
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the power conferred by paragraph 1(2)(b) of Schedule 1 to the European Union (Withdrawal) Act 2018 (“EUWA”).

These Regulations make provision about the exceptions to the saving and incorporation of EU law set out in paragraph 1 of Schedule 1 to EUWA, which provides that, on or after exit day, no challenge can be brought in the UK courts to retained EU law on the basis that immediately before exit day, an EU instrument (for example, an EU regulation or decision) was invalid.

Regulation 3 provides that this exception for claims in respect of validity will not apply in respect of a certain class of claims. They must be based on whether an EU instrument was invalid immediately before exit day under the grounds in Article 263 TFEU and relate to proceedings which have begun before exit but are not yet decided.

Regulation 4(1) gives jurisdiction to courts and tribunals in the UK to declare an EU instrument invalid in these cases.

Regulation 5 makes provision for notice to be given to a Minister of the Crown or the devolved administrations about any proceedings under these Regulations. Regulation 6 allows for a Minister of the Crown or the devolved administrations to be able to intervene in proceedings under these Regulations.

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

Changes to legislation:

There are currently no known outstanding effects for the The Challenges to Validity of EU Instruments (EU Exit) Regulations 2019.