
STATUTORY INSTRUMENTS

2020 No. 1447

**The European Union Withdrawal (Consequential
Modifications) (EU Exit) Regulations 2020**

PART 1

Introduction

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the European Union Withdrawal (Consequential Modifications) (EU Exit) Regulations 2020.

(2) Regulation 1 and regulation 10 come into force immediately before IP completion day.

(3) Otherwise these Regulations come into force on IP completion day.

(4) A provision of these Regulations that amends or repeals an enactment has the same extent as the enactment amended or repealed.

(5) In these Regulations, “the 2019 Regulations” means the European Union (Withdrawal) Act 2018 (Consequential Modifications and Repeals and Revocations) (EU Exit) Regulations 2019(1).

PART 2

Amendment of UK primary legislation

Amendment of Interpretation Act 1978

2.—(1) The Interpretation Act 1978(2) is amended as follows.

(2) In section 20 (references to other enactments)—

(a) in the heading after “enactments” insert “etc.”,

(b) after subsection (2), insert—

“(2A) Where—

(a) an Act passed on or after IP completion day refers to any treaty relating to the EU or any instrument or other document of an EU entity, and

(b) the treaty, instrument or document has effect by virtue of section 7A or 7B of the European Union (Withdrawal) Act 2018 (general implementation of remainder of EU withdrawal agreement etc.),

the reference, unless the contrary intention appears and so far as required for the purposes of relevant separation agreement law, is a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).”

(1) S.I. 2019/628.

(2) 1978 c. 30.

- (c) in subsection (3), for “Where” substitute “Subject to subsection (2A), where”,
- (d) in subsection (5)—
 - (i) for “subsection (3) or” substitute “subsections (2A) to”, and
 - (ii) for “that subsection” substitute “the subsection concerned”,
- (e) after subsection (5), insert—

“(6) In this section, “treaty” includes any international agreement (and any protocol or annex to a treaty or international agreement).”.
- (3) In section 20A (references to EU instruments), in the heading, after “to” insert “certain”.
- (4) In section 22(1) (application to Acts and Measures)—
 - (a) for “20(3) to (5)” substitute “20(2A) to (6)”, and
 - (b) for “in section 20(3)” substitute “in section 20(2A) or (3)”.
- (5) After paragraph 7 of Schedule 2, insert—

“8. The definition in Schedule 1 of “enactment”, in so far as it relates to retained direct EU legislation, applies to subordinate legislation made at any time before the commencement of this Act as it applies to Acts passed at that time.”.

Amendment of European Union (Withdrawal) Act 2018

- 3.—(1) The European Union (Withdrawal) Act 2018(3) is amended as follows.
- (2) In Schedule 8 (consequential, transitional, transitory and saving provision)—
 - (a) in paragraph 1—
 - (i) in sub-paragraph (1) for “which”, where it first appears, substitute “so far as it”, and
 - (ii) in sub-paragraph (2) for “which” substitute “so far as it”,
 - (b) after paragraph 1, insert—

“Existing ambulatory references to relevant separation agreement law

- 1A.—(1) Any reference which, immediately before IP completion day—
 - (a) exists in—
 - (i) any enactment,
 - (ii) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement which is to form part of domestic law by virtue of section 3, or
 - (iii) any document relating to anything falling within sub-paragraph (i) or (ii), and
 - (b) is a reference to (as it has effect from time to time) any of the EU Treaties, any EU instrument or any other document of an EU entity,

is, if the treaty, instrument or document has effect on or after IP completion day by virtue of section 7A or 7B and so far as required for the purposes of relevant separation agreement law, to be read on or after that day as, or including, a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).

(2) In sub-paragraph (1) “treaty” includes any international agreement (and any protocol or annex to a treaty or international agreement).

(3) Sub-paragraphs (1) and (2) are subject to any other provision made by or under this Act or any other enactment.”

(c) in paragraph 2—

(i) in sub-paragraph (1) for “which”, where it first appears, substitute “so far as it”, and

(ii) in sub-paragraph (2) for “which” substitute “so far as it”.

(d) after paragraph 2, insert—

“Existing non-ambulatory references

2A.—(1) Any reference which, immediately before IP completion day—

(a) exists in—

(i) any enactment, or

(ii) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement which is to form part of domestic law by virtue of section 3, and

(b) is a reference to any of the EU Treaties, any EU instrument or any other document of an EU entity as it has effect at a particular time which is earlier than IP completion day,

is to be read, on or after IP completion day, in accordance with one or more of sub-paragraphs (2) to (4).

(2) If the treaty, instrument or document has effect by virtue of section 7A or 7B on or after IP completion day and so far as required for the purposes of relevant separation agreement law, the reference is to be read on or after that day as, or as including, a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).

(3) So far as—

(a) the reference is a reference to—

(i) any EU regulation, EU decision or EU tertiary legislation,

(ii) any provision of the EEA agreement, or

(iii) any part of anything falling within sub-paragraph (i) or (ii),

(b) what has been referred to (“the subject law”) is to form part of domestic law by virtue of section 3 or forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, and

(c) there has been no relevant modification of the subject law after the particular time and before IP completion day (or, where the subject law forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, before exit day),

the reference is to be read, on or after IP completion day, as a reference to the subject law as it forms part of domestic law by virtue of section 3 or (as the case may be) section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020.

(4) So far as the reference is not to be read in accordance with sub-paragraphs (2) and (3), the reference is to be read, on or after IP completion day, as a reference to the treaty, instrument or document as it had effect in EU law at the particular time.

(5) Sub-paragraph (3) does not determine whether, where the subject law is modified by domestic law on or after IP completion day, the reference is to be read as a reference to the subject law as modified; but, where the subject law forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020 and is modified by domestic law before IP completion day, the reference is to be read by virtue of sub-paragraph (3) as a reference to the subject law as so modified.

(6) This paragraph is subject to any provision made by or under this Act or any other enactment.

(7) In this paragraph—

“relevant modification” means any modification in EU law which—

- (a) is to form part of domestic law by virtue of section 3 or forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, and
- (b) would, if the reference were to the subject law as modified, result in an alteration to the effect of the reference (ignoring any alteration which is irrelevant in the context concerned);

“the subject law” has the meaning given by sub-paragraph (3)(b);

“treaty” includes any international agreement (and any protocol or annex to a treaty or international agreement).”.

PART 3

Amendment of the 2019 Regulations

Replacement of references to “exit day” with “IP completion day”

- 4. In regulation 5(2) of the 2019 Regulations, for “exit day”, substitute “IP completion day”.

PART 4

Scotland

Amendment of Interpretation and Legislative Reform (Scotland) Act 2010

5.—(1) The Interpretation and Legislative Reform (Scotland) Act 2010(4) is amended as follows.

(2) In section 1 (application of Part 1 of the Act), after subsection (1) insert—

“(1A) Subsection (1) is subject to section 14(2A) and (3).”

(3) In section 12 (references to EU instruments), in the heading, after “to” insert “certain”.

(4) In section 14 (references to other legislative provisions)—

(a) after subsection (2), insert—

“(2A) Where—

(a) there is a reference in—

(4) [2010 asp 10](#). Section 14 is amended by regulation 4 of [S.I. 2019/628](#) as amended by [S.I. 2020/463](#). Schedule 1 is amended by [S.I. 2019/628](#), paragraph 37 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1) and paragraph 4 of Schedule 1 to the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2). There are other amendments not relevant to this instrument.

- (i) an Act of the Scottish Parliament the Bill for which received Royal Assent on or after IP completion day, or
 - (ii) a Scottish instrument made on or after IP completion day,
- to any treaty relating to the EU or any instrument or other document of an EU entity, and
- (b) the treaty, instrument or document referred to has effect by virtue of section 7A or 7B of the European Union (Withdrawal) Act 2018 (general implementation of remainder of EU withdrawal agreement etc.),
- the reference, so far as required for the purposes of relevant separation agreement law, is a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).”,
- (b) in subsection (3), at the beginning insert “Subject to subsection (2A),”,
 - (c) in subsection (5)—
 - (i) for “subsection (3) or” substitute “subsections (2A) to”, and
 - (ii) for “that subsection” substitute “the subsection concerned”,
 - (d) after subsection (5) insert—

“(6) In this section, “treaty” includes any international agreement (and any protocol or annex to a treaty or international agreement).”

Interpretation of “the Treaties”, “the EU Treaties” and “the Communities”

6.—(1) The fact that by virtue of regulation 4(5) of the 2019 Regulations—

- (a) the definitions of “the Treaties” and “the EU Treaties” (as defined by section 1(2) of the European Communities Act 1972(5)) in Schedule 2 to the 1999 Order are treated as revoked, and
- (b) definitions of those expressions are treated as inserted into that Schedule,

does not affect the interpretation of those expressions on and after IP completion day in relation to a time before IP completion day.

(2) In its application to Acts of the Scottish Parliament the Bills for which received Royal Assent before 19th June 2008 or to Scottish subordinate legislation made before that date, the definition of “the Communities”, which by virtue of regulation 4(5) of the 2019 Regulations is treated as inserted into Schedule 2 to the 1999 Order, has effect on and after IP completion day, in its application in relation to a time before 19th June 2008, as if the words from “but” to the end were omitted.

(3) In this regulation—

“the 1999 Order” means the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999(6);

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- (5) The definition of “the Treaties” and “the EU Treaties” in section 1(2) of the European Communities Act 1972 (c. 68) was amended by the European Communities (Greek Accession) Act 1979 (c. 57), section 1; the European Communities (Spanish and Portuguese Accession) Act 1985 (c. 75), section 1; the European Communities (Amendment) Act 1986 (c. 58), section 1; the European Communities (Amendment) Act 1993 (c. 32), section 1; the European Parliamentary Elections Act 1993 (c. 41), section 3; the European Economic Area Act 1993 (c. 51), section 1; the European Union (Accessions) Act 1994 (c. 38), section 1; the European Communities (Amendment) Act 1998 (c. 21), section 1; the European Communities (Finance) Act 2001 (c. 22), section 1; the European Communities (Amendment) Act 2002 (c. 3), section 1; the European Union (Accessions) Act 2003 (c. 35), section 1; the European Union (Accessions) Act 2006 (c. 2), section 1; the European Union (Amendment) Act 2008 (c. 7), paragraph 1, the Schedule; the European Union Act 2011 (c. 12), section 15; the European Union (Croatian Accession and Irish Protocol) Act 2013 (c. 5), section 3; the European Union (Finance) 2015 (c. 2015 (c. 32), section 1; S.I. 2011/1043.
 - (6) S.I. 1999/1379; revoked by article 8 of that Order but subject to savings specified in s. 55(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

“Scottish subordinate legislation” has the same meaning as in the 1999 Order.

PART 5

Northern Ireland

Amendment of the Interpretation Act (Northern Ireland) 1954

7.—(1) The Interpretation Act (Northern Ireland) 1954(7) is amended as follows.

(2) In section 11 (references in enactments)—

(a) for subsections (1A) and (1B), substitute—

“(1A) Except to the extent provided by subsection (1AA), subsection (1) does not apply to a reference in an enactment to retained direct EU legislation (but, for provision about references to EU legislation, see—

- (a) paragraphs 1 to 2A of Schedule 8 to the European Union (Withdrawal) Act 2018,
- (b) subsections (1B) to (1F), and
- (c) section 11A).

(1AA) A reference in an enactment to a statutory provision which is subordinate legislation made under retained direct EU legislation is a reference to which subsection (1) applies; and “subordinate legislation” here means subordinate legislation within the meaning of the Interpretation Act 1978 (see section 21(1) of that Act).

(1B) Subsection (1C) applies to a reference in an enactment so far as the reference is to be read in accordance with paragraph 2A(3) of Schedule 8 to the European Union (Withdrawal) Act 2018 (certain references to certain EU laws to be read as referring to those laws as they form part of domestic law).”,

(b) in subsection (1C), for the words from the beginning to “referred to” substitute “The reference is not only to be read in accordance with paragraph 2A(3) of Schedule 8 to that Act but shall also be construed as referring to the subject law (within the meaning given by paragraph 2A(3)(b) of that Schedule)”,

(c) in subsection (1D)(b), after “domestic law” insert “(to any extent)”,

(d) in subsection (1E), at the beginning insert “Subject to section 11A.”.

(3) After section 11 insert—

“References to EU instruments etc which have direct effect

11A.—(1) Subsection (2) applies where—

- (a) an enactment passed or made on or after IP completion day refers to any treaty relating to the EU or any instrument or other document of an EU entity, and
- (b) the treaty, instrument or document has effect by virtue of section 7A or 7B of the European Union (Withdrawal) Act 2018 (general implementation of remainder of EU withdrawal agreement etc).

(2) So far as required for the purposes of relevant separation agreement law, the reference shall be construed as a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).

(3) In this section—

“EU entity” has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018;

“relevant separation agreement law” has the meaning given by section 7C(3) of the European Union (Withdrawal) Act 2018; and

“treaty” includes any international agreement (and any protocol or annex to a treaty or international agreement).”

PART 6

Wales

Amendment of Legislation (Wales) Act 2019

8.—(1) The Legislation (Wales) Act 2019(8) is amended as follows.

(2) In section 24 (references to direct EU legislation retained in domestic law after EU exit), after subsection (2)—

(a) in the English language text insert—

“(2A) But this is subject to section 25A (references to relevant separation agreement law).”;

(b) in the Welsh language text insert—

“(2A) Ond mae hyn yn ddarostyngedig i adran 25A (cyfeiriadau at gyfraith berthnasol y cytundebau gwahanu).”;

(3) After section 25—

(a) in the English language text insert—

“References to relevant separation agreement law

25A. —(1) This section applies where—

(a) an Act of Senedd Cymru receives Royal Assent, or a Welsh subordinate instrument is made, on or after implementation period completion day, and

(b) the Act or instrument refers to any treaty relating to the EU, or any instrument or other document of any EU entity, which has effect by virtue of section 7A or 7B of the European Union (Withdrawal) Act 2018 (c. 16) (general implementation of remainder of EU withdrawal agreement etc.).

(2) The reference is, so far as required for the purposes of relevant separation agreement law, a reference to the treaty, instrument or document as it has effect by virtue of that section (including, so far as required, as it has effect from time to time).

(3) In this section—

“EU entity” (“*endid o’r UE*”) has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018;

“relevant separation agreement law” (“*cyfraith berthnasol y cytundebau gwahanu*”) has the meaning given by section 7C(3) of the European Union (Withdrawal) Act 2018;

(8) 2019 anaw 4. Section 24 is amended by paragraph 59 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1) and S.I. 2020/463. There are other amendments not relevant to this instrument.

“treaty” (“*cytuniad*”) includes any international agreement (and any protocol or annex to a treaty or international agreement).”

(b) in the Welsh language text insert—

“Cyfeiriadau at gyfraith berthnasol y cytundebau gwahanu

25A. —(1) Mae’r adran hon yn gymwys—

(a) pan fo Deddf gan Senedd Cymru yn cael y Cydsyniad Brenhinol, neu pan fo is-offeryn Cymreig yn cael ei wneud, ar neu ar ôl diwrnod cwblhau’r cyfnod gweithredu, a

(b) pan fo’r Ddeddf neu’r offeryn yn cyfeirio at unrhyw gytuniad sy’n ymwneud â’r UE, neu unrhyw offeryn neu ddogfen arall gan unrhyw endid o’r UE, sy’n cael effaith yn rhinwedd adran 7A neu 7B o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) (gweithredu gweddill y cytundeb ymadael â’r UE etc. yn gyffredinol).

(2) Mae’r cyfeiriad, i’r graddau y mae’n ofynnol at ddibenion cyfraith berthnasol y cytundebau gwahanu, yn gyfeiriad at y cytuniad, yr offeryn neu’r ddogfen fel y mae’n cael effaith yn rhinwedd yr adran honno (gan gynnwys, i’r graddau y mae’n ofynnol, fel y mae’n cael effaith o bryd i’w gilydd).

(3) Yn yr adran hon—

mae i “cyfraith berthnasol y cytundebau gwahanu” yr ystyr a roddir i “relevant separation agreement law” gan adran 7C(3) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018;

mae “cytuniad” (“*treaty*”) yn cynnwys unrhyw gytundeb rhyngwladol (ac unrhyw brotocol neu atodiad i gytuniad neu gytundeb rhyngwladol);

mae i “endid o’r UE” yr ystyr a roddir i “EU entity” gan adran 20(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.”

(4) In section 26 (references to EU instruments)—

(a) in the English language text—

(i) in the heading after “to” insert “certain”,

(ii) in subsection (3), for “regulation 2 of the European Union (Withdrawal) Act 2018 (Consequential Modifications and Repeals and Revocations) (EU Exit) Regulations 2019 (S.I. 2019/628)” substitute “paragraph 2A of Schedule 8 to the European Union (Withdrawal) Act 2018 (c.16)”.

(b) in the Welsh language text—

(i) in the heading for “offerynnau’r UE” substitute “offerynnau penodol gan yr UE”,

(ii) in subsection (3), for “reoliad 2 o Reoliadau Deddf yr Undeb Ewropeaidd (Ymadael) 2018 (Addasiadau Canlyniadol a Diddymiadau a Dirymiadau) (Ymadael â’r UE) 2019 (O.S. 2019/628)” substitute “baragraff 2A o Atodlen 8 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16)”.

PART 7

Repeals and revocations

Repeals

9.—(1) The enactments mentioned in the Schedule are repealed to the extent specified.

(2) Where—

- (a) paragraph (1) and the Schedule repeal an enactment (“the amending enactment”) which inserts or otherwise amends another enactment, and
- (b) the inserted or amended enactment is repealed by the European Union (Withdrawal) Act 2018 and there is related transitional or saving provision,

the repeal of the amending enactment does not affect the operation of that transitional or saving provision.

Revocations

10. In the 2019 Regulations, regulation 2 is omitted.

4th December 2020

Michael Gove
Minister for the Cabinet Office
Cabinet Office