

2018 No. 1391

EXITING THE EUROPEAN UNION

EUROPEAN UNION

**The European Institutions and Consular Protection (Amendment
etc.) (EU Exit) Regulations 2018**

<i>Sift requirements satisfied</i>	<i>11th December 2018</i>
<i>Made - - - -</i>	<i>19th December 2018</i>
<i>Laid before Parliament</i>	<i>21st December 2018</i>
<i>Coming into force in accordance with regulation 1</i>	

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(a).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these regulations) have been satisfied.

PART 1

Introduction

Citation, commencement and interpretation

1. These Regulations may be cited as the European Institutions and Consular Protection (Amendment etc.) (EU Exit) Regulations 2018 and come into force on exit day.

2. In these Regulations—

“CJEU” means the Court of Justice of the European Union;

“EUWA” means the European Union (Withdrawal) Act 2018;

“Protocol 3” means Protocol (No 3) of the TFEU on the Statute of the Court of Justice of the European Union;

“Protocol 7” means Protocol (No 7) of the TFEU on the privileges and immunities of the European Union;

“TFEU” means the Treaty on the Functioning of the European Union including the Protocols thereto.

PART 2

Cessation and saving of retained EU rights, etc.

Cessation of rights etc. on exit day

3.—(1) Subject to regulations 4 to 8, any rights, powers, liabilities, obligations, restrictions, remedies and procedures which—

- (a) continue by virtue of section 4(1) of the EUWA; and
- (b) are derived from the provisions set out in paragraph (2),

cease to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly) on and after exit day.

(2) Paragraph (1) applies to the following provisions of the TFEU—

- (a) Articles 20(2)(c) and Article 23, first paragraph;
- (b) Articles 15(3), 24, 227, 228, 339, 340;
- (c) Articles 3 and 4, the fifth paragraph of Article 19, and Articles 42, 56 and 57 of Protocol 3;
- (d) Article 7, first paragraph, and Articles 8 and 9 of Protocol 7;
- (e) Article 11(a) and (b) of Protocol 7 to the extent that it applies, by virtue of Article 20 of Protocol 7, to the Judges, the Advocates-General, the Registrars, Assistant Rapporteurs of the CJEU, and to their spouses and dependent members of their families;
- (f) Article 286(8), to the extent that it applies Articles 11(a) and (b) of Protocol 7 to the Members of the Court of Auditors, and to their spouses and dependent members of their families.

Saving of non-disclosure provision relating to information obtained prior to exit day

4. The obligations and restrictions derived from Article 339 of the TFEU continue to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly) in respect of information obtained prior to exit day.

Saving of immunities of judges from legal proceedings in respect of acts performed by them in their official capacity

5. The rights, powers, obligations and procedures derived from Article 3(1) and (3) of Protocol 3 continue to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly) after exit day in respect of acts performed by judges in their official capacity before exit day.

Saving of immunities of agents, advisers and lawyers that appeared before the Court of Justice before exit day

6. The rights derived from the fifth paragraph of Article 19 of Protocol 3 continue to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly) after exit day in respect of duties exercised by agents, advisers and lawyers in cases before the CJEU before exit day.

Saving of immunities of Members of the European Parliament in relation to the performance of their duties before exit day

7. The rights and restrictions derived from Article 8 of Protocol 7 continue to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly) in respect of opinions expressed or votes cast by Members of the European Parliament in the performance of their duties before exit day.

Saving of immunities of Judges, etc. in relation to acts performed by them in an official capacity before exit day

8. The rights and restrictions derived from Article 11(a) of Protocol 7 as applied by Article 20 of Protocol 7 and by Article 286(8) of the TFEU continue to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly) after exit day in respect of acts performed by Judges, the Advocates-General, Registrars, the Assistant Rapporteurs of the CJEU and Members of the Court of Auditors in their official capacity before exit day (including their words spoken or written).

PART 3

Amendments and revocations in respect of direct retained EU legislation

Amendment of EEC Council Regulation No 1 determining the languages to be used by the European Economic Community

9.—(1) EEC Council Regulation No 1 determining the languages to be used by the European Economic Community is amended as follows.

(2) For Article 1 substitute—

“Any reference in retained EU law to any official language of the European Union or one of the institutions of the European Union (or similar expressions) is to be read as a reference to the English language, unless the contrary intention appears.”.

(3) Omit Articles 2 to 8.

References in retained EU law to the official languages and working languages of the European Atomic Energy Community

10. Any reference in retained EU law to the official languages and working languages of the European Atomic Energy Community (or similar expressions) is to be read as a reference to the English language, unless the contrary intention appears.

Amendment of EEC, Euratom Regulation 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits

11.—(1) EEC, Euratom Regulation 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits is amended as follows.

(2) In Article 1—

(a) omit “or will be”;

(b) after “Community”, in the second place it occurs, insert “unless the contrary intention appears”.

(3) In Article 2—

(a) for paragraph 1, substitute—

“1. For the purposes of this Regulation, ‘public holidays’ means a public holiday in any part of the United Kingdom”;

(b) omit paragraph 2.

(4) In Article 3, after paragraph 5, insert—

“6. The provisions of paragraphs 1 to 5 have effect unless the contrary intention appears”.

Revocation of direct retained EU legislation

12. The direct retained EU legislation set out in the Schedule is revoked.

Signed by authority of the Secretary of State for Exiting the European Union.

19th December 2018

Chris Heaton-Harris
Parliamentary Under Secretary of State,
Department for Exiting the European Union

SCHEDULE

Regulation 12

REVOCATION OF DIRECT RETAINED EU LEGISLATION

Revoked Regulations and Decisions

- 1) Decision No 22/60 of 7 September 1960 on the implementation of Article 15 of the Treaty.
- 2) Regulation No 422/67/EEC, 5/67/Euratom of the Council of 25 July 1967 determining the emoluments of the President and members of the Commission and of the President, Judges, Advocates-General and Registrar of the Court of Justice.
- 3) Regulation No 423/67/EEC, 6/67/Euratom of the Council of 25 July 1967 determining the emoluments of members of the EEC and EAEC Commissions and of the High Authority who have not been appointed members of the Single Commission of the European Communities.
- 4) Regulation (EEC, Euratom, ECSC) No 261/68 of the Council of 29 February 1968 amending Council Regulation No 423/67/EEC, 6/67/Euratom of 25 July 1967 determining the emoluments of members of the EEC and EAEC Commissions and of the High Authority who have not been appointed members of the Single Commission of the European Communities.
- 5) Regulation (EEC, Euratom, ECSC) No 421/68 of the Council of 5 April 1968 amending Council Regulation No 423/67/EEC, 6/67/Euratom of 25 July 1967 determining the emoluments of members of the EEC and EAEC Commissions and of the High Authority who have not been appointed members of the Single Commission of the European Communities.
- 6) Regulation (ECSC, EEC, Euratom) No 2163/70 of the Council of 27 October 1970 amending Regulation No 422/67/EEC, 5/67/Euratom determining the emoluments of the President and members of the Commission, and of the President, Judges, Advocates-General and Registrar of the Court of Justice.
- 7) Regulation (EEC, Euratom, ECSC) No 723/71 of the Council of 30 March 1971 amending Regulation No 422/67/EEC, 5/67/Euratom determining the emoluments of the President and members of the Commission and of the President, Judges, Advocates-General and Registrar of the Court of Justice.
- 8) Council Decision 81/1062/Euratom, ECSC, EEC of 15 December 1981 amending the Council Decision of 4 June 1973 determining the emoluments of former members of the Commission of the European Communities whose duties end on 4 January 1973 and the Council Decision of 14 October 1958 determining the emoluments of former members of the ECSC Court of Justice.
- 9) Decision of the President of the Court 11 October 1989 establishing a Court of First Instance of the European Communities.
- 10) Council Decision 94/114/ECSC, EC, Euratom of 7 February 1994 approving the

Decision of the European Parliament on the regulations and general conditions governing the performance of the Ombudsman's duties.

- 11) Council Decision 94/149/ECSC, EC of 7 March 1994 amending Decision 93/350/Euratom, ECSC, EEC amending Decision 88/591/ECSC, EEC, Euratom establishing a Court of First Instance of the European Communities.
- 12) Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union.
- 13) Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission of 6 March 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry.
- 14) Decision of the Secretary-General of the Council of 27 February 1996 relating to fees in the context of public access to Council documents.
- 15) Commission Decision 1999/218/EC of 25 February 1999 relating to the procedures whereby officials and employees of the European Commission may be allowed access to classified information held by the Commission (notified under document number C(1999) 423).
- 16) Council Decision 1999/493/EC, ECSC, Euratom of 9 July 1999 on the composition of the Commission.
- 17) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.
- 18) Council Decision 2002/105/EC, ECSC, Euratom of 28 January 2002 on the order in which the office of President of the Council shall be held.
- 19) Decision 2002/620/EC of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions and the European Ombudsman of 25 July 2002 establishing a European Communities Personnel Selection.
- 20) Decision 2002/621/EC of the Secretaries-General of the European Parliament, the Council and the Commission, the Registrar of the Court of Justice, the Secretaries-General of the Court of Auditors, the Economic and Social Committee and the Committee of the Regions, and the Representative of the European Ombudsman of 25 July 2002 on the organisation and operation of the European Communities Personnel Selection Office.
- 21) Decision 2003/603/EC of the European Economic and Social Committee of 1 July 2003 on public access to European Economic and Social Committee documents.
- 22) Commission Decision 2003/522/EC of 6 November 2002 establishing an Office for the administration and payment of individual entitlements.
- 23) Commission Decision 2003/523/EC of 6 November 2002 establishing the Office for infrastructure and logistics in Brussels.
- 24) Commission Decision 2003/524/EC of 6 November 2002 establishing the Office for infrastructure and logistics in Luxembourg.
- 25) Decision 2004/605/EC of the Translation Centre for the bodies of the European Union of 13 April 2004 on the implementation of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to documents.
- 26) Council Decision 2005/49/EC, Euratom of 18 January 2005 concerning the operating rules of the committee provided for in Article 3(3) of Annex I to the Protocol on the Statute of the Court of Justice.
- 27) Decision 2005/118/EC of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions and the Ombudsman of 26 January 2005 setting up a European Administrative School.

- 28) Decision 2005/119/EC of the Secretaries-General of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions and the Representative of the European Ombudsman of 26 January 2005 on the organisation and running of the European Administrative School.
- 29) Council Decision 2005/150/EC, Euratom of 18 January 2005 concerning the conditions and arrangements governing the submission and processing of applications for appointment as a judge of the European Union Civil Service Tribunal.
- 30) Council Regulation (EC) No 920/2005 of 13 June 2005 amending Regulation No 1 of 15 April 1958 determining the language to be used by the European Economic Community and Regulation No 1 of 15 April 1958 determining the language to be used by the European Atomic Energy Community and introducing temporary derogation measures from those Regulations.
- 31) Council Decision 2007/5/EC, Euratom of 1 January 2007 determining the order in which the office of President of the Council shall be held.
- 32) Decision 2009/496/EC, Euratom of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions of 26 June 2009 on the organisation and operation of the Publications Office of the European Union.
- 33) Decision 2009/878/EU of the Council (General Affairs) of 1 December 2009 establishing the list of Council configurations in addition to those referred to in the second and third subparagraphs of Article 16(6) of the Treaty on European Union.
- 34) Council Decision 2009/908/EU of 1 December 2009 laying down measures for the implementation of the European Council Decision on the exercise of the Presidency of the Council, and on the chairmanship of preparatory bodies of the Council.
- 35) Decision C(2009) 9848 of the President of the European Commission of 2 December 2009 on the signature of Commission regulations, directives and decisions, when the latter do not specify to whom they are addressed.
- 36) Decision 2010/51 of the Secretaries-General of the European Parliament, the Council and the Commission, the Registrar of the Court of Justice, the Secretaries-General of the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions and the European Ombudsman of 19 January 2010 amending Decision 2002/621/EC on the organisation and operation of the European Communities Personnel Selection Office.
- 37) Council Decision 2010/124 of 25 February 2010 relating to the operating rules of the panel provided for in Article 255 of the Treaty on the Functioning of the European Union.
- 38) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.
- 39) Decision 2011/C 304/05 of the High Representative of the Union for Foreign Affairs and Security Policy of 15 June 2011 on the security rules for the European External Action Service.
- 40) Decision 2012/368/EU, Euratom of the European Parliament, the Council, the Commission, the Court of Justice of the European Union, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions of 29 June 2012 amending Decision 2009/496/EC, Euratom on the organisation and operation of the Publications Office of the European Union.
- 41) Regulation (EU, Euratom) No 741/2012 of the European Parliament and of the Council of 11 August 2012 amending the Protocol on the Statute of the Court of Justice of the European Union and Annex I thereto.
- 42) Regulation (EU) No 1216/2012 of the European Parliament and of the Council of 12

December 2012 introducing, on the occasion of the accession of Croatia to the European Union, special temporary measures for the recruitment of Union officials and temporary staff.

- 43) Commission Decision 2014/839/EU, Euratom of 25 November 2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals.
- 44) Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission.
- 45) Council Decision (EU) 2015/1027 of 23 June 2015 concerning the rules applicable to experts on secondment to the General Secretariat of the Council and repealing Decision 2007/829/EC.
- 46) Council Decision (EU) 2015/1157 of 14 July 2015 determining the composition of the European Economic and Social Committee.
- 47) Council Regulation (EU, Euratom) 2015/2264 of 3 December 2015 extending and phasing out the temporary derogation measures from Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community and Regulation No 1 of 15 April 1958 determining the languages to be used by the European Atomic Energy Community introduced by Regulation (EC) No 920/2005.
- 48) Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders.
- 49) Commission Decision (EU, Euratom) 2016/883 of 31 May 2016 on implementing rules for standard security measures, alert states and management of crisis situations in the Commission pursuant to Article 21 of Decision (EU, Euratom) 2015/443 on security in the Commission.
- 50) Council Decision (EU) 2016/1316 of 26 July 2016 amending Decision 2009/908/EU, laying down measures for the implementation of the European Council Decision on the exercise of the Presidency of the Council, and on the chairmanship of preparatory bodies of the Council.
- 51) Decision (EU) 2016/2386 of the Court of Justice of 20 September 2016 concerning the security rules applicable to information or material produced before the General Court in accordance with Article 105 of its Rules of Procedure.
- 52) Decision 2016/C 445/03 of the Court of Justice of the European Union of 11 October 2016 concerning public access to documents held by the Court of Justice of the European Union in the exercise of its administrative functions.
- 53) Commission Decision (EU, Euratom) 2017/46 of 10 January 2017 on the security of communication and information systems in the European Commission.
- 54) Council Decision (EU) 2017/262 of 6 February 2017 determining, for the General Secretariat of the Council, the appointing authority and the authority empowered to conclude contracts of employment, and repealing Decision 2013/811/EU.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend and revoke the EU legislation that governs the functioning of the institutions of the European Union. They are made in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c.16) (“EUWA”) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) and (b) and (3)(a)) arising from the withdrawal of the UK from the EU.

Part 2 makes repeals and savings of relevant directly effective treaty rights preserved under section 4(1) of the EUWA. In particular, Part 2 ensures that those rights, which will become redundant as result of the UK’s withdrawal from the EU, cease to apply on exit day.

Part 2 also provides for the saving of various immunities provided under the Treaty on the Functioning of the European Union in respect of actions taken by the relevant persons in an official capacity prior to exit day. Regulation 3 revokes, amongst other provisions, provisions relating to the rights of EU citizens to receive (and obligations of Member States to provide) consular or diplomatic protection in the territory of third countries in which the Member State of which they are nationals is not represented.

Part 3 makes amendments and revocations in respect of three EU regulations preserved under section 3 of the Act which will become redundant on and after exit day so as to ensure that they continue to apply to direct retained EU law in their amended form after exit day.

In particular, regulations 9 and 10 amend EU regulations relating to references to the official languages of the European Union while regulation 11 amends the EU regulation relating to the rules on the interpretation of time periods in EU law.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

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