



# European Union (Future Relationship) Act 2020

## 2020 CHAPTER 29

### PART 4

#### SUPPLEMENTARY AND FINAL PROVISION

##### *Supplementary*

### 37 Interpretation

(1) In this Act—

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“devolved authority” means—

- (a) the Scottish Ministers,
- (b) the Welsh Ministers, or
- (c) a Northern Ireland department;

“enactment” means an enactment whenever passed or made and includes—

- (a) an enactment contained in any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made under an Act of Parliament,
- (b) an enactment contained in any Order in Council made in exercise of Her Majesty's Prerogative,
- (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
- (d) an enactment contained in, or in an instrument made under, a Measure or Act of Senedd Cymru,
- (e) an enactment contained in, or in an instrument made under, Northern Ireland legislation,

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- (f) an enactment contained in any instrument made by a member of the Scottish Government, the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government, a Northern Ireland Minister, the First Minister in Northern Ireland, the deputy First Minister in Northern Ireland or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty,
- (g) an enactment contained in, or in an instrument made under, a Measure of the Church Assembly or of the General Synod of the Church of England, and
- (h) any retained direct EU legislation;
  - “future relationship agreement” means—
    - (a) the Trade and Cooperation Agreement,
    - (b) the Nuclear Cooperation Agreement,
    - (c) the Security of Classified Information Agreement, or
    - (d) any of the following so far as it is not a treaty to which section 20 of the Constitutional Reform and Governance Act 2010 applies (ignoring section 22 of that Act) (treaties to be laid before Parliament before ratification)—
      - (i) a supplementing agreement, or
      - (ii) an agreement under, or otherwise envisaged (whether as part of particular arrangements or otherwise) by, an agreement falling within paragraph (a), (b) or (c) or sub-paragraph (i),

(as the agreement concerned is modified or supplemented from time to time in accordance with any provision of it or of any other agreement falling within paragraph (a), (b) or (c) or this paragraph);

“member State” does not include the United Kingdom;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 and also includes the Commissioners for Her Majesty's Revenue and Customs;

“modify” includes amend, repeal or revoke (and related expressions are to be read accordingly);

“Northern Ireland devolved authority” means the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department;

“the Nuclear Cooperation Agreement” means the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the European Atomic Energy Community for cooperation on the safe and peaceful uses of nuclear energy (as that agreement is modified or supplemented from time to time in accordance with any provision of it or of any other future relationship agreement);

“PNR regulations” has the meaning given by section 7(a);

“power to legislate” does not include a power—

- (a) to make rules of procedure for any court or tribunal, or
- (b) to give directions as to matters of administration;

“primary legislation” means—

- (a) an Act of Parliament,
- (b) an Act of the Scottish Parliament,

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- (c) a Measure or Act of Senedd Cymru, or
- (d) Northern Ireland legislation;

“relevant criminal offence” means an offence for which an individual who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) is capable of being sentenced to imprisonment for a term of more than 2 years (ignoring any enactment prohibiting or restricting the imprisonment of individuals who have no previous convictions);

“relevant national authority” means—

- (a) a Minister of the Crown,
- (b) a devolved authority, or
- (c) a Minister of the Crown acting jointly with one or more devolved authorities;

“retained direct EU CAP legislation” has the same meaning as in the Direct Payments to Farmers (Legislative Continuity) Act 2020 (see section 2(10) of that Act);

“retrospective provision”, in relation to provision made by regulations, means provision taking effect from a date earlier than the date on which the regulations are made;

“the Security of Classified Information Agreement” means the Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland concerning security procedures for exchanging and protecting classified information (as that agreement is modified or supplemented from time to time in accordance with any provision of it or of any other future relationship agreement);

“subordinate legislation” means any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made under any primary legislation; and (except in Part 2 of Schedule 5) includes any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made on or after IP completion day (or, in the case of any retained direct EU CAP legislation, on or after exit day) under any retained direct EU legislation;

“supplementing agreement” means an agreement which constitutes a supplementing agreement by virtue of [F1Article 2] of the Trade and Cooperation Agreement;

“the Trade and Cooperation Agreement” means the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (as that agreement is modified or supplemented from time to time in accordance with any provision of it or of any other future relationship agreement);

“treaty” has the same meaning as in Part 2 of the Constitutional Reform and Governance Act 2010 (see section 25 of that Act);

“tribunal” means any tribunal in which legal proceedings may be brought.

- (2) For the purposes of this Act, examples of where an agreement or part of an agreement is modified or supplemented in accordance with any provision of the agreement or of any other future relationship agreement include where it is modified or supplemented as a result of—

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- (a) a decision or other act of any council, committee, sub-committee or other body of persons established by virtue of the agreement or another future relationship agreement, or
  - (b) any arrangements provided for by virtue of the agreement or another future relationship agreement.
- (3) References in this Act to the Trade and Cooperation Agreement, the Nuclear Cooperation Agreement or the Security of Classified Information Agreement also include references to the agreement concerned—
- (a) as provisionally applied, and
  - (b) as modified or supplemented from time to time on or before its coming into force and otherwise than in accordance with any provision of it or of any other future relationship agreement.
- (4) Subsection (5) applies if, in accordance with any provision of the Trade and Cooperation Agreement, the Nuclear Cooperation Agreement or the Security of Classified Information Agreement, any version of the agreement concerned which results from a process of final legal revision replaces from the beginning the signed version of the agreement and is established as authentic and definitive.
- (5) References in this Act or any other enactment to the Trade and Cooperation Agreement, the Nuclear Cooperation Agreement or (as the case may be) the Security of Classified Information Agreement, or to any provision or collection of provisions of the agreement concerned, are to be read as modified accordingly.

#### Textual Amendments

- F1** Words in s. 37(1) substituted (23.7.2021) by [The European Union \(Future Relationship\) Act 2020 \(References to the Trade and Cooperation Agreement\) Regulations 2021 \(S.I. 2021/884\)](#), reg. 1(2), [Sch.](#) (with reg. 1(3)(a))

### 38 Regulations

Schedule 5 contains provision about regulations under this Act (including provision about procedure).

### 39 Consequential and transitional provision etc.

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate in consequence of this Act.
- (2) The power to make regulations under subsection (1) may (among other things) be exercised by modifying any provision made by or under an enactment.
- (3) Part 1 of Schedule 6 contains consequential provision.
- (4) A Minister of the Crown may by regulations make such transitional, transitory or saving provision as the Minister considers appropriate in connection with the coming into force of any provision of this Act.
- (5) Part 2 of Schedule 6 contains transitional, transitory and saving provision.

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#### Commencement Information

- 11** S. 39(1)(2)(4) in force at Royal Assent and s. 39(3)(5) in force at Royal Assent for specified purposes, see s. 40(6)(f)(g)
- 12** S. 39(3)(5) in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(aa)

#### *Final*

#### **40 Extent, commencement and short title**

- (1) Subject to subsections (2) to (5), this Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Section 25(1) extends to England and Wales and Scotland only.
- (3) Section 25(2) extends to Northern Ireland only.
- (4) Paragraph 2 of Schedule 4 extends to England and Wales and Scotland only.
- (5) Subject to subsection (4), any provision of this Act which amends or repeals an enactment has the same extent as the enactment amended or repealed.
- (6) The following provisions—
  - (a) section 6(1) for the purposes of the Secretary of State giving a direction as provided for in the definition of “designated UK authority”,
  - (b) paragraph 4 of Schedule 2 for the purposes of the Secretary of State giving a direction under regulation 4A(1) of the PNR regulations and any other provision of that Schedule so far as necessary for those purposes (and section 7 so far as relating to those provisions),
  - (c) paragraph 2(1) to (5) of Schedule 3 (and section 9 so far as relating to those provisions),
  - (d) sections 30 to 33,
  - (e) sections 35 to 38 (including Schedule 5),
  - (f) section 39(1), (2) and (4),
  - (g) paragraphs 4 and 11 to 13 of Schedule 6 (and section 39(3) and (5) so far as relating to those paragraphs), and
  - (h) this section,come into force on the day on which this Act is passed.
- (7) The provisions of this Act, so far as they are not brought into force by subsection (6), come into force on such day as a Minister of the Crown may by regulations appoint; and different days may be appointed for different purposes.
- (8) This Act may be cited as the European Union (Future Relationship) Act 2020.

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