5 para. 51 in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(n)(xxiii)

I106 Sch. 5 para. 51 in force at 19.5.2020 in so far as not already in force by S.I. 2020/518, reg. 2(p)(i)

- 52 (1) Part 2 of Schedule 7 (scrutiny of other powers under Act) is amended as follows.
- (2) After paragraph 9 insert—

“Power in relation to interpretation of retained EU law

9A A statutory instrument containing regulations under section 6(5A) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

- (3) Omit paragraph 10 (and the italic cross-heading before it).
- (4) In the italic cross-heading before paragraph 17 omit “certain implementation or”.
- (5) In paragraph 17—
- (a) in sub-paragraph (1) omit “10(3) or”,
 - (b) in sub-paragraph (11) omit paragraphs (b) and (c) and the words after paragraph (c), and
 - (c) in sub-paragraph (12) omit “10(3) or”.
- (6) Omit paragraph 18 (and the italic cross-heading before it).
- (7) In paragraph 19—
- (a) in sub-paragraph (1)—
 - (i) in paragraph (a) omit “, 10(1)”, and
 - (ii) in paragraph (b) omit “10(3),”,
 - (b) omit sub-paragraph (7), and
 - (c) in sub-paragraph (8) omit “10(3) or”.

Commencement Information

I107 Sch. 5 para. 52(1)(3)-(7) in force at 23.1.2020, see s. 42(6)(e)(x)

I108 Sch. 5 para. 52(2) in force at 19.5.2020 by S.I. 2020/518, reg. 2(p)(ii)

- 53 (1) Part 3 of Schedule 7 (general provision about powers under Act) is amended as follows.
- (2) In paragraph 21—
- (a) in paragraph (a)(i) after “modify” insert “ anything which continues to be domestic law by virtue of section 1B(2) or any ”, and
 - (b) in paragraph (b) for “any retained EU law” substitute “ anything which continues to be domestic law by virtue of section 1B(2), or any retained EU law, ”.

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- (3) In paragraph 23—
- (a) in sub-paragraph (1) for “sections 2” substitute “ sections 1A ”,
 - (b) in sub-paragraph (2) after “Accordingly,” insert “ anything which continues to be domestic law by virtue of section 1B(2) or ”,
 - (c) in sub-paragraph (3) for “sections 2” substitute “ sections 1A ”,
 - (d) in sub-paragraph (4)(b) for “sections 2” substitute “ sections 1A ”, and
 - (e) in sub-paragraph (5) for “retained EU law” substitute “ anything which continues to be domestic law by virtue of section 1B(2), or as retained EU law, ”.
- (4) After paragraph 23 insert—
- “Anticipatory exercise of powers in relation to section 1B(2) saved law*
- 23A Any power to make regulations under this Act which modify anything which continues to be domestic law by virtue of section 1B(2) is capable of being exercised before exit day so that the regulations come into force on or after exit day.”
- (5) In paragraph 24 for “exit day”, in both places where it appears, substitute “ IP completion day ”.
- (6) After paragraph 24 insert—
- “Anticipatory exercise of powers in relation to the withdrawal agreement etc.*
- 24A Any power to make regulations under this Act in relation to the withdrawal agreement, the EEA EFTA separation agreement or the Swiss citizens' rights agreement, or any modification of any of them which requires ratification, is capable of being exercised before the agreement or (as the case may be) modification concerned is ratified.”
- (7) In paragraph 28—
- (a) in sub-paragraph (1)(a) omit “, 9” and “or 12(2)”, and
 - (b) in sub-paragraph (6)(c) for “exit day” substitute “ IP completion day ”.
- (8) In paragraph 29—
- (a) in sub-paragraph (1)(a), omit “or 2”, and
 - (b) in sub-paragraph (6)(c) for “exit day” substitute “ IP completion day ”.
- (9) In paragraph 30(1)(a) omit “or 9”.
- (10) In paragraph 31(1)(a) omit “or 2”.
- (11) In paragraph 32(1) omit “or 9”.
- (12) In paragraph 33(1) omit “or 2”.
- (13) In paragraph 35(1) omit “(whether or not as applied by paragraph 19(7))”.

Commencement Information

I109 Sch. 5 para. 53(1)-(4)(6)(7)(a)(8)(a)(9)-(13) in force at 23.1.2020, see s. 42(6)(e)(x)

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

I110 Sch. 5 para. 53(5)(7)(b)(8)(b) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxiv)

- 54 (1) Part 1 of Schedule 8 (general consequential provision) is amended as follows.
- (2) In paragraph 1(1) for “exit day”, in both places where it appears, substitute “ IP completion day ”.
- (3) In paragraph 2—
- (a) in sub-paragraph (1) for “exit day”, wherever it appears, substitute “ IP completion day ”,
- (b) after sub-paragraph (2) insert—
- “(2A) Sub-paragraph (1) does not apply so far as any reference forms part of relevant separation agreement law.”, and
- (c) in sub-paragraph (3) for “and (2)” substitute “ to (2A) ”.
- (4) For paragraph 7 substitute—
- “7 Any power to make, confirm or approve subordinate legislation which, immediately before exit day, is subject to an implied restriction that it is exercisable only compatibly with EU law is to be read—
- (a) on or after exit day, without that restriction, and
- (b) on or after IP completion day, without any corresponding restriction in relation to compatibility with retained EU law,
- so far as the restriction concerned is not applicable to and in the United Kingdom by virtue of the withdrawal agreement.”
- (5) In paragraph 8—
- ^{F25}(a)
- (b) in sub-paragraph (3) for “exit day”, in both places where it appears, substitute “ IP completion day ”.
- (6) In paragraph 9—
- (a) in sub-paragraph (1)—
- (i) for “exit day” substitute “ IP completion day ”, and
- (ii) for “pre-exit” substitute “ pre-IP completion day ”, and
- (b) in sub-paragraph (2)—
- (i) for “pre-exit” substitute “ pre-IP completion day ”, and
- (ii) for “exit day” substitute “ IP completion day ”.
- (7) In paragraph 12—
- ^{F26}(a)
- (b) in sub-paragraph (3)—
- (i) for “, and in the same Session as, this Act” substitute “ this Act and before IP completion day ”, and
- (ii) for “exit day”, in both places where it appears, substitute “ IP completion day ”.
- ^{F27}(8)
- ^{F27}(9)
- ^{F27}(10)

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(11) In paragraph 16—

- (a) in sub-paragraphs (1) and (6) for “exit day” substitute “ IP completion day ”, and
- (b) after sub-paragraph (8) insert—

“(9) This paragraph does not apply where the amendment or revocation of subordinate legislation is for the purposes of—

- (a) the withdrawal agreement (other than Part 4 of that agreement),
- (b) the EEA EFTA separation agreement, or
- (c) the Swiss citizens' rights agreement.”

Textual Amendments

- F25** Sch. 5 para. 54(5)(a) 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), 7(3)
- F26** Sch. 5 para. 54(7)(a) 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), 7(3)
- F27** Sch. 5 para. 54(8)-(10) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), ss. 10(2)(c), 22(1)(d) (with s. 10(3))

Commencement Information

- I111** Sch. 5 para. 54(1)(4)(5)(7) in force at 31.1.2020 by [S.I. 2020/75](#), reg. 4(n)(xxv)
- I112** Sch. 5 para. 54(2)(3)(6), (8)-(11) in force at 31.12.2020 by [S.I. 2020/1622](#), reg. 5(j)
- I113** Sch. 5 para. 54(5)(7) in force at 30.1.2020 for specified purposes by [2020 c. 2](#), reg. 2(11)(c)

55 (1) Part 3 of Schedule 8 (general transitional, transitory or saving provision) is amended as follows.

(2) Before paragraph 37 (but after the italic heading before that paragraph) insert—

“36A(1) Anything done—

- (a) in connection with anything which continues to be domestic law by virtue of section 1A(2) or 1B(2), or
- (b) for a purpose mentioned in section 2(2)(a) or (b) of the European Communities Act 1972 or otherwise related to the EU or the EEA, if in force or effective immediately before exit day, continues to be in force or effective on and after exit day.

(2) Anything done—

- (a) in connection with anything which continues to be domestic law by virtue of section 1A(2) or 1B(2), or
- (b) for a purpose mentioned in section 2(2)(a) or (b) of the European Communities Act 1972 or otherwise related to the EU or the EEA, which, immediately before exit day, is in the process of being done continues to be done on and after exit day.

(3) Sub-paragraphs (1) and (2) are subject to—

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- (a) sections 1 to 1B and the withdrawal of the United Kingdom from the EU,
 - (b) any provision made under section 23(6) of this Act or section 41(5) of the European Union (Withdrawal Agreement) Act 2020, and
 - (c) any other provision made by or under this Act, the European Union (Withdrawal Agreement) Act 2020 or any other enactment.
- (4) References in this paragraph to anything done include references to anything omitted to be done.”
- (3) In paragraph 37—
- (a) in sub-paragraphs (1) and (2) for “exit day”, wherever it appears, substitute “ IP completion day ”,
 - (b) in sub-paragraph (3)(a) for “section 1” substitute “ sections 1 to 1B ”,
 - (c) in sub-paragraph (3)(b) for “6” substitute “ 7C ”,
 - (d) in sub-paragraph (3)(c) after “23(6)” insert “ of this Act or section 41(5) of the European Union (Withdrawal Agreement) Act 2020 ”, and
 - (e) in sub-paragraph (3)(d) after “this Act” insert “ , the European Union (Withdrawal Agreement) Act 2020 ”.

Commencement Information

I114 Sch. 5 para. 55(1)(2) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxvi)

I115 Sch. 5 para. 55(3) in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

- 56 (1) Part 4 of Schedule 8 (specific transitional, transitory and saving provision) is amended as follows.
- (2) In the italic heading before paragraph 38 for “existing EU law” substitute “ saved EU law at end of implementation period ”.
- (3) After that italic heading but before paragraph 38 insert—
- “37A The repeal of section 1A(1) to (4) by section 1A(5) and the repeal of section 1B(1) to (5) by section 1B(6) do not prevent an enactment to which section 2 applies from continuing to be read, on and after IP completion day and by virtue of section 2, in accordance with section 1B(3) or (4).”
- (4) In paragraph 38 for “exit day”, in both places where it appears, substitute “ IP completion day ”.
- (5) In paragraph 39—
- (a) for “exit day”, wherever it appears, substitute “ IP completion day ”, and
 - (b) in sub-paragraph (1)—
 - (i) after “subject to” insert “ relevant separation agreement law (for which see section 7C) and ”, and
 - (ii) after “section 23(6)” insert “ of this Act or section 41(5) of the European Union (Withdrawal Agreement) Act 2020 ”.
- (6) In paragraph 40—
- (a) after “section” insert “ 6(5A), ”
 - (b) after “8,” insert “ 8A ”,
 - (c) omit “9”, and

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(d) after “23(1) or” insert “ Part 1 or 1A of”.

(7) In paragraph 41—

- (a) for “exit day”, wherever it appears, substitute “ IP completion day ”, and
- (b) in sub-paragraph (10) for “the making of regulations under Schedule 2 or 4” substitute “—
 - (a) the making of regulations before exit day under Part 1A of Schedule 2, or
 - (b) the making of regulations under—
 - (i) Part 1B or 1C of Schedule 2, or
 - (ii) Schedule 4.”

(8) In paragraph 42 for “exit day” substitute “ IP completion day ”.

Commencement Information

- I116** Sch. 5 para. 56(1)(6)(b)-(d) in force at 23.1.2020 and Sch. 5 para. 56(1)(7)(b) in force for specified purposes at 23.1.2020, see s. 42(6)(e)(ix)(xi)
- I117** Sch. 5 para. 56(2)-(5), (8) in force at 31.12.2020 by S.I. 2020/1622, **reg. 5(j)**
- I118** Sch. 5 para. 56(6)(a) in force at 19.5.2020 by S.I. 2020/518, **reg. 2(p)(iii)**
- I119** Sch. 5 para. 56(7)(a) in force at 31.1.2020 for specified purposes by S.I. 2020/75, **reg. 4(n)(xxvii)**
- I120** Sch. 5 para. 56(7)(a) in force at 31.12.2020 in so far as not already in force by S.I. 2020/1622, **reg. 5(j)**
- I121** Sch. 5 para. 56(7)(b) in force at 19.5.2020 for specified purposes by S.I. 2020/518, **reg. 2(p)(iv)**

The European Parliamentary Elections Etc. (Repeal, Revocation, Amendment and Saving Provisions) (United Kingdom and Gibraltar) (EU Exit) Regulations 2018

- 57 (1) The European Parliamentary Elections Etc. (Repeal, Revocation, Amendment and Saving Provisions) (United Kingdom and Gibraltar) (EU Exit) Regulations 2018 (S.I. 2018/1310) are amended as follows.
- (2) Omit regulation 3 (cessation of certain rights etc. which form part of domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018).
- (3) In table 2 in Part 2 of Schedule 1 (revocations of certain EU decisions etc.) omit the entries relating to Council Decisions 76/787 and 2002/772.

Commencement Information

- I122** Sch. 5 para. 57 in force at 31.12.2020 by S.I. 2020/1622, **reg. 4(b)**

Legislation (Wales) Act 2019 (anaw 4)

- 58 The Legislation (Wales) Act 2019 is amended as follows.

Commencement Information

- I123** Sch. 5 para. 58 in force at 31.1.2020 by S.I. 2020/75, **reg. 4(n)(xxviii)**

- 59 In section 24 (references to direct EU legislation retained in domestic law after EU exit), in subsection (1)(a)—

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- (a) in the Welsh language text, for “y diwrnod ymadael” substitute “diwrnod cwblhau'r cyfnod gweithredu”, and
- (b) in the English language text, for “exit day” substitute “ implementation period completion day ”.

Commencement Information

I124 Sch. 5 para. 59 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxviii)

- 60 In section 26 (references to EU instruments), in subsection (3)—
- (a) in the Welsh language text, omit “ar gyfer darpariaeth am effaith cyfeiriadau penodol sy'n bodoli cyn y diwrnod ymadael ar y diwrnod ymadael neu ar ôl y diwrnod ymadael”, and
 - (b) in the English language text, omit “for provision about the effect on or after exit day of certain references which exist before exit day”.

Commencement Information

I125 Sch. 5 para. 60 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxviii)

- 61 In the Table in Schedule 1 (definitions of words and expressions), in the Welsh language text—
- (a) after the entry for “Cynulliad Cenedlaethol Cymru (*National Assembly for Wales*)” insert—

“cytundeb ymadael â'r UE (<i>EU</i> mae i <i>withdrawal agreement</i>)	“cytundeb ymadael â'r UE” yr ystyr a roddir i “withdrawal agreement” yn Neddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020 (p. 1) (gweler adran 39(1) a (6) o'r Ddeddf honno)”
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- (b) in the entry for “cytundeb yr AEE (*EEA agreement*)”, for “y diwrnod ymadael” substitute “diwrnod cwblhau'r cyfnod gweithredu”,
- (c) in the entry for “y Cytuniadau (*the Treaties*) neu Cytuniadau'r UE (*EU Treaties*)”, for paragraphs (a) and (b) substitute—
 - “(a) mewn perthynas ag amser cyn diwrnod cwblhau'r cyfnod gweithredu, yr ystyr a roddir i “the Treaties” neu “the EU Treaties” gan Ddeddf y Cymunedau Ewropeaidd 1972 (p. 68) fel y mae'n cael effaith yn rhinwedd adran 1A o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018;
 - (b) mewn perthynas ag amser ar neu ar ôl diwrnod cwblhau'r cyfnod gweithredu, yr ystyr a roddir i “the Treaties” neu “the EU Treaties” gan Ddeddf y Cymunedau Ewropeaidd 1972 fel yr oedd ganddi effaith yn union cyn diwrnod cwblhau'r cyfnod gweithredu, ac mae'n cyfeirio at y Cytuniadau neu Gytuniadau'r UE fel yr oeddent yn union cyn diwrnod cwblhau'r cyfnod gweithredu”,
- (d) after the entry for “y Deyrnas Unedig (*United Kingdom*)” insert—

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“diwrnod cwblhau'r cyfnod mae i “diwrnod cwblhau'r cyfnod gweithredu”
 gweithredu (*implementation* yr ystyr sydd i “IP completion day” o fewn
period completion day) ystyr Deddf yr Undeb Ewropeaidd (Y Cytundeb
 Ymadael) 2020 (p. 1), ac mae ymadroddion
 perthynol i'w dehongli yn unol â hynny (gweler
 adran 39(1) i (5) o'r Ddeddf honno”

- (e) in the entry for “offeryn UE (*EU instrument*)”, for “y diwrnod ymadael” substitute “diwrnod cwblhau'r cyfnod gweithredu”, and
- (f) in the entry for “rhwymedigaeth UE a ddargedwir (*retained EU obligation*)”, for “y diwrnod ymadael” substitute “diwrnod cwblhau'r cyfnod gweithredu”.

Commencement Information

I126 Sch. 5 para. 61 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxviii)

62 In the Table in Schedule 1 (definitions of words and expressions), in the English language text—

- (a) in the entry for “EEA agreement (*cytundeb yr AEE*)”, for “exit day” substitute “implementation period completion day”,
- (b) in the entry for “EU instrument (*offeryn UE*)”, for “exit day” substitute “implementation period completion day”,
- (c) after the entry for “European Court (*Llys Ewropeaidd*)” insert—

“EU withdrawal agreement (*cytundeb ymadael â'r UE*) “EU withdrawal agreement” means the withdrawal agreement within the meaning of the European Union (Withdrawal Agreement) Act 2020 (c. 1) (see section 39(1) and (6) of that Act”

- (d) after the entry for “High Court (*Uchel Llys*)” insert—

“implementation period “implementation period completion day” means completion day (*diwrnod* “IP completion day” within the meaning of the *cyfnod gweithredu*) European Union (Withdrawal Agreement) Act 2020 (c. 1), and related expressions are to be interpreted accordingly (see section 39(1) to (5) of that Act”

- (e) in the entry for “retained EU obligation (*rhwymedigaeth UE a ddargedwir*)”, for “exit day” substitute “implementation period completion day”, and
- (f) in the entry for “the Treaties (*y Cytuniadau*) or the EU Treaties (*Cytuniadau'r UE*)”, for paragraphs (a) and (b) substitute—
 - “(a) in relation to a time before implementation period completion day, has the meaning given by the European Communities Act 1972 (c. 68) as it has effect by virtue of section 1A of the European Union (Withdrawal) Act 2018;
 - (b) in relation to a time on or after implementation period completion day, has the meaning given by the European

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Communities Act 1972 as it had effect immediately before implementation period completion day, and refers to the Treaties or the EU Treaties as they were immediately before implementation period completion day.”

Commencement Information

I127 Sch. 5 para. 62 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxviii)

PART 3

TRANSITIONAL, TRANSITORY AND SAVING PROVISION

Retention of existing grounds for deportation

- 63 (1) If section 10(2) (which inserts section 3(5A) of the Immigration Act 1971) comes into force before IP completion day, section 3(5A) of the Act of 1971 is to be read, until IP completion day, as if—
- (a) for “Article 20 of the EU withdrawal agreement” there were substituted “Article 19(3) of the EU withdrawal agreement”, and
 - (b) for “Article 19 of the EEA EFTA separation agreement” there were substituted “Article 18(3) of the EEA EFTA separation agreement”.
- (2) If section 10(4) (which inserts section 3(10) and (11) of the Immigration Act 1971) comes into force before IP completion day, section 3(10) of the Act of 1971 is to be read, until IP completion day, as if paragraphs (c) and (d) were omitted.
- (3) If section 10(5) (which inserts section 33(6B) to (6D) of the UK Borders Act 2007) comes into force before IP completion day, section 33(6C) of the Act of 2007 is to be read, until IP completion day, as if paragraphs (c) and (d) were omitted.

Commencement Information

I128 Sch. 5 para. 63 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxix)

Certain powers of devolved authorities in relation to EU law

- 64 Section 57(2) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 and section 24(1)(b) of the Northern Ireland Act 1998, so far as relating to EU law, do not apply to the making of regulations under section 12, 13 or 14.

Commencement Information

I129 Sch. 5 para. 64 in force at 19.5.2020 by S.I. 2020/518, reg. 2(p)(v)

Savings in connection with section 36

- 65 Section 36(e) and (f) do not affect the continued operation of the amendments made by section 2 of the European Union (Withdrawal) Act 2019 and section 4 of the European Union (Withdrawal) (No. 2) Act 2019.

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European Union (Withdrawal Agreement) Act 2020. (See end of Document for details)

Regulations under EUWA 2018 etc.

- 66 (1) The fact that a power to make regulations is conferred by this Act in the European Union (Withdrawal) Act 2018 does not affect the extent of any other power to make regulations under that Act.
- (2) The modifications made by this Act to any power to make regulations conferred by the European Union (Withdrawal) Act 2018 do not affect the validity of any regulations made under that power before the coming into force of the modifications.
- (3) Sub-paragraph (2) is subject to any provision made by regulations under section 41(5) above or section 23(6) of the Act of 2018.

Time-limited powers

- 67 The prohibition on making regulations under paragraph 1(3) or 3(2) of this Schedule after the end of the period of one year beginning with IP completion day does not affect the continuation in force of regulations made at or before that time.

Power to make transitional, transitory or saving regulations under EUWA 2018

- 68 (1) The power of a Minister of the Crown under section 23(6) of the European Union (Withdrawal) Act 2018 to make such transitional, transitory or saving provision as the Minister considers appropriate in connection with the coming into force of any provision of that Act includes the power to make such transitional, transitory or saving provision as the Minister considers appropriate in connection with the coming into force (whether by virtue of this Act, this Act and that Act, or otherwise) of any provision of that Act as inserted into that Act, or modified, by or under this Act (and references in the Act of 2018 to the power under section 23(6) of that Act are to be read accordingly).
- (2) Sub-paragraph (1) does not limit the power conferred by section 41(5) above; and the power of a Minister of the Crown under section 25(4) of the European Union (Withdrawal) Act 2018 does not apply to any insertions into, or other modifications of, that Act made by this Act (for which see section 42(6) and (7) above).
- (3) References in this paragraph to any modification made by or under this Act of any provision of the European Union (Withdrawal) Act 2018 include references to any modification made by or under this Act of a provision of another Act which was inserted into that other Act or otherwise modified by the Act of 2018.

Changes to legislation:

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