

*Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Cross Heading: European Union (Withdrawal) Act 2018. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5

#### CONSEQUENTIAL AND TRANSITIONAL PROVISION ETC.

#### PART 2

#### SPECIFIC CONSEQUENTIAL PROVISION ETC.

##### *European Union (Withdrawal) Act 2018*

- 38 The European Union (Withdrawal) Act 2018 is amended as follows.
- 39 In the italic heading before section 2, for “existing EU law” substitute “ saved EU law at end of implementation period ”.

#### Commencement Information

- II** Sch. 5 para. 39 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

- 40 (1) Section 7 (status of retained EU law) is amended as follows.
- (2) In subsection (1)(b) for “section 2” substitute “ section 1A(2) or 1B(2) ”.
- (3) After subsection (1) insert—
- “(1A) Anything which—
- (a) was, immediately before IP completion day, primary legislation of a particular kind, subordinate legislation of a particular kind or another enactment of a particular kind, and
- (b) continues to be domestic law on and after IP completion day by virtue of section 2,
- continues to be domestic law as an enactment of the same kind.”
- (4) In subsection (5)—
- (a) in paragraph (a) after “(3)” insert “ and (7) ”, and
- (b) after paragraph (b) insert—
- “(ba) section 7C (status of case law of European Court etc. in relation to retained EU law which is relevant separation agreement law),”.
- (5) In subsection (6) for “exit day”, wherever it appears, substitute “ IP completion day ”.

#### Commencement Information

- I2** Sch. 5 para. 40(1)(2)(5) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xv)

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**I3** Sch. 5 para. 40(3)(4) in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

- 41 (1) Section 10 (continuation of North-South co-operation and the prevention of new border arrangements) is amended as follows.
- (2) In the heading—
- (a) for “Continuation of” substitute “Protection for”, and
- (b) omit “the”.
- (3) In subsection (2)—
- (a) omit “, 9”, and
- (b) in paragraph (a) omit “(as defined by section 98 of the Northern Ireland Act 1998)”.

**Commencement Information**

**I4** Sch. 5 para. 41(1)(3)(a) in force at 23.1.2020, see s. 42(6)(e)(viii)

**I5** Sch. 5 para. 41(2), (3)(b) in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

- 42 In section 11 (powers involving devolved authorities corresponding to sections 8 and 9), in the heading and the text of the section, for “and 9” substitute “to 8C”.
- 43 In the italic cross-heading before section 13, for “approval of outcome of EU negotiations” substitute “oversight of withdrawal”.

**Commencement Information**

**I6** Sch. 5 para. 43 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xvi)

- 44 (1) Section 20 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) after the definition of “Charter of Fundamental Rights” insert—
- ““Commons sitting day” means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day);”,
- (b) in the definition of “domestic law”, in paragraph (a), for “section 3” substitute “sections 3, 7A and 7B”,
- (c) in the definition of “enactment”, in paragraph (h), for “2” substitute “1B”,
- (d) after the definition of “exit day” insert—
- ““Joint Committee” means the Joint Committee established by Article 164(1) of the withdrawal agreement;
- “Lords sitting day” means a day on which the House of Lords is sitting (and a day is only a day on which the House of Lords is sitting if the House begins to sit on that day);”,
- (e) after the definition of “public authority” insert—
- ““ratify”, whether in relation to the withdrawal agreement or otherwise, has the same meaning as it does for the purposes of Part

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- 2 of the Constitutional Reform and Governance Act 2010 in relation to a treaty (see section 25 of that Act);”
- (f) in the definition of “retained direct EU legislation” for “exit day” substitute “ IP completion day ”,
  - (g) in the definition of “subordinate legislation” for “exit day” substitute “ IP completion day ”, and
  - (h) omit the definition of “withdrawal agreement”.
- (3) After subsection (5) insert—
- “(5A) In this Act references to anything which continues to be domestic law by virtue of section 1B(2) include—
- (a) references to anything to which section 1B(2) applies which continues to be domestic law on or after exit day (whether or not it would have done so irrespective of that provision), and
  - (b) references to anything which continues to be domestic law on or after exit day by virtue of section 1B(2) (as that body of law is added to or otherwise modified by or under this Act or by other domestic law from time to time).”
- (4) In subsection (6) for “exit day” substitute “ IP completion day ”.

**Commencement Information**

- I7** Sch. 5 para. 44(1)(2)(a)(d)(e)(3) in force at 23.1.2020, see s. 42(6)(e)(viii)
- I8** Sch. 5 para. 44(2)(b)(c)(f)-(h)(4) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xvii)

- 45 In the table in section 21(1) (index of defined expressions)—
- (a) before the entry for “Anything which continues to be domestic law by virtue of section 2” (and after the headings for the table) insert—
- |   |                   |
|---|-------------------|
| “Anything which continues to be domestic law by                                       | Section 20(5A)”   |
| virtue of section 1B(2)   |                   |
| (b) after the entry for “Charter of Fundamental Rights” insert—                       |                   |
| “Commons sitting day  | Section 20(1)”    |
| (c) after the entry for “EEA agreement” insert—                                       |                   |
| “EEA EFTA separation agreement  | Section 7B(6)”    |
| (d) after the entry for “EU decision” insert—   |                   |
| “EU-derived domestic legislation  | Section 1B(7)”    |
| (e) after the entry for “EU regulation” insert—                                       |                   |
| “European Communities Act 1972  | Section 1A(7)(a)” |
| (f) after the entry for “Former Article 34(2)(c) of Treaty on European Union” insert— |                   |

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“Implementation period	Section 1A(6)
IP completion day (and related expressions)	Section 1A(6)
Joint Committee	Section 20(1)
Lords sitting day	Section 20(1)”,
(g) after the entry for “Operative (in relation to direct EU legislation)” insert—	
“Part (of withdrawal agreement or EEA EFTA Section 1A(7)(b)”, separation agreement)	
(h) after the entry for “Public authority in the United Kingdom (however expressed)” insert—	
“Qualifying Northern Ireland goods	Section 8C(6)
Ratify	Section 20(1)”,
(i) after the entry for “relevant criminal offence” insert—	
“Relevant separation agreement law	Section 7C(3)”,
(j) after the entry for “subordinate legislation” insert—	
“Swiss citizens' rights agreement	Section 7B(6)”, and
(k) in the entry for “Withdrawal agreement” for “Section 20(1)” substitute “ Section 1A(6) ”.	

**Commencement Information**

**I9** Sch. 5 para. 45 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xviii)

- 46 (1) Section 23 (consequential and transitional provision) is amended as follows.
- (2) In subsection (3) for “the end of the Session in which this Act is passed” substitute “ IP completion day ”.
- (3) In subsection (4) for “exit day” substitute “ IP completion day ”.
- (4) In subsection (6) after “exit day” insert “ or IP completion day ”.

**Commencement Information**

**I10** Sch. 5 para. 46 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xix)

- 47 (1) Schedule 4 (powers in connection with fees and charges) is amended as follows.
- (2) In paragraph 1(1) omit paragraph (b) and the word “or” before it.
- (3) In paragraph 5(1) for “exit day” substitute “ IP completion day ”.
- (4) In paragraph 6 for “section 8 or 9” substitute “ sections 8 to 8C ”.

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(5) In paragraph 8(a) for “the repeal of that section by section 1” substitute “ IP completion day ”.

(6) In paragraph 11 for “section 8 or 9” substitute “ sections 8 to 8C ”.

#### Commencement Information

**I11** Sch. 5 para. 47(1)(2)(4)(6) in force at 23.1.2020, see s. 42(6)(e)(viii)

**I12** Sch. 5 para. 47(3)(5) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xx)

- 48 (1) Schedule 5 (publication and rules of evidence) is amended as follows.
- (2) In paragraphs 1(1)(a) and (5)(a) and (b) and 2(1) for “exit day” substitute “ IP completion day ”.
- (3) In paragraph 3—
- (a) in sub-paragraph (1)—
- (i) for “, for the purpose of interpreting retained EU law in legal proceedings,” substitute “ in legal proceedings ”, and
- (ii) omit “for that purpose”, and
- (b) in sub-paragraph (2) omit the definition of “interpreting retained EU law”.
- (4) In paragraph 4—
- (a) in sub-paragraph (4) for “the end of the Session in which this Act is passed” substitute “ IP completion day ”, and
- (b) in sub-paragraph (5)—
- (i) after paragraph (c) but before the “and” at the end of that paragraph insert—
- “(ca) the EEA EFTA separation agreement,  
(cb) the Swiss citizens' rights agreement,  
(cc) the withdrawal agreement,”, and
- (ii) in paragraph (d) for “or (c)” substitute “, (c), (ca), (cb) or (cc) ”.

#### Commencement Information

**I13** Sch. 5 para. 48(1)(2)(4) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxi)

**I14** Sch. 5 para. 48(3) in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

- 49 (1) Schedule 6 (instruments which are exempt EU instruments) is amended as follows.
- (2) Omit paragraphs 1(1), 2 and 4.
- (3) In paragraph 3—
- (a) omit “or EU regulation” in paragraph (a), and
- (b) omit paragraph (b) and the word “or” before it.

#### Commencement Information

**I15** Sch. 5 para. 49 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxii)

- 50 In Part 1 of Schedule 7 (scrutiny of powers to deal with deficiencies)—

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- (a) in paragraph 2(17), for “and (15)” substitute “ to (16) ”,
- (b) in paragraph 3(11), omit paragraphs (b) and (c) and the words after paragraph (c),
- (c) omit paragraph 4(9),
- (d) omit paragraph 6(7),
- (e) omit paragraph 7(9), and
- (f) omit paragraph 8(7).

51 After Part 1 of Schedule 7 insert—

### “PART 1A

#### SCRUTINY OF SPECIFIC POWERS RELATING TO WITHDRAWAL AGREEMENT ETC.

##### *Powers in connection with Part 4 of the withdrawal agreement*

- 8A A statutory instrument containing regulations under section 1A(3)(a)(ii) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- 8B (1) A statutory instrument containing regulations under section 8A which amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Any other statutory instrument containing regulations under section 8A is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations under Part 1A of Schedule 2 of the Scottish Ministers acting alone which amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (4) Any other regulations under Part 1A of Schedule 2 of the Scottish Ministers acting alone are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (5) A statutory instrument containing regulations under Part 1A of Schedule 2 of the Welsh Ministers acting alone which amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

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- (6) Any other statutory instrument containing regulations under Part 1A of Schedule 2 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (7) Regulations under Part 1A of Schedule 2 of a Northern Ireland department acting alone which amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (8) Any other regulations under Part 1A of Schedule 2 of a Northern Ireland department acting alone are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- 8C (1) This paragraph applies to regulations under Part 1A of Schedule 2 of a Minister of the Crown acting jointly with a devolved authority.
- (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
- (3) A statutory instrument containing regulations to which this paragraph applies which amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any other statutory instrument containing regulations to which this paragraph applies is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- are subject to the affirmative procedure.
- (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the negative procedure.
- (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation

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to regulations to which sub-paragraph (6) applies as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).

- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (14) If in accordance with sub-paragraph (4), (6), (11) or (13)—
- (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
  - (b) a relevant devolved legislature resolves that an instrument be annulled,
- nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.
- (15) In sub-paragraph (14) “relevant devolved legislature” means—
- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
  - (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and



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- (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.

*Powers in connection with other separation issues in the withdrawal agreement etc.*

- 8D
- (1) A statutory instrument containing regulations under section 8B which amend, repeal or revoke—
    - (a) primary legislation, or
    - (b) retained direct principal EU legislation,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
  - (2) Any other statutory instrument containing regulations under section 8B is subject to annulment in pursuance of a resolution of either House of Parliament.
  - (3) Regulations under Part 1B of Schedule 2 of the Scottish Ministers acting alone which amend, repeal or revoke—
    - (a) primary legislation, or
    - (b) retained direct principal EU legislation,are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).
  - (4) Any other regulations under Part 1B of Schedule 2 of the Scottish Ministers acting alone are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
  - (5) A statutory instrument containing regulations under Part 1B of Schedule 2 of the Welsh Ministers acting alone which amend, repeal or revoke—
    - (a) primary legislation, or
    - (b) retained direct principal EU legislation,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
  - (6) Any other statutory instrument containing regulations under Part 1B of Schedule 2 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
  - (7) Regulations under Part 1B of Schedule 2 of a Northern Ireland department acting alone which amend, repeal or revoke—
    - (a) primary legislation, or
    - (b) retained direct principal EU legislation,may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

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- (8) Any other regulations under Part 1B of Schedule 2 of a Northern Ireland department acting alone are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- 8E (1) This paragraph applies to regulations under Part 1B of Schedule 2 of a Minister of the Crown acting jointly with a devolved authority.
- (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
- (3) A statutory instrument containing regulations to which this paragraph applies which amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any other statutory instrument containing regulations to which this paragraph applies is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- are subject to the affirmative procedure.
- (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the negative procedure.
- (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (6) applies as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before

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- that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and amend, repeal or revoke—
- (a) primary legislation, or
  - (b) retained direct principal EU legislation,
- may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (14) If in accordance with sub-paragraph (4), (6), (11) or (13)—
- (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
  - (b) a relevant devolved legislature resolves that an instrument be annulled,
- nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.
- (15) In sub-paragraph (14) “relevant devolved legislature” means—
- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
  - (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and
  - (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.

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*Powers in connection with the Ireland/Northern  
Ireland Protocol in the withdrawal agreement*

- 8F (1) A statutory instrument containing regulations under section 8C(1) which contain provision falling within sub-paragraph (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Provision falls within this sub-paragraph if it—
- (a) amends, repeals or revokes primary legislation or retained direct principal EU legislation,
  - (b) establishes a public authority,
  - (c) relates to a fee in respect of a function exercisable by a public authority in the United Kingdom,
  - (d) creates, or widens the scope of, a criminal offence,
  - (e) creates or amends a power to legislate, or
  - (f) facilitates the access to the market within Great Britain of qualifying Northern Ireland goods.
- (3) Any other statutory instrument containing regulations under section 8C(1) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing regulations under section 8C(6) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Regulations under Part 1C of Schedule 2 of the Scottish Ministers acting alone which contain provision falling within sub-paragraph (2) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (6) Any other regulations under Part 1C of Schedule 2 of the Scottish Ministers acting alone are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (7) A statutory instrument containing regulations under Part 1C of Schedule 2 of the Welsh Ministers acting alone which contain provision falling within sub-paragraph (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (8) Any other statutory instrument containing regulations under Part 1C of Schedule 2 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (9) Regulations under Part 1C of Schedule 2 of a Northern Ireland department acting alone which contain provision falling within sub-paragraph (2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

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- (10) Any other regulations under Part 1C of Schedule 2 of a Northern Ireland department acting alone are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- 8G (1) This paragraph applies to regulations under Part 1C of Schedule 2 of a Minister of the Crown acting jointly with a devolved authority.
- (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
- (3) A statutory instrument containing regulations to which this paragraph applies which contain provision falling within paragraph 8F(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any other statutory instrument containing regulations to which this paragraph applies is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and contain provision falling within paragraph 8F(2) are subject to the affirmative procedure.
- (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the negative procedure.
- (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (6) applies as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and contain provision falling within paragraph 8F(2) may not be made unless a draft

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of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and contain provision falling within paragraph 8F(2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (14) If in accordance with sub-paragraph (4), (6), (11) or (13)—
- (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
  - (b) a relevant devolved legislature resolves that an instrument be annulled,
- nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.
- (15) In sub-paragraph (14) “relevant devolved legislature” means—
- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
  - (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and
  - (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.”

#### **Commencement Information**

**I16** Sch. 5 para. 51 in force for specified purposes at 23.1.2020, see s. 42(6)(e)(ix)

**I17** Sch. 5 para. 51 in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(n)(xxiii)

**I18** Sch. 5 para. 51 in force at 19.5.2020 in so far as not already in force by S.I. 2020/518, reg. 2(p)(i)

- 52 (1) Part 2 of Schedule 7 (scrutiny of other powers under Act) is amended as follows.
- (2) After paragraph 9 insert—

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*“Power in relation to interpretation of retained EU law*

- 9A A statutory instrument containing regulations under section 6(5A) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”
- (3) Omit paragraph 10 (and the italic cross-heading before it).
- (4) In the italic cross-heading before paragraph 17 omit “certain implementation or”.
- (5) In paragraph 17—
- (a) in sub-paragraph (1) omit “10(3) or”,
  - (b) in sub-paragraph (11) omit paragraphs (b) and (c) and the words after paragraph (c), and
  - (c) in sub-paragraph (12) omit “10(3) or”.
- (6) Omit paragraph 18 (and the italic cross-heading before it).
- (7) In paragraph 19—
- (a) in sub-paragraph (1)—
    - (i) in paragraph (a) omit “, 10(1)”, and
    - (ii) in paragraph (b) omit “10(3)”,
  - (b) omit sub-paragraph (7), and
  - (c) in sub-paragraph (8) omit “10(3) or”.

**Commencement Information**

**I19** Sch. 5 para. 52(1)(3)-(7) in force at 23.1.2020, see s. 42(6)(e)(x)

**I20** Sch. 5 para. 52(2) in force at 19.5.2020 by S.I. 2020/518, reg. 2(p)(ii)

- 53 (1) Part 3 of Schedule 7 (general provision about powers under Act) is amended as follows.
- (2) In paragraph 21—
- (a) in paragraph (a)(i) after “modify” insert “ anything which continues to be domestic law by virtue of section 1B(2) or any ”, and
  - (b) in paragraph (b) for “any retained EU law” substitute “ anything which continues to be domestic law by virtue of section 1B(2), or any retained EU law, ”.
- (3) In paragraph 23—
- (a) in sub-paragraph (1) for “sections 2” substitute “ sections 1A ”,
  - (b) in sub-paragraph (2) after “Accordingly,” insert “ anything which continues to be domestic law by virtue of section 1B(2) or ”,
  - (c) in sub-paragraph (3) for “sections 2” substitute “ sections 1A ”,
  - (d) in sub-paragraph (4)(b) for “sections 2” substitute “ sections 1A ”, and
  - (e) in sub-paragraph (5) for “retained EU law” substitute “ anything which continues to be domestic law by virtue of section 1B(2), or as retained EU law, ”.
- (4) After paragraph 23 insert—

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*“Anticipatory exercise of powers in relation to section 1B(2) saved law*

23A Any power to make regulations under this Act which modify anything which continues to be domestic law by virtue of section 1B(2) is capable of being exercised before exit day so that the regulations come into force on or after exit day.”

(5) In paragraph 24 for “exit day”, in both places where it appears, substitute “ IP completion day ”.

(6) After paragraph 24 insert—

*“Anticipatory exercise of powers in relation to the withdrawal agreement etc.*

24A Any power to make regulations under this Act in relation to the withdrawal agreement, the EEA EFTA separation agreement or the Swiss citizens' rights agreement, or any modification of any of them which requires ratification, is capable of being exercised before the agreement or (as the case may be) modification concerned is ratified.”

(7) In paragraph 28—

- (a) in sub-paragraph (1)(a) omit “, 9” and “or 12(2)”, and
- (b) in sub-paragraph (6)(c) for “exit day” substitute “ IP completion day ”.

(8) In paragraph 29—

- (a) in sub-paragraph (1)(a), omit “or 2”, and
- (b) in sub-paragraph (6)(c) for “exit day” substitute “ IP completion day ”.

(9) In paragraph 30(1)(a) omit “or 9”.

(10) In paragraph 31(1)(a) omit “or 2”.

(11) In paragraph 32(1) omit “or 9”.

(12) In paragraph 33(1) omit “or 2”.

(13) In paragraph 35(1) omit “(whether or not as applied by paragraph 19(7))”.

**Commencement Information**

**I21** Sch. 5 para. 53(1)-(4)(6)(7)(a)(8)(a)(9)-(13) in force at 23.1.2020, see s. 42(6)(e)(x)

**I22** Sch. 5 para. 53(5)(7)(b)(8)(b) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxiv)

54 (1) Part 1 of Schedule 8 (general consequential provision) is amended as follows.

(2) In paragraph 1(1) for “exit day”, in both places where it appears, substitute “ IP completion day ”.

(3) In paragraph 2—

- (a) in sub-paragraph (1) for “exit day”, wherever it appears, substitute “ IP completion day ”,
- (b) after sub-paragraph (2) insert—



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“(2A) Sub-paragraph (1) does not apply so far as any reference forms part of relevant separation agreement law.”, and

(c) in sub-paragraph (3) for “and (2)” substitute “ to (2A) ”.

(4) For paragraph 7 substitute—

“7 Any power to make, confirm or approve subordinate legislation which, immediately before exit day, is subject to an implied restriction that it is exercisable only compatibly with EU law is to be read—

(a) on or after exit day, without that restriction, and

(b) on or after IP completion day, without any corresponding restriction in relation to compatibility with retained EU law,

so far as the restriction concerned is not applicable to and in the United Kingdom by virtue of the withdrawal agreement.”

(5) In paragraph 8—

<sup>F1</sup>(a) .....

(b) in sub-paragraph (3) for “exit day”, in both places where it appears, substitute “ IP completion day ”.

(6) In paragraph 9—

(a) in sub-paragraph (1)—

(i) for “exit day” substitute “ IP completion day ”, and

(ii) for “pre-exit” substitute “ pre-IP completion day ”, and

(b) in sub-paragraph (2)—

(i) for “pre-exit” substitute “ pre-IP completion day ”, and

(ii) for “exit day” substitute “ IP completion day ”.

(7) In paragraph 12—

<sup>F2</sup>(a) .....

(b) in sub-paragraph (3)—

(i) for “, and in the same Session as, this Act” substitute “ this Act and before IP completion day ”, and

(ii) for “exit day”, in both places where it appears, substitute “ IP completion day ”.

<sup>F3</sup>(8) .....

<sup>F3</sup>(9) .....

<sup>F3</sup>(10) .....

(11) In paragraph 16—

(a) in sub-paragraphs (1) and (6) for “exit day” substitute “ IP completion day ”, and

(b) after sub-paragraph (8) insert—

“(9) This paragraph does not apply where the amendment or revocation of subordinate legislation is for the purposes of—

(a) the withdrawal agreement (other than Part 4 of that agreement),

(b) the EEA EFTA separation agreement, or

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(c) the Swiss citizens' rights agreement.”

#### Textual Amendments

- F1** Sch. 5 para. 54(5)(a) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), 7(3)
- F2** Sch. 5 para. 54(7)(a) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), 7(3)
- F3** Sch. 5 para. 54(8)-(10) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), **ss. 10(2)(c)**, 22(1)(d) (with s. 10(3))

#### Commencement Information

- I23** Sch. 5 para. 54(1)(4)(5)(7) in force at 31.1.2020 by [S.I. 2020/75](#), **reg. 4(n)(xxv)**
- I24** Sch. 5 para. 54(2)(3)(6), (8)-(11) in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 5(j)**
- I25** Sch. 5 para. 54(5)(7) in force at 30.1.2020 for specified purposes by [2020 c. 2](#), **reg. 2(11)(c)**

- 55 (1) Part 3 of Schedule 8 (general transitional, transitory or saving provision) is amended as follows.
- (2) Before paragraph 37 (but after the italic heading before that paragraph) insert—
- “36A(1) Anything done—
- (a) in connection with anything which continues to be domestic law by virtue of section 1A(2) or 1B(2), or
- (b) for a purpose mentioned in section 2(2)(a) or (b) of the European Communities Act 1972 or otherwise related to the EU or the EEA, if in force or effective immediately before exit day, continues to be in force or effective on and after exit day.
- (2) Anything done—
- (a) in connection with anything which continues to be domestic law by virtue of section 1A(2) or 1B(2), or
- (b) for a purpose mentioned in section 2(2)(a) or (b) of the European Communities Act 1972 or otherwise related to the EU or the EEA, which, immediately before exit day, is in the process of being done continues to be done on and after exit day.
- (3) Sub-paragraphs (1) and (2) are subject to—
- (a) sections 1 to 1B and the withdrawal of the United Kingdom from the EU,
- (b) any provision made under section 23(6) of this Act or section 41(5) of the European Union (Withdrawal Agreement) Act 2020, and
- (c) any other provision made by or under this Act, the European Union (Withdrawal Agreement) Act 2020 or any other enactment.
- (4) References in this paragraph to anything done include references to anything omitted to be done.”
- (3) In paragraph 37—
- (a) in sub-paragraphs (1) and (2) for “exit day”, wherever it appears, substitute “IP completion day”,

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- (b) in sub-paragraph (3)(a) for “section 1” substitute “ sections 1 to 1B ”,
- (c) in sub-paragraph (3)(b) for “6” substitute “ 7C ”,
- (d) in sub-paragraph (3)(c) after “23(6)” insert “ of this Act or section 41(5) of the European Union (Withdrawal Agreement) Act 2020 ”, and
- (e) in sub-paragraph (3)(d) after “this Act” insert “ , the European Union (Withdrawal Agreement) Act 2020 ”.

#### Commencement Information

**I26** Sch. 5 para. 55(1)(2) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxvi)

**I27** Sch. 5 para. 55(3) in force at 31.12.2020 by S.I. 2020/1622, reg. 5(j)

- 56 (1) Part 4 of Schedule 8 (specific transitional, transitory and saving provision) is amended as follows.
- (2) In the italic heading before paragraph 38 for “existing EU law” substitute “ saved EU law at end of implementation period ”.
  - (3) After that italic heading but before paragraph 38 insert—

“37A The repeal of section 1A(1) to (4) by section 1A(5) and the repeal of section 1B(1) to (5) by section 1B(6) do not prevent an enactment to which section 2 applies from continuing to be read, on and after IP completion day and by virtue of section 2, in accordance with section 1B(3) or (4).”
  - (4) In paragraph 38 for “exit day”, in both places where it appears, substitute “ IP completion day ”.
  - (5) In paragraph 39—
    - (a) for “exit day”, wherever it appears, substitute “ IP completion day ”, and
    - (b) in sub-paragraph (1)—
      - (i) after “subject to” insert “ relevant separation agreement law (for which see section 7C) and ”, and
      - (ii) after “section 23(6)” insert “ of this Act or section 41(5) of the European Union (Withdrawal Agreement) Act 2020 ”.
  - (6) In paragraph 40—
    - (a) after “section” insert “ 6(5A), ”
    - (b) after “8,” insert “ 8A ”,
    - (c) omit “9”, and
    - (d) after “23(1) or” insert “ Part 1 or 1A of ”.
  - (7) In paragraph 41—
    - (a) for “exit day”, wherever it appears, substitute “ IP completion day ”, and
    - (b) in sub-paragraph (10) for “the making of regulations under Schedule 2 or 4” substitute “—
      - (a) the making of regulations before exit day under Part 1A of Schedule 2, or
      - (b) the making of regulations under—
        - (i) Part 1B or 1C of Schedule 2, or
        - (ii) Schedule 4.”

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(8) In paragraph 42 for “exit day” substitute “ IP completion day ”.

**Commencement Information**

- I28** Sch. 5 para. 56(1)(6)(b)-(d) in force at 23.1.2020 and Sch. 5 para. 56(1)(7)(b) in force for specified purposes at 23.1.2020, see s. 42(6)(e)(ix)(xi)
- I29** Sch. 5 para. 56(2)-(5), (8) in force at 31.12.2020 by S.I. 2020/1622, **reg. 5(j)**
- I30** Sch. 5 para. 56(6)(a) in force at 19.5.2020 by S.I. 2020/518, **reg. 2(p)(iii)**
- I31** Sch. 5 para. 56(7)(a) in force at 31.1.2020 for specified purposes by S.I. 2020/75, **reg. 4(n)(xxvii)**
- I32** Sch. 5 para. 56(7)(a) in force at 31.12.2020 in so far as not already in force by S.I. 2020/1622, **reg. 5(j)**
- I33** Sch. 5 para. 56(7)(b) in force at 19.5.2020 for specified purposes by S.I. 2020/518, **reg. 2(p)(iv)**

**Changes to legislation:**

There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, Cross Heading: European Union (Withdrawal) Act 2018.