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STATUTORY INSTRUMENTS

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**2020 No. 1447**

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

**PART 2**

Amendment of UK primary legislation

**Amendment of European Union (Withdrawal) Act 2018**

- 3.**—(1) The European Union (Withdrawal) Act 2018 <sup>M1</sup> 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.

- [<sup>F1</sup>(6A) This paragraph does not apply to a reference in—
- (a) the Direct Payments to Farmers (Legislative Continuity) Act 2020 or any subordinate legislation made under that Act, or
  - (b) any retained direct EU CAP legislation (within the meaning given by section 2(10) of that Act).]

(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).”.

**F1** Words in reg. 3(2)(d) inserted (31.12.2020 immediately before IP completion day) by [The Spirit Drinks, Wine and European Union Withdrawal \(Consequential Modifications\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1636\)](#), regs. 1(3), 4(2)

**Commencement Information**

**II** Reg. 3 in force at 31.12.2020, see reg. 1(3)

**Marginal Citations**

**M1** 2018 c. 16.

**Changes to legislation:**

There are currently no known outstanding effects for the The European Union Withdrawal (Consequential Modifications) (EU Exit) Regulations 2020, Section 3.