
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) and 8B(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order (a) to address failures of retained EU law to operate effectively and other deficiencies in retained EU law (under section 8(2)(c) of that Act) arising from the withdrawal of the UK from the European Union; and (b) to make provision in relation to the withdrawal agreement.

Regulation 1 makes provision for the title of the Regulations and the date on which they come into force.

Regulation 2 amends the Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019 (“the mediation SI”) before the mediation SI comes into force. It updates the mediation SI to take account of an amendment, made after the mediation SI was made, to a Northern Ireland instrument amended by the mediation SI.

Regulation 3 amends the Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019 (“the civil SI”) before the civil SI comes into force. It corrects an error in the civil SI to ensure that the new section 15C(2)(c) in the Civil Jurisdiction and Judgments Act 1982 (c. 27) reflects the policy intention to replicate, as closely as possible, the special rule for jurisdiction in relation to individual contracts of employment contained in Article 21(1)(b)(ii) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters.

Regulation 4 amends the Family Procedure Rules 2010 and Court of Protection Rules 2017 (Amendment) (EU Exit) Regulations 2019 (“the Rules SI”) before the Rules SI comes into force. It addresses a gap in the transitional provisions of the Rules SI in relation to amendments made by the Rules SI to Part 34 of the Family Procedure Rules concerning reciprocal enforcement of maintenance, ensuring that those transitional provisions operate by reference not only to the transitional provisions of the family SI, but also, where relevant, to those of the civil SI (which will be relevant for ongoing maintenance matters under the Lugano Convention). It also amends the provisions of the Rules SI which amend the Court of Protection Rules 2017 in relation to service of documents outside the jurisdiction, to omit a reference to “Member State” which had been missed, and to correct a cross-reference which mistakenly refers to an omitted provision, so that it refers to the correct provision.

Regulation 5 amends the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (“the family SI”) before the family SI comes into force. It replaces regulation 8 (transitional and savings provisions) of the family SI with provision which makes it clear that (a) nothing in the family SI affects the application of the relevant paragraphs of Article 67 of the withdrawal agreement, so that for the purposes of those paragraphs, the various changes made by the family SI do not have effect (and so the relevant EU instruments will continue to apply as provided by those paragraphs for jurisdiction, recognition and enforcement and co-operation between authorities); (b) where proceedings are commenced, applications and requests for assistance have been received, or maintenance is due to be paid, before IP completion day relying on the intra-UK provisions of Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 those provisions will continue to apply after IP completion day; and (c) choice of court agreements made before IP completion day (including those made pursuant to paragraph 5 of Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011) will continue to be valid after IP completion day. It also corrects an error in the family SI to retain a special

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rule for jurisdiction in relation to maintenance in Scotland. Finally, it makes clear that relevant jurisdictional rules are subject to the limit on proceedings contained in Article 18 of Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague.

Regulation 6 amends the Law Applicable to Contractual Obligations and Non-Contractual Obligations (Amendment etc.) (EU Exit) Regulations 2019 ('Rome SI') before the Rome SI comes into force. It amends definitions of "the Rome Regulation" (Regulation (EC) No. 593/2008) and "the Rome II Regulation" (Regulation (EC) No. 864/2007) in various primary and secondary legislation, and makes amendments to the Rome I Regulation and Rome II Regulation, as they form part of domestic law. The amendments clarify whether references to the Rome I Regulation or Rome II Regulation in domestic law should be understood as references to the versions of those Regulations which form part of retained direct EU legislation, or references to those Regulations as required to be applied by Article 66 of the EU withdrawal agreement, in order to give full effect to that Article of the EU withdrawal agreement.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen. Full impact assessments of the effect that the civil SI and the family SI will have on the costs of business, the voluntary sector and the public sector are available from the Ministry of Justice, 102 Petty France, London SW1H 9AJ and are published with Explanatory Memoranda alongside those instruments on <https://legislation.gov.uk>.