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STATUTORY INSTRUMENTS

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**2020 No. 1622**

The European Union (Withdrawal) Act 2018 and European Union (Withdrawal Agreement) Act 2020 (Commencement, Transitional and Savings Provisions) Regulations 2020

PART 3

Transitional and saving provisions

**Devolution**

**10.**—(1) Paragraphs 41(1) and (2) and 42 of Schedule 8 to EU(W)A 2018 apply on and after IP completion day to the amendments made by—

- (a) Part 3 of Schedule 3 to that Act;
- (b) paragraph 29 of Schedule 8 to that Act; and
- (c) paragraphs 18, 19, 21, 23, 25, 26, 28, 29 and 30 of Schedule 5 to EU(WA)A 2020;

as they apply to the amendments made by Part 1 of Schedule 3 to that Act.

(2) Paragraph 42 of Schedule 8 to EU(W)A 2018 applies on and after IP completion day to acts (other than the making, confirming or approving of subordinate legislation) done before IP completion day by any person.

(3) The amendments made by—

- (a) section 12 of EU(W)A 2018;
- (b) Parts 1 and 3 of Schedule 3 to that Act;
- (c) paragraph 29 of Schedule 8 to that Act; and
- (d) paragraphs 18, 19, 21, 23, 25, 26, 28, 29 and 30 of Schedule 5 to EU(WA)A 2020

do not apply on and after IP completion day in relation to any pre-IPCD failure.

(4) Accordingly—

- (a) for the purposes of determining whether a question relating to pre-IPCD legislation, a pre-IPCD act or a pre-IPCD failure is a devolution issue within the meaning of Schedule 6 to SA 1998, paragraph 1 of that Schedule<sup>(1)</sup> continues to have effect on and after IP completion day without the amendments made by paragraph 23 of Schedule 3 to EU(W)A 2018,
- (b) for the purposes of determining whether a question relating to pre-IPCD legislation, a pre-IPCD act or a pre-IPCD failure is a compatibility issue within the meaning of section 288ZA of the Criminal Procedure (Scotland) Act 1995<sup>(2)</sup>, that section continues to have effect on and after IP completion day without the amendments made by paragraph 29 of Schedule 8 to EU(W)A 2018,

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<sup>(1)</sup> Amended by section 12 and 36 Scotland Act 2012 (c. 11) and S.I. 2011/1043.

<sup>(2)</sup> 1995 c. 46. Section 288ZA was inserted by section 34 of the Scotland Act 2012 (c. 11).

- (c) for the purposes of determining whether a question relating to a pre-IPCD act or a pre-IPCD failure is a devolution issue within the meaning of Schedule 10 to NIA 1998, paragraph 1 of that Schedule(3) continues to have effect on and after IP completion day without the amendment made by paragraph 62 of Schedule 3 to EU(W)A 2018, and
  - (d) for the purposes of determining whether a question relating to a pre-IPCD act or a pre-IPCD failure is a devolution issue within the meaning of Schedule 9 to GOWA 2006, paragraphs 1(1)(c) and (d) of that Schedule continue to have effect on and after IP completion day as if the references to section 80(1), (7) and (8) of that Act were to those provisions without the amendments made by paragraph 2 or 37 of Schedule 3 to EU(W)A 2018.
- (5) It does not matter whether the question referred to in paragraph (4)(a), (b), (c) or (d) arises before or on or after IP completion day or whether it arises in proceedings which begin before or on or after IP completion day.
- (6) In this regulation—
- “pre-IPCD legislation” means an Act of the Scottish Parliament, or a provision of such an Act, the Bill for which received Royal Assent before IP completion day;
  - “pre-IPCD act” means an act, or a purported or proposed act, before IP completion day;
  - “pre-IPCD failure” means a failure to act before IP completion day;
- and references to Part 3 of Schedule 3 to EU(W)A 2018 do not include any provisions of that Part which have come into force before IP completion day.