



# European Union (Withdrawal Agreement) Act 2020

## 2020 CHAPTER 1

### PART 5

#### GENERAL AND FINAL PROVISION

##### *Parliamentary sovereignty*

#### **38 Parliamentary sovereignty [<sup>F1</sup>and the constitutional status of Northern Ireland]**

- (1) It is recognised that the Parliament of the United Kingdom is sovereign.
- (2) In particular, its sovereignty subsists notwithstanding—
  - (a) directly applicable or directly effective EU law continuing to be recognised and available in domestic law by virtue of section 1A or 1B of the European Union (Withdrawal) Act 2018 (savings of existing law for the implementation period),
  - (b) section 7A of that Act (other directly applicable or directly effective aspects of the withdrawal agreement [<sup>F2</sup>(including the Windsor Framework)]),
  - (c) section 7B of that Act (deemed direct applicability or direct effect in relation to the EEA EFTA separation agreement and the Swiss citizens' rights agreement), and
  - (d) section 7C of that Act (interpretation of law relating to the withdrawal agreement [<sup>F2</sup>(including the Windsor Framework)] (other than the implementation period), the EEA EFTA separation agreement and the Swiss citizens' rights agreement).
- (3) Accordingly, nothing in this Act derogates from the sovereignty of the Parliament of the United Kingdom.
- [<sup>F3</sup>(4) The Windsor Framework is without prejudice to these matters (in particular), which are recognised and continue—

*Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Cross Heading: Parliamentary sovereignty. (See end of Document for details)*

- (a) the constitutional status of Northern Ireland as part of the United Kingdom,
  - (b) Northern Ireland’s part in the economy of the United Kingdom, including its customs territory and internal market,
  - (c) the power of the Parliament of the United Kingdom to make laws for Northern Ireland, and
  - (d) the vesting of executive power in Northern Ireland in His Majesty.
- (5) The enactments which make provision—
- (a) about the constitutional status of Northern Ireland, the power of the Parliament of the United Kingdom to make laws for Northern Ireland and the vesting of executive power in Northern Ireland include—
    - (i) the Northern Ireland Act 1998 (section 1 of which relates to the principle of consent), and
    - (ii) the Union with Ireland Act 1800 and the Act of Union (Ireland) 1800, and
  - (b) about Northern Ireland’s part in the economy of the United Kingdom, including its customs territory and internal market, include the United Kingdom Internal Market Act 2020.]

#### Textual Amendments

- F1** Words in s. 38 heading inserted (20.2.2024) by [The Windsor Framework \(Constitutional Status of Northern Ireland\) Regulations 2024 \(S.I. 2024/164\)](#), regs. 1(2), **2(2)(a)**
- F2** Words in s. 38(2) inserted (20.2.2024) by [The Windsor Framework \(Constitutional Status of Northern Ireland\) Regulations 2024 \(S.I. 2024/164\)](#), regs. 1(2), **2(2)(b)**
- F3** S. 38(4)(5) inserted (20.2.2024) by [The Windsor Framework \(Constitutional Status of Northern Ireland\) Regulations 2024 \(S.I. 2024/164\)](#), regs. 1(2), **2(2)(c)**

#### [<sup>F4</sup>38A Prohibition of certain Northern Ireland-related agreements

- (1) His Majesty’s Government must not ratify a Northern Ireland-related agreement with the European Union that would create a new regulatory border between Great Britain and Northern Ireland.
- (2) Before His Majesty’s Government ratifies a Northern Ireland-related agreement with the European Union that would not create a new regulatory border between Great Britain and Northern Ireland, a Minister of the Crown must lay before Parliament a statement explaining why the agreement does not create a new regulatory border.
- (3) In this section—
  - “a new regulatory border” has the meaning given in paragraph 18(5) of Schedule 6B to the Northern Ireland Act 1998;
  - “a Northern Ireland-related agreement with the European Union” means a written agreement that—
    - (a) is between the United Kingdom, of the one part, and the European Union or the European Union and its Member States, of the other part, including—
      - (i) a supplementing agreement of the kind referred to in Article 2 of the Trade and Cooperation Agreement, and
      - (ii) an agreement of the kind referred to in Article 13(8) of the Windsor Framework,

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- (b) is binding under international law,
- (c) supersedes (in whole or in part) or supplements the Windsor Framework, and
- (d) relates to any matter to which the Windsor Framework relates (whether or not it also relates to any other matter), including—
  - (i) customs matters and matters relating to the customs territory of the United Kingdom,
  - (ii) the movement of goods into Northern Ireland,
  - (iii) the United Kingdom internal market for goods and services,
  - (iv) technical regulations, assessments, registrations, certificates, approvals and authorisations, and
  - (v) VAT and excise;

“ratify” has the meaning given in s 25(3) of the Constitutional Reform and Governance Act 2010;

“Trade and Cooperation Agreement” has the meaning given in section 37(1) of the European Union (Future Relationship) Act 2020.]

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**Textual Amendments**

- F4** S. 38A inserted (20.2.2024) by [The Windsor Framework \(Constitutional Status of Northern Ireland\) Regulations 2024 \(S.I. 2024/164\)](#), regs. 1(2), **2(3)**

**Changes to legislation:**

There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Cross Heading: Parliamentary sovereignty.