
STATUTORY INSTRUMENTS

2020 No. 1574

The Jurisdiction, Judgments and Applicable Law (Amendment) (EU Exit) Regulations 2020

Amendments to the Law Applicable to Contractual Obligations and Non-Contractual Obligations (Amendment etc.) (EU Exit) Regulations 2019

6.—(1) The Law Applicable to Contractual Obligations and Non-Contractual Obligations (Amendment etc.) (EU Exit) Regulations 2019⁽¹⁾ are amended as follows.

(2) For regulation 2 (amendment of the Prescription and Limitation (Scotland) Act 1973) substitute—

“**2.** For section 23A(5) of the Prescription and Limitation (Scotland) Act 1973⁽²⁾ (application of the Rome I and II Regulations) substitute—

“(5) In subsection (4)—

(a) “the Rome I Regulation” means Regulation (EC) No. 593/2008 of the European Parliament and of the Council on the law applicable to contractual obligations (Rome I) as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 4 of the Law Applicable to Contractual Obligations (Scotland) Regulations 2009), unless the proceedings are ones in respect of which Regulation (EC) No. 593/2008 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article; and

(b) “the Rome II Regulation” means Regulation (EC) No. 864/2007 of the European Parliament and of the Council on the law applicable to non-contractual obligations (Rome II) as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 4 of the Law Applicable to Non-Contractual Obligations (Scotland) Regulations 2008), unless the proceedings are ones in respect of which Regulation (EC) No. 864/2007 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article.”..”

(3) After regulation 2 insert—

“Amendment of the Foreign Limitation Periods Act 1984

2A.—(1) In section 8 of the Foreign Limitation Periods Act 1984⁽³⁾ (disapplication of sections 1, 2 and 4 where the law applicable to limitation is determined by other instruments), for subsections (1A) and (2) substitute—

“(1A) In subsection (1) the “Rome I Regulation” means Regulation (EC) No. 593/2008 of the European Parliament and of the Council on the law applicable to contractual obligations

(1) S.I. 2019/834.

(2) Section 23A was inserted by section 4 of the Prescription and Limitation (Scotland) Act 1984 (c. 45). Relevant amendments were made by S.S.I 2008/404 and 2009/410.

(3) 1984 c. 16. Section 8 was substituted by S.I. 2008/2986 and amended by S.I. 2009/3064.

as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 5 of the Law Applicable to Contractual Obligations (England and Wales and Northern Ireland) Regulations 2009), unless the proceedings are ones in respect of which Regulation (EC) No. 593/2008 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article.

(2) In subsection (1) the “Rome II Regulation” means Regulation (EC) No. 864/2007 of the European Parliament and of the Council on the law applicable to non-contractual obligations as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 6 of the Law Applicable to Non-Contractual Obligations (England and Wales and Northern Ireland) Regulations 2008), unless the proceedings are ones in respect of which Regulation (EC) No. 864/2007 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article.””

(4) In regulation 3 (amendment of the Contracts (Applicable Law) Act 1990(4))—

(a) for paragraph (6) substitute—

“(6) In section 4A (disapplication where the rules in the Rome I Regulation apply: England and Wales and Northern Ireland), for subsection (2) substitute—

“(2) In this section “the Rome I Regulation” means Regulation (EC) No. 593/2008 of the European Parliament and of the Council on the law applicable to contractual obligations as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 5 of the Law Applicable to Contractual Obligations (England and Wales and Northern Ireland) Regulations 2009), unless the issues are ones in respect of which Regulation (EC) No. 593/2008 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article.””

(b) for paragraph (7) substitute—

“(7) In section 4B (disapplication where the rules in the Rome I Regulation apply: Scotland), for subsection (2) substitute—

“(2) In this section—

“the Rome I Regulation” means Regulation (EC) No. 593/2008 of the European Parliament and of the Council on the law applicable to contractual obligations as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 4 of the Law Applicable to Contractual Obligations (Scotland) Regulations 2009), unless the issues are ones in respect of which Regulation (EC) No. 593/2008 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article.””

(5) For regulation 4 (amendment of the Private International Law (Miscellaneous Provisions) Act 1995(5)) substitute—

“Amendment of the Private International Law (Miscellaneous Provisions) Act 1995

4.—(1) The Private International (Miscellaneous Provisions) Act 1995 is amended as follows.

(2) In section 15A (disapplication of Part III where the rules in the Rome II Regulation apply)(6), for subsection (2) substitute—

(4) 1990 c. 36. Section 4A was added by S.I. 2009/3064, section 4B was added by S.S.I. 2009/410.

(5) 1995 c. 42.

(6) Section 15A was inserted by S.I. 2008/2986.

“(2) In this section “the Rome II Regulation” means Regulation (EC) No. 864/2007 of the European Parliament and of the Council on the law applicable to non-contractual obligations as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 6 of the Law Applicable to Non-Contractual Obligations (England and Wales and Northern Ireland) Regulations 2008), unless the issues are ones in respect of which Regulation (EC) No. 864/2007 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article.”

(3) In section 15B (disapplication of Part III where the rules in the Rome II Regulation apply: Scotland)(7), for subsection (2) substitute—

“(2) In this section “the Rome II Regulation” means Regulation (EC) No. 864/2007 of the European Parliament and of the Council on the law applicable to non-contractual obligations as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 4 of the Law Applicable to Non-Contractual Obligations (Scotland) Regulations 2008), unless the issues are ones in respect of which Regulation (EC) No. 864/2007 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article.”

(6) After regulation 4 insert—

“Amendment of the Consumer Rights Act 2015

4A.—(1) The Consumer Rights Act 2015(8) is amended as follows.

(2) In section 32 (contracts applying law of non-EEA State) at the end of subsection (3) insert “as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 5 of the Law Applicable to Contractual Obligations (England and Wales and Northern Ireland) Regulations 2009 and regulation 4 of the Law Applicable to Contractual Obligations (Scotland) Regulations 2009), unless the case is one in respect of which Regulation (EC) No. 593/2008 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case see that Regulation as it has effect by virtue of that Article.”

(3) In section 74 (contracts applying law of non-EEA State) at the end of subsection (2) insert “as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 5 of the Law Applicable to Contractual Obligations (England and Wales and Northern Ireland) Regulations 2009 and regulation 4 of the Law Applicable to Contractual Obligations (Scotland) Regulations 2009), unless the case is one in respect of which Regulation (EC) No. 593/2008 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case see that Regulation as it has effect by virtue of that Article.

Amendment of the Foreign Limitation Periods (Northern Ireland) Order 1985

4B. In Article 9 of the Foreign Limitation Periods (Northern Ireland) Order 1985(9) (disapplication where the law applicable to limitation is determined by other instruments), for paragraphs (1A) and (2) substitute—

“(1A) In paragraph (1) the “Rome I Regulation” means Regulation (EC) No. 593/2008 of the European Parliament and of the Council on the law applicable to contractual obligations as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 5 of the Law Applicable to Contractual Obligations (England and Wales and Northern Ireland) Regulations 2009), unless the proceedings are ones in respect of which Regulation (EC) No. 593/2008 has effect by virtue of Article 66 of the

(7) Section 15B was inserted by S.I. 2008/404.

(8) 2015 c. 15. Relevant amendments are made by S.I. 2018/1326.

(9) 1985 No 754 (N.I. 5). Article 9 was substituted by S.I. 2008/2986 and amended by S.I. 2009/3064.

EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article.

(2) In paragraph (1) the “Rome II Regulation” means Regulation (EC) No. 864/2007 of the European Parliament and of the Council on the law applicable to non-contractual obligations as that Regulation has effect as retained direct EU legislation (including that Regulation as applied by regulation 6 of the Law Applicable to Non-Contractual Obligations (England and Wales and Northern Ireland) Regulations 2008), unless the proceedings are ones in respect of which Regulation (EC) No. 864/2007 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article.”.

(7) In regulation 5 (amendment of the Law Applicable to Non-Contractual Obligations (England and Wales and Northern Ireland) Regulations 2008) for paragraph (c) substitute—

“(c) for “, that Regulation” substitute “, as that Regulation has effect as retained direct EU legislation,”.

(8) In regulation 6 (amendment of the Law Applicable to Contractual Obligations (England and Wales and Northern Ireland) Regulations 2009) for paragraph (c) substitute—

“(c) for “, that Regulation” substitute “, as that Regulation has effect as retained direct EU legislation,”.

(9) For regulation 7 (amendment of the Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2009) substitute—

“Amendment of the Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2009

7.—(1) The Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2009(10) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation), at the end of the definition of “the Rome I Regulation” insert “, as that Regulation has effect as retained direct EU legislation, unless the contractual obligations are ones in respect of which Regulation (EC) No. 593/2008 has effect by virtue of Article 66 of the EU withdrawal agreement, in which case it means that Regulation as it has effect by virtue of that Article.”.

(3) In regulation 3 (application of the Rome I Regulation: conflicts falling within Article 22(2))—

- (a) in the heading, for “falling within Article 22(2)” substitute “between different parts of the United Kingdom”;
- (b) for “Notwithstanding Article 22(2) of the Rome I Regulation, Article 7 of that Regulation” substitute “Article 7 of the Rome I Regulation, as that Regulation has effect as retained direct EU legislation,”.

(10) In regulation 8 (amendment of the Law Applicable to Non-Contractual Obligations (Scotland) Regulations 2008) for paragraph (c) substitute—

“(c) for “, that Regulation” substitute “as that Regulation has effect as retained direct EU legislation,”.

(11) In regulation 9 (amendment of the Law Applicable to Contractual Obligations (Scotland) Regulations 2009) for paragraph (c) substitute—

“(c) for “, that Regulation” substitute “as that Regulation has effect as retained direct EU legislation,”.

- (12) In regulation 10 (amendment of the Rome I Regulation), after paragraph (12) insert—
“(12A) For Article 28 (application in time) substitute—

“Article 28

Application in time

1. Subject to paragraph 2, this Regulation shall apply to contracts concluded on or after IP completion day.

2. In the case of conflicts between the laws of—

- (a) different parts of the United Kingdom, or
- (b) one or more parts of the United Kingdom and Gibraltar,

this Regulation shall apply to contracts concluded on or after 17 December 2009.”.”

- (13) In regulation 11 (amendment of the Rome II Regulation)—

(a) for paragraph (5) substitute—

“(5) In Article 8 (infringement of intellectual property rights), omit paragraph 2.”;

(b) for paragraph (11) substitute—

“(11) For Article 31 (application in time) substitute—

“Article 31

Application in time

1. Subject to paragraph 2, this Regulation shall apply to events giving rise to damage which occur on or after IP completion day.

2. In the case of conflicts between the laws of—

- (a) different parts of the United Kingdom, or
- (b) one or more parts of the United Kingdom and Gibraltar,

this Regulation shall apply to events giving rise to damage which occur on or after 11 January 2009.”.”