



# European Union (Withdrawal Agreement) Act 2020

## 2020 CHAPTER 1

An Act to implement, and make other provision in connection with, the agreement between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for the United Kingdom's withdrawal from the EU. [23rd January 2020]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### IMPLEMENTATION PERIOD

##### *Saved law for implementation period*

#### **1 Saving of ECA for implementation period**

After section 1 of the European Union (Withdrawal) Act 2018 (repeal of the European Communities Act 1972) insert—

##### *“Savings for implementation period*

#### **1A 1A Saving for ECA for implementation period**

(1) Subsections (2) to (4) have effect despite the repeal of the European Communities Act 1972 on exit day by section 1.

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- (2) The European Communities Act 1972, as it has effect in domestic law or the law of a relevant territory immediately before exit day, continues to have effect in domestic law or the law of the relevant territory on and after exit day so far as provided by subsections (3) to (5).
- (3) The Act of 1972 has effect on and after exit day as if —
- (a) the definitions of “the Treaties” and “the EU Treaties” given by section 1(2) to (4) (interpretation)—
    - (i) included Part 4 of the withdrawal agreement (implementation period), other than that Part so far as it relates to, or could be applied in relation to, the Common Foreign and Security Policy, but
    - (ii) were otherwise limited to anything which falls within those definitions as at immediately before exit day so far as it is not excluded by regulations made on or after exit day by a Minister of the Crown under this sub-paragraph,
  - (b) the reference in section 2(2) to the objects of the EU were a reference to those objects so far as they are applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement,
  - (c) section 2(3) (payment of EU costs etc.) were omitted,
  - (d) in section 3 (decisions on, and proof of, EU Treaties and EU instruments etc.)—
    - (i) the references to the Treaties in subsections (1) and (2) included the withdrawal agreement, and
    - (ii) the words in brackets in subsection (1) only applied so far as they are in accordance with Part 4 of the withdrawal agreement,
  - (e) references in sections 5 and 6 (customs duties and common agricultural policy) to the common customs tariff of the EU, directly applicable EU provision, the exclusion of customs duties, EU arrangements and agricultural levies of the EU were to such things so far as they are applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement, and
  - (f) in Part 2 of Schedule 1 (general definitions in relation to the EU)—
    - (i) in the definition of “EU customs duty”, the reference to directly applicable EU provision were to such provision so far as it is applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement, and
    - (ii) in the definition of “Member” in the expression “member State”, after “EU” there were inserted “ and for the purposes of this expression the United Kingdom is to be treated as if it were a member of the EU during the implementation period (within the meaning given by section 1A(6) of the European Union (Withdrawal) Act 2018) ”.
- (4) In this section “relevant territory” means the Isle of Man, any of the Channel Islands or Gibraltar.
- (5) Subsections (1) to (4) are repealed on IP completion day.
- (6) In this Act—

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“the implementation period” means the transition or implementation period provided for by Part 4 of the withdrawal agreement and beginning with exit day and ending on IP completion day;

“IP completion day” (and related expressions) have the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) to (5) of that Act);

“withdrawal agreement” has the same meaning as in that Act (see section 39(1) and (6) of that Act).

(7) In this Act—

- (a) references to the European Communities Act 1972 are to be read, so far as the context permits or requires, as being or (as the case may be) including references to that Act as it continues to have effect by virtue of subsections (2) to (4) above, and
- (b) references to any Part of the withdrawal agreement or the EEA EFTA separation agreement include references to any other provisions of that agreement so far as applying to that Part.”

#### Commencement Information

**II** S. 1 in force at 31.1.2020 by S.I. 2020/75, reg. 4(a)

## 2 Additional saving for implementation period

After section 1A of the European Union (Withdrawal) Act 2018 (saving for the European Communities Act 1972 for the implementation period) (for which see section 1 above) insert—

### “1B “1B Saving for EU-derived domestic legislation for implementation period

- (1) Subsections (2) to (5) have effect despite the repeal of the European Communities Act 1972 on exit day by section 1.
- (2) EU-derived domestic legislation, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law on and after exit day, subject as follows.
- (3) Any enactment which continues to have effect by virtue of subsection (2) is to be read, on and after exit day and so far as the context permits or requires, as if—
  - (a) any reference to an expression which is to be read in accordance with Schedule 1 to the Interpretation Act 1978 and is an expression defined by section 1 of, or Part 2 of Schedule 1 to, the European Communities Act 1972 were a reference to that expression as defined by that section or that Part of that Schedule as it continues to have effect by virtue of section 1A(2) to (4) of this Act,
  - (b) any reference (however expressed and subject to paragraph (a) above) to—
    - (i) EU law,
    - (ii) any particular EU Treaty or any part of it,

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- (iii) any EU instrument, or other document of an EU entity or of the EU, or any part of any such instrument or document,
  - (iv) any part of EU law not falling within sub-paragraph (ii) or (iii),
  - (v) any tax, duty, levy or interests of the EU, or
  - (vi) any arrangement involving, or otherwise relating to, the EU of a kind not falling within sub-paragraph (i), (ii), (iii), (iv) or (v),
- were a reference to any such thing so far as it is applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement,
- (c) any reference (however expressed and subject to paragraph (a) above) to the European Communities Act 1972 were or (as the case may be) included a reference to the Act of 1972 as it continues to have effect by virtue of section 1A(2) to (4) of this Act,
  - (d) any reference (however expressed) to the area of the EU or of the EEA included the United Kingdom,
  - (e) any reference (however expressed) to a citizen of the EU or a national of the EEA included a United Kingdom national (within the meaning given by Article 2(d) of the withdrawal agreement), and
  - (f) such other modifications were made as—
    - (i) are provided for by regulations under section 8A or Part 1A of Schedule 2, or
    - (ii) so far as not so provided, are necessary for any purpose of Part 4 of the withdrawal agreement and are capable of being ascertained from any such purpose or otherwise from that Part of that agreement.
- (4) Any EU-derived domestic legislation which is an enactment passed or made on or after exit day and before IP completion day is, unless the contrary intention appears, to be read in accordance with subsection (3) (and anything done or omitted to be done in connection with any such enactment is to be understood, and has effect, accordingly).
- (5) Subsections (2) to (4) are subject to any regulations made under section 8A or 23 or Part 1A of Schedule 2 or otherwise under this Act or under the European Union (Withdrawal Agreement) Act 2020.
- (6) Subsections (1) to (5) are repealed on IP completion day.
- (7) In this Act “EU-derived domestic legislation” means any enactment so far as—
- (a) made under section 2(2) of, or paragraph 1A of Schedule 2 to, the European Communities Act 1972,
  - (b) passed or made, or operating, for a purpose mentioned in section 2(2) (a) or (b) of that Act,
  - (c) relating to—
    - (i) anything which falls within paragraph (a) or (b), or
    - (ii) any rights, powers, liabilities, obligations, restrictions, remedies or procedures which are recognised and available in domestic law by virtue of section 2(1) of the European Communities Act 1972, or
  - (d) relating otherwise to the EU or the EEA,
- but does not include any enactment contained in the European Communities Act 1972 or any enactment contained in this Act or the European Union

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(Withdrawal Agreement) Act 2020 or in regulations made under this Act or the Act of 2020.”

#### Commencement Information

**I2** S. 2 in force at 31.1.2020 by S.I. 2020/75, reg. 4(b)

### Supplementary powers

#### 3 Supplementary power in connection with implementation period

After section 8 of the European Union (Withdrawal) Act 2018 (dealing with deficiencies arising from withdrawal) insert—

##### “8A “8A Supplementary power in connection with implementation period

- (1) A Minister of the Crown may by regulations—
  - (a) provide for other modifications for the purposes of section 1B(3)(f) (i) (whether applying in all cases or particular cases or descriptions of case),
  - (b) provide for subsection (3) or (4) of section 1B not to apply to any extent in particular cases or descriptions of case,
  - (c) make different provision in particular cases or descriptions of case to that made by subsection (3) or (4) of that section,
  - (d) modify any enactment contained in this Act in consequence of any repeal made by section 1A(5) or 1B(6), or
  - (e) make such provision not falling within paragraph (a), (b), (c) or (d) as the Minister considers appropriate for any purpose of, or otherwise in connection with, Part 4 of the withdrawal agreement.
- (2) The power to make regulations under subsection (1) may (among other things) be exercised by modifying any provision made by or under an enactment.
- (3) In subsection (2) “enactment” does not include primary legislation passed or made after IP completion day.
- (4) No regulations may be made under subsection (1) after the end of the period of two years beginning with IP completion day.”

#### 4 Powers corresponding to section 3 involving devolved authorities

After Part 1 of Schedule 2 to the European Union (Withdrawal) Act 2018 (corresponding powers involving devolved authorities: dealing with deficiencies arising from withdrawal) insert—

### “PART 1A

#### PROVISION IN CONNECTION WITH IMPLEMENTATION PERIOD

- 11A (1) A devolved authority may by regulations—

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- (a) provide for other modifications for the purposes of section 1B(3)(f) (i) (whether applying in all cases or particular cases or descriptions of case),
  - (b) provide for subsection (3) or (4) of section 1B not to apply to any extent in particular cases or descriptions of case,
  - (c) make different provision in particular cases or descriptions of case to that made by subsection (3) or (4) of that section, or
  - (d) make such provision not falling within paragraph (a), (b) or (c) as the devolved authority considers appropriate for any purpose of, or otherwise in connection with, Part 4 of the withdrawal agreement.
- (2) A Minister of the Crown acting jointly with a devolved authority may by regulations—
- (a) provide for other modifications for the purposes of section 1B(3)(f) (i) (whether applying in all cases or particular cases or descriptions of case),
  - (b) provide for subsection (3) or (4) of section 1B not to apply to any extent in particular cases or descriptions of case,
  - (c) make different provision in particular cases or descriptions of case to that made by subsection (3) or (4) of that section, or
  - (d) make such provision not falling within paragraph (a), (b) or (c) as they consider appropriate for any purpose of, or otherwise in connection with, Part 4 of the withdrawal agreement.
- (3) The power to make regulations under this Part may (among other things) be exercised by modifying any provision made by or under an enactment.
- (4) In sub-paragraph (3) “enactment” does not include primary legislation passed or made after IP completion day.
- (5) No regulations may be made under this Part after the end of the period of two years beginning with IP completion day.
- (6) Regulations under sub-paragraph (1) are also subject to paragraphs 11B and 11C.
- 11B (1) No provision may be made by a devolved authority acting alone in regulations under this Part unless the provision is within the devolved competence of the devolved authority.
- (2) See paragraphs 11D to 11F for the meaning of “devolved competence” for the purposes of this Part.
- 11C Paragraphs 5 to 7 apply for the purposes of this Part as they apply for the purposes of Part 1.
- 11D A provision is within the devolved competence of the Scottish Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament (ignoring, in the case of regulations made under this Part before

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- exit day, section 29(2)(d) of the Scotland Act 1998 so far as relating to EU law), or
- (b) it is provision which could be made in other subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone (ignoring, in the case of regulations made under this Part before exit day, section 57(2) of the Scotland Act 1998 so far as relating to EU law).
- 11E A provision is within the devolved competence of the Welsh Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (ignoring, in the case of regulations made under this Part before exit day, section 108A(2)(e) of the Government of Wales Act 2006 so far as relating to EU law but including any provision that could be made only with the consent of a Minister of the Crown), or
- (b) it is provision which could be made in other subordinate legislation by the Welsh Ministers acting alone (ignoring, in the case of regulations made under this Part before exit day, section 80(8) of the Government of Wales Act 2006 so far as relating to EU law).
- 11F A provision is within the devolved competence of a Northern Ireland department for the purposes of this Part if—
- (a) the provision, if it were contained in an Act of the Northern Ireland Assembly—
- (i) would be within the legislative competence of the Assembly (ignoring, in the case of regulations made under this Part before exit day, section 6(2)(d) of the Northern Ireland Act 1998 so far as relating to EU law), and
- (ii) would not require the consent of the Secretary of State,
- (b) the provision—
- (i) amends or repeals Northern Ireland legislation, and
- (ii) would, if it were contained in an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly (ignoring, in the case of regulations made under this Part before exit day, section 6(2)(d) of the Northern Ireland Act 1998 so far as relating to EU law) and require the consent of the Secretary of State, or
- (c) the provision is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority acting alone (ignoring, in the case of regulations made under this Part before exit day, section 24(1)(b) of the Northern Ireland Act 1998).”

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## PART 2

### REMAINING IMPLEMENTATION OF WITHDRAWAL AGREEMENT ETC: GENERAL

#### *Withdrawal agreement*

## 5 **General implementation of remainder of withdrawal agreement**

After section 7 of the European Union (Withdrawal) Act 2018 (status of retained EU law) insert—

#### *“Further aspects of withdrawal*

### **7A 7A General implementation of remainder of withdrawal agreement**

- (1) Subsection (2) applies to—
  - (a) all such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the withdrawal agreement, and
  - (b) all such remedies and procedures from time to time provided for by or under the withdrawal agreement,
 as in accordance with the withdrawal agreement are without further enactment to be given legal effect or used in the United Kingdom.
- (2) The rights, powers, liabilities, obligations, restrictions, remedies and procedures concerned are to be—
  - (a) recognised and available in domestic law, and
  - (b) enforced, allowed and followed accordingly.
- (3) Every enactment (including an enactment contained in this Act) is to be read and has effect subject to subsection (2).
- (4) This section does not apply in relation to Part 4 of the withdrawal agreement so far as section 2(1) of the European Communities Act 1972 applies in relation to that Part.
- (5) See also (among other things)—
  - (a) Part 3 of the European Union (Withdrawal Agreement) Act 2020 (further provision about citizens' rights),
  - (b) section 20 of that Act (financial provision),
  - (c) section 7C of this Act (interpretation of law relating to withdrawal agreement etc.),
  - (d) section 8B of this Act (power in connection with certain other separation issues),
  - (e) section 8C of this Act (power in connection with the Protocol on Ireland/Northern Ireland in withdrawal agreement), and
  - (f) Parts 1B and 1C of Schedule 2 to this Act (powers involving devolved authorities in connection with certain other separation issues and the Ireland/Northern Ireland Protocol).”



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#### Commencement Information

**I3** S. 5 in force at 31.1.2020 by S.I. 2020/75, reg. 4(c)

### *Related EEA EFTA and Swiss agreements*

## **6 General implementation of related EEA EFTA and Swiss agreements**

After section 7A of the European Union (Withdrawal) Act 2018 (general implementation of remainder of withdrawal agreement) (for which see section 5 above) insert—

### **“7B “7B General implementation of EEA EFTA and Swiss agreements**

- (1) Subsection (2) applies to all such rights, powers, liabilities, obligations, restrictions, remedies and procedures as—
  - (a) would from time to time be created or arise, or (in the case of remedies or procedures) be provided for, by or under the EEA EFTA separation agreement or the Swiss citizens' rights agreement, and
  - (b) would, in accordance with Article 4(1) of the withdrawal agreement, be required to be given legal effect or used in the United Kingdom without further enactment,if that Article were to apply in relation to the EEA EFTA separation agreement and the Swiss citizens' rights agreement, those agreements were part of EU law and the relevant EEA states and Switzerland were member States.
- (2) The rights, powers, liabilities, obligations, restrictions, remedies and procedures concerned are to be—
  - (a) recognised and available in domestic law, and
  - (b) enforced, allowed and followed accordingly.
- (3) Every enactment (other than section 7A but otherwise including an enactment contained in this Act) is to be read and has effect subject to subsection (2).
- (4) See also (among other things)—
  - (a) Part 3 of the European Union (Withdrawal Agreement) Act 2020 (further provision about citizens' rights),
  - (b) section 7C of this Act (interpretation of law relating to the EEA EFTA separation agreement and the Swiss citizens' rights agreement etc.),
  - (c) section 8B of this Act (power in connection with certain other separation issues), and
  - (d) Part 1B of Schedule 2 to this Act (powers involving devolved authorities in connection with certain other separation issues).
- (5) In this section “the relevant EEA states” means Norway, Iceland and Liechtenstein.
- (6) In this Act “EEA EFTA separation agreement” and “Swiss citizens' rights agreement” have the same meanings as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act).”

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#### Commencement Information

**I4** S. 6 in force at 31.1.2020 by S.I. 2020/75, reg. 4(d)

## PART 3

### CITIZENS' RIGHTS

#### *Rights in relation to entry and residence*

PROSPECTIVE

#### **7 Rights related to residence: application deadline and temporary protection**

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate for any of the following purposes—
- (a) specifying the deadline that applies for the purposes of—
    - (i) the first sub-paragraph of Article 18(1)(b) of the withdrawal agreement (deadline for the submission of applications for the new residence status described in Article 18(1));
    - (ii) the first sub-paragraph of Article 17(1)(b) of the EEA EFTA separation agreement (deadline for the submission of applications for the new residence status described in Article 17(1));
    - (iii) the first sentence of Article 16(1)(b) of the Swiss citizens' rights agreement (deadline for the submission of applications for the new residence status described in Article 16(1));
  - (b) implementing Article 18(2) of the withdrawal agreement (protection for Union citizens etc. in the period prior to the deadline for the submission of applications for the new residence status described in Article 18(1));
  - (c) implementing Article 17(2) of the EEA EFTA separation agreement (protection for EEA EFTA nationals etc. in the period prior to the deadline for the submission of applications for the new residence status described in Article 17(1));
  - (d) implementing Article 16(2) of the Swiss citizens' rights agreement (protection for Swiss nationals etc. in the period prior to the deadline for the submission of applications for the new residence status described in Article 16(1));
  - (e) implementing Article 18(3) of the withdrawal agreement (protection for Union citizens etc. pending a final decision on an application for the new residence status described in Article 18(1));
  - (f) implementing Article 17(3) of the EEA EFTA separation agreement (protection for EEA EFTA nationals etc. pending a final decision on an application for the new residence status described in Article 17(1));
  - (g) implementing Article 16(3) of the Swiss citizens' rights agreement (protection for Swiss nationals etc. pending a final decision on an application for the new residence status described in Article 16(1)).

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- (2) If the Minister considers it appropriate, regulations under subsection (1) relating to the implementation of a provision mentioned in subsection (1)(b), (c) or (d) may be made so as to apply both to—
  - (a) persons to whom the provision in question applies, and
  - (b) persons to whom that provision does not apply but who may be granted leave to enter or remain in the United Kingdom by virtue of residence scheme immigration rules (see section 17) and who do not have such leave.
- (3) If the Minister considers it appropriate, regulations under subsection (1) relating to the implementation of a provision mentioned in subsection (1)(e), (f) or (g) may be made so as to apply both to—
  - (a) persons to whom the provision in question applies, and
  - (b) persons to whom that provision does not apply but who make an application for leave to enter or remain in the United Kingdom by virtue of residence scheme immigration rules.
- (4) The power to make regulations under subsection (1) may (among other things) be exercised by modifying any provision made by or under an enactment.

PROSPECTIVE

## 8 Frontier workers

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate for the purpose of implementing any of the following—
  - (a) Articles 24(3) and 25(3) of the withdrawal agreement (rights of employed and self-employed frontier workers) other than as regards rights enjoyed as workers (see section 14(1));
  - (b) Articles 23(3) and 24(3) of the EEA EFTA separation agreement (rights of employed and self-employed frontier workers) other than as regards rights enjoyed as workers (see section 14(2));
  - (c) Article 20(2) of the Swiss citizens' rights agreement (rights of frontier workers to enter and exit).
- (2) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate for the purpose of implementing any of the following—
  - (a) Article 26 of the withdrawal agreement (issue of documents);
  - (b) Article 25 of the EEA EFTA separation agreement (issue of documents);
  - (c) Article 21(1)(a) and (2) of the Swiss citizens' rights agreement (issue of documents).
- (3) The power to make regulations under subsection (1) or (2) may (among other things) be exercised by modifying any provision made by or under the Immigration Acts.

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PROSPECTIVE

## 9 Restrictions of rights of entry and residence

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate for the purpose of implementing any of the following—
  - (a) Article 20(1), (3) and (4) of the withdrawal agreement (restrictions of the rights of entry and residence);
  - (b) Article 19(1), (3) and (4) of the EEA EFTA separation agreement (restrictions of the rights of entry and residence);
  - (c) Articles 17(1) and (3) and 20(3) of the Swiss citizens' rights agreement (restrictions of the rights of entry and residence).
- (2) If the Minister considers it appropriate, regulations under subsection (1) relating to the implementation of a provision mentioned in subsection (1)(a), (b) or (c) may be made so as to apply both to—
  - (a) persons to whom the provision in question applies, and
  - (b) persons to whom that provision does not apply but who—
    - (i) have entry clearance granted by virtue of relevant entry clearance immigration rules (see section 17),
    - (ii) have leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules (see section 17), or
    - (iii) otherwise have leave to enter granted after arriving with entry clearance granted by virtue of relevant entry clearance immigration rules.
- (3) In subsection (2)(b), references to a person who has entry clearance or leave to enter or remain include references to a person who would have had entry clearance or leave to enter or remain but for—
  - (a) the making of a deportation order under section 5(1) of the Immigration Act 1971, or
  - (b) the making of any other decision made in connection with restricting the right of the person to enter the United Kingdom.
- (4) The power to make regulations under subsection (1) may (among other things) be exercised by modifying any provision made—
  - (a) by or under the Immigration Acts, or
  - (b) under other primary legislation.

## 10 Retention of existing grounds for deportation

- (1) Section 3 of the Immigration Act 1971 (general provisions for regulation and control) is amended in accordance with subsections (2) to (4).
- (2) After subsection (5) insert—
  - “(5A) The Secretary of State may not deem a relevant person's deportation to be conducive to the public good under subsection (5) if the person's deportation—

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- (a) would be in breach of the obligations of the United Kingdom under Article 20 of the EU withdrawal agreement, Article 19 of the EEA EFTA separation agreement, or Article 17 or 20(3) of the Swiss citizens' rights agreement, or
- (b) would be in breach of those obligations if the provision in question mentioned in paragraph (a) applied in relation to the person.”

(3) After subsection (6) insert—

“(6A) A court may not recommend under subsection (6) that a relevant person be deported if the offence for which the person was convicted consisted of or included conduct that took place before IP completion day.”

(4) After subsection (9) insert—

“(10) For the purposes of this section, a person is a “relevant person”—

- (a) if the person is in the United Kingdom (whether or not they have entered within the meaning of section 11(1)) having arrived with entry clearance granted by virtue of relevant entry clearance immigration rules,
- (b) if the person has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules,
- (c) if the person may be granted leave to enter or remain in the United Kingdom as a person who has a right to enter the United Kingdom by virtue of—
  - (i) Article 32(1)(b) of the EU withdrawal agreement,
  - (ii) Article 31(1)(b) of the EEA EFTA separation agreement, or
  - (iii) Article 26a(1)(b) of the Swiss citizens' rights agreement,whether or not the person has been granted such leave, or
- (d) if the person may enter the United Kingdom by virtue of regulations made under section 8 of the European Union (Withdrawal Agreement) Act 2020 (frontier workers), whether or not the person has entered by virtue of those regulations.

(11) In this section—

“EEA EFTA separation agreement” and “Swiss citizens' rights agreement” have the same meanings as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act);  
“relevant entry clearance immigration rules” and “residence scheme immigration rules” have the meanings given by section 17 of the European Union (Withdrawal Agreement) Act 2020.”

(5) In section 33 of the UK Borders Act 2007 (exceptions to automatic deportation), after subsection (6A), insert—

“(6B) Exception 7 is where—

- (a) the foreign criminal is a relevant person, and
- (b) the offence for which the foreign criminal was convicted as mentioned in section 32(1)(b) consisted of or included conduct that took place before IP completion day.

(6C) For the purposes of subsection (6B), a foreign criminal is a “relevant person”—

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- (a) if the foreign criminal is in the United Kingdom (whether or not they have entered within the meaning of section 11(1) of the Immigration Act 1971) having arrived with entry clearance granted by virtue of relevant entry clearance immigration rules,
- (b) if the foreign criminal has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules,
- (c) if the foreign criminal may be granted leave to enter or remain in the United Kingdom as a person who has a right to enter the United Kingdom by virtue of—
  - (i) Article 32(1)(b) of the EU withdrawal agreement,
  - (ii) Article 31(1)(b) of the EEA EFTA separation agreement, or
  - (iii) Article 26a(1)(b) of the Swiss citizens' rights agreement,
 whether or not the foreign criminal has been granted such leave, or
- (d) if the foreign criminal may enter the United Kingdom by virtue of regulations made under section 8 of the European Union (Withdrawal Agreement) Act 2020 (frontier workers), whether or not the foreign criminal has entered by virtue of those regulations.

(6D) In this section—

“EEA EFTA separation agreement” and “Swiss citizens' rights agreement” have the same meanings as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act);  
 “relevant entry clearance immigration rules” and “residence scheme immigration rules” have the meanings given by section 17 of the European Union (Withdrawal Agreement) Act 2020.”

- (6) In section 3(10) of the Immigration Act 1971 and section 33(6C) of the UK Borders Act 2007 (for which see subsections (4) and (5) above), references to having leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules include references to having such leave granted by virtue of those rules before section 17 comes into force.

#### Commencement Information

**I5** S. 10 in force at 31.1.2020 by S.I. 2020/75, reg. 4(e)

## 11 Appeals etc. against citizens' rights immigration decisions

- (1) A Minister of the Crown may by regulations make provision for, or in connection with, appeals against citizens' rights immigration decisions of a kind described in the regulations.
- (2) For the purposes of this section, each of the following is a “citizens' rights immigration decision”—
- (a) a decision made in connection with entry clearance by virtue of relevant entry clearance immigration rules (see section 17);
  - (b) a decision made in connection with leave to enter or remain in the United Kingdom by virtue of residence scheme immigration rules (see section 17);
  - (c) a decision made in connection with entry clearance for the purposes of acquiring leave to enter or remain in relation to a healthcare right of entry;

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- (d) a decision made in connection with leave to enter or remain in the United Kingdom in relation to a healthcare right of entry;
  - (e) a decision made in connection with a right to enter or remain in the United Kingdom by virtue of regulations made under section 8 (frontier workers);
  - (f) a decision to make, or a refusal to revoke, a deportation order under section 5(1) of the Immigration Act 1971 in relation to a relevant person;
  - (g) any other decision made in connection with restricting the right of a relevant person to enter the United Kingdom.
- (3) A Minister of the Crown may also by regulations make provision for, or in connection with, reviews (including judicial reviews) of decisions within subsection (2)(g).
- (4) The power to make regulations under subsection (1) or (3) may (among other things) be exercised by modifying any provision made by or under an enactment.
- (5) Such regulations may, for example, apply with or without modifications any enactment which applies in relation to appeals under section 82 of the Nationality, Immigration and Asylum Act 2002 or section 2 of the Special Immigration Appeals Commission Act 1997.
- (6) For the purposes of subsection (2), a “healthcare right of entry” is a right to enter the United Kingdom that a person has by virtue of—
- (a) Article 32(1)(b) of the withdrawal agreement,
  - (b) Article 31(1)(b) of the EEA EFTA separation agreement, or
  - (c) Article 26a(1)(b) of the Swiss citizens' rights agreement.
- (7) For the purposes of subsection (2)(f) and (g), a person is a “relevant person” if—
- (a) Article 20 of the withdrawal agreement, Article 19 of the EEA EFTA separation agreement or (as the case may be) Articles 17 or 20(3) of the Swiss citizens' rights agreement (restrictions of the rights of entry and residence) applies to the person, or
  - (b) the person is not within paragraph (a) but—
    - (i) has entry clearance granted by virtue of relevant entry clearance immigration rules,
    - (ii) has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules, or
    - (iii) otherwise has leave to enter granted after arriving with entry clearance granted by virtue of relevant entry clearance immigration rules.
- (8) In subsection (7)(b), references to a person who has entry clearance or leave to enter or remain include references to a person who would have had entry clearance or leave to enter or remain but for—
- (a) the making of a deportation order under section 5(1) of the Immigration Act 1971, or
  - (b) the making of any other decision made in connection with restricting the right of the person to enter the United Kingdom.

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PROSPECTIVE

### *Professional qualifications*

## **12 Recognition of professional qualifications**

- (1) An appropriate authority may by regulations make such provision as the authority considers appropriate—
  - (a) to implement Chapter 3 of Title II of Part 2 of the withdrawal agreement (professional qualifications),
  - (b) to supplement the effect of section 7A of the European Union (Withdrawal) Act 2018 in relation to that Chapter, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Chapter (including matters arising by virtue of section 7A of that Act and that Chapter).
- (2) An appropriate authority may by regulations make such provision as the authority considers appropriate—
  - (a) to implement Chapter 3 of Title II of Part 2 of the EEA EFTA separation agreement (professional qualifications),
  - (b) to supplement the effect of section 7B of the European Union (Withdrawal) Act 2018 in relation to that Chapter, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Chapter (including matters arising by virtue of section 7B of that Act and that Chapter).
- (3) An appropriate authority may by regulations make such provision as the authority considers appropriate—
  - (a) to implement professional qualification provisions of the Swiss citizens' rights agreement,
  - (b) to supplement the effect of section 7B of the European Union (Withdrawal) Act 2018 in relation to those provisions, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, those provisions (including matters arising by virtue of section 7B of that Act and those provisions).
- (4) For the purposes of subsection (3) the following are “professional qualification provisions” of the Swiss citizens' rights agreement—
  - (a) Part 4 of that agreement (mutual recognition of professional qualifications);
  - (b) Article 23(4) of that agreement as regards the recognition of professional qualifications.
- (5) If an appropriate authority considers it appropriate, regulations under subsection (1) or (2) relating to the implementation of a provision of Chapter 3 of Title II of Part 2 of the withdrawal agreement or of the EEA EFTA separation agreement may be made so as to apply both to—
  - (a) persons to whom the provision in question applies, and
  - (b) persons to whom that provision does not apply but who may be granted leave to enter or remain in the United Kingdom by virtue of residence scheme



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immigration rules, whether or not they have been granted such leave (see section 17).

- (6) The power to make regulations under subsection (1), (2) or (3) may (among other things) be exercised by modifying any provision made by or under an enactment.
- (7) In subsection (6) “enactment” does not include primary legislation passed or made after IP completion day.
- (8) In this section, “appropriate authority” means—
  - (a) a Minister of the Crown,
  - (b) a devolved authority, or
  - (c) a Minister of the Crown acting jointly with a devolved authority.
- (9) Schedule 1 contains further provision about the power of devolved authorities to make regulations under this section.

PROSPECTIVE

### *Co-ordination of social security systems*

## **13 Co-ordination of social security systems**

- (1) An appropriate authority may by regulations make such provision as the authority considers appropriate—
  - (a) to implement Title III of Part 2 of the withdrawal agreement (co-ordination of social security systems),
  - (b) to supplement the effect of section 7A of the European Union (Withdrawal) Act 2018 in relation to that Title, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Title (including matters arising by virtue of section 7A of that Act and that Title).
- (2) An appropriate authority may by regulations make such provision as the authority considers appropriate—
  - (a) to implement Title III of Part 2 of the EEA EFTA separation agreement (co-ordination of social security systems),
  - (b) to supplement the effect of section 7B of the European Union (Withdrawal) Act 2018 in relation to that Title, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Title (including matters arising by virtue of section 7B of that Act and that Title).
- (3) An appropriate authority may by regulations make such provision as the authority considers appropriate—
  - (a) to implement social security co-ordination provisions of the Swiss citizens' rights agreement,
  - (b) to supplement the effect of section 7B of the European Union (Withdrawal) Act 2018 in relation to those provisions, or

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- (c) otherwise for the purposes of dealing with matters arising out of, or related to, those provisions (including matters arising by virtue of section 7B of that Act and those provisions).
- (4) For the purposes of subsection (3) the following are “social security co-ordination provisions” of the Swiss citizens' rights agreement—
  - (a) Part 3 of that agreement (co-ordination of social security systems);
  - (b) Article 23(4) of that agreement as regards social security co-ordination.
- (5) The power to make regulations under subsection (1), (2) or (3) may (among other things) be exercised by modifying any provision made by or under an enactment.
- (6) In this section, “appropriate authority” means—
  - (a) a Minister of the Crown,
  - (b) a devolved authority, or
  - (c) a Minister of the Crown acting jointly with a devolved authority.
- (7) Schedule 1 contains further provision about the power of devolved authorities to make regulations under this section.

PROSPECTIVE

*Equal treatment etc.*

**14 Non-discrimination, equal treatment and rights of workers etc.**

- (1) An appropriate authority may by regulations make such provision as the authority considers appropriate for the purpose of implementing any of the following provisions of the withdrawal agreement—
  - (a) Article 12 (prohibition of discrimination on grounds of nationality);
  - (b) Article 23 (right to equal treatment);
  - (c) Articles 24(1) and 25(1) (rights of workers and the self-employed);
  - (d) Articles 24(3) and 25(3) (rights of employed or self-employed frontier workers) as regards rights enjoyed as workers.
- (2) An appropriate authority may by regulations make such provision as the authority considers appropriate for the purpose of implementing any of the following provisions of the EEA EFTA separation agreement—
  - (a) Article 11 (prohibition of discrimination on grounds of nationality);
  - (b) Article 22 (right to equal treatment);
  - (c) Articles 23(1) and 24(1) (rights of workers and the self-employed);
  - (d) Articles 23(3) and 24(3) (rights of employed or self-employed frontier workers) as regards rights enjoyed as workers.
- (3) An appropriate authority may by regulations make such provision as the authority considers appropriate for the purpose of implementing any of the following provisions of the Swiss citizens' rights agreement—
  - (a) Article 7 (prohibition of discrimination on grounds of nationality);
  - (b) Article 18 (right to take up employment etc.);
  - (c) Article 19 (rights of employed or self-employed persons etc.);

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- (d) Article 20(1) (rights of frontier workers);
  - (e) Article 23(1) (rights of persons providing services).
- (4) If the appropriate authority considers it appropriate, regulations under subsection (1), (2) or (3) relating to the implementation of a provision mentioned in that subsection, may be made so as to apply both to—
- (a) persons to whom the provision in question applies, and
  - (b) persons to whom that provision does not apply but who may be granted leave to enter or remain in the United Kingdom by virtue of residence scheme immigration rules, whether or not they have been granted such leave (see section 17).
- (5) The power to make regulations under subsection (1), (2) or (3) may (among other things) be exercised by modifying any provision made by or under an enactment.
- (6) In this section, “appropriate authority” means—
- (a) a Minister of the Crown,
  - (b) a devolved authority, or
  - (c) a Minister of the Crown acting jointly with a devolved authority.
- (7) Schedule 1 contains further provision about the power of devolved authorities to make regulations under this section.

### *Independent Monitoring Authority*

## **15 Independent Monitoring Authority for the Citizens' Rights Agreements**

- (1) A body corporate called the Independent Monitoring Authority for the Citizens' Rights Agreements is established.
- (2) In this Part that body is referred to as “the IMA”.
- (3) Schedule 2 contains provision relating to the IMA (including provisions about the IMA's constitution and functions).

### **Commencement Information**

- I6** S. 15(1)(2) in force at 31.1.2020 by S.I. 2020/75, reg. 4(f)
- I7** S. 15(3) in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(g)

### *General*

## **16 Regulations: supplementary**

- (1) In sections 7, 8, 9 and 14—
  - (a) a power to make provision for the purpose of implementing a provision of the withdrawal agreement includes power to make provision to supplement the effect of section 7A of the European Union (Withdrawal) Act 2018 in relation to that provision of the agreement,
  - (b) a power to make provision for the purpose of implementing a provision of the EEA EFTA separation agreement includes power to make provision to

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supplement the effect of section 7B of that Act in relation to that provision of the agreement, and

- (c) a power to make provision for the purpose of implementing a provision of the Swiss citizens' rights agreement includes power to make provision to supplement the effect of section 7B of that Act in relation to that provision of the agreement.
- (2) The conferral of a power on a Minister of the Crown under section 7, 8, 9 or 11 does not affect the extent of any power of a devolved authority under section 12, 13 or 14 which overlaps with a power under section 7, 8, 9 or 11 by virtue of section 17(4).
- (3) Regulations under this Part may not provide for the conferral of functions (including the conferral of a discretion) on, or the delegation of functions to, a person who is not a public authority (but may so provide if the person is a public authority).
- (4) In subsection (3), “public authority” means a person who exercises functions of a public nature.

## 17 Interpretation: Part 3

- (1) In this Part, “residence scheme immigration rules” means—
- (a) Appendix EU to the immigration rules except those rules, or changes to that Appendix, which are identified in the immigration rules as not having effect in connection with the residence scheme that operates in connection with the withdrawal of the United Kingdom from the EU, and
  - (b) any other immigration rules which are identified in the immigration rules as having effect in connection with the withdrawal of the United Kingdom from the EU.
- (2) In this Part, “relevant entry clearance immigration rules” means any immigration rules which are identified in the immigration rules as having effect in connection with the granting of entry clearance for the purposes of acquiring leave to enter or remain in the United Kingdom by virtue of residence scheme immigration rules.
- (3) In this Part, references to having leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules include references to having such leave granted by virtue of those rules before this section comes into force.
- (4) In this Part, a reference to a Chapter, Title, Part or other provision of the withdrawal agreement, EEA EFTA separation agreement or Swiss citizens' rights agreement includes a reference to—
- (a) any other provision of the agreement in question so far as relating to that Chapter, Title, Part or other provision, and
  - (b) any provision of EU law which is applied by, or referred to in, that Chapter, Title, Part or other provision (to the extent of the application or reference).
- (5) In this Part—
- “entry clearance” has the meaning given by section 33(1) of the Immigration Act 1971 (interpretation);
  - “immigration rules” has the same meaning as in the Immigration Act 1971.

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## PART 4

### OTHER SUBJECT AREAS

PROSPECTIVE

#### *Other separation issues*

#### **18 Main power in connection with other separation issues**

After section 8A of the European Union (Withdrawal) Act 2018 (supplementary power in connection with implementation period) (for which see section 3 above) insert—

##### **“8B “8B Power in connection with certain other separation issues**

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate—
  - (a) to implement Part 3 of the withdrawal agreement (separation provisions),
  - (b) to supplement the effect of section 7A in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7A and that Part).
- (2) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate—
  - (a) to implement Part 3 of the EEA EFTA separation agreement (separation provisions),
  - (b) to supplement the effect of section 7B in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7B and that Part).
- (3) Regulations under this section may make any provision that could be made by an Act of Parliament.
- (4) Regulations under this section may (among other things) restate, for the purposes of making the law clearer or more accessible, anything that forms part of domestic law by virtue of—
  - (a) section 7A above and Part 3 of the withdrawal agreement, or
  - (b) section 7B above and Part 3 of the EEA EFTA separation agreement.
- (5) But regulations under this section may not—
  - (a) impose or increase taxation or fees,
  - (b) make retrospective provision,
  - (c) create a relevant criminal offence,
  - (d) establish a public authority,
  - (e) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it, or

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(f) amend or repeal the Scotland Act 1998, the Government of Wales Act 2006 or the Northern Ireland Act 1998 (unless the regulations are made by virtue of paragraph 21(b) of Schedule 7 to this Act or are amending or repealing any provision of those Acts which modifies another enactment).

(6) In this section references to Part 3 of the withdrawal agreement or of the EEA EFTA separation agreement include references to any provision of EU law which is applied by, or referred to in, that Part (to the extent of the application or reference).”

## 19 Powers corresponding to section 18 involving devolved authorities

After Part 1A of Schedule 2 to the European Union (Withdrawal) Act 2018 (corresponding powers involving devolved authorities: provision in connection with implementation period) (for which see section 4 above) insert—

### “PART 1B

#### PROVISION IN CONNECTION WITH CERTAIN OTHER SEPARATION ISSUES

- 11G (1) A devolved authority may by regulations make such provision as the devolved authority considers appropriate—
- (a) to implement Part 3 of the withdrawal agreement (separation provisions),
  - (b) to supplement the effect of section 7A in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7A and that Part).
- (2) A Minister of the Crown acting jointly with a devolved authority may by regulations make such provision as they consider appropriate—
- (a) to implement Part 3 of the withdrawal agreement (separation provisions),
  - (b) to supplement the effect of section 7A in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7A and that Part).
- (3) A devolved authority may by regulations make such provision as the devolved authority considers appropriate—
- (a) to implement Part 3 of the EEA EFTA separation agreement (separation provisions),
  - (b) to supplement the effect of section 7B in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7B and that Part).
- (4) A Minister of the Crown acting jointly with a devolved authority may by regulations make such provision as they consider appropriate—

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- (a) to implement Part 3 of the EEA EFTA separation agreement (separation provisions),
  - (b) to supplement the effect of section 7B in relation to that Part, or
  - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 7B and that Part).
- (5) Regulations under this Part may make any provision that could be made by an Act of Parliament.
- (6) Regulations under this Part may (among other things) restate, for the purposes of making the law clearer or more accessible, anything that forms part of domestic law by virtue of—
- (a) section 7A above and Part 3 of the withdrawal agreement, or
  - (b) section 7B above and Part 3 of the EEA EFTA separation agreement.
- (7) But regulations under this Part may not—
- (a) impose or increase taxation or fees,
  - (b) make retrospective provision,
  - (c) create a relevant criminal offence,
  - (d) establish a public authority,
  - (e) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it, or
  - (f) amend or repeal the Scotland Act 1998, the Government of Wales Act 2006 or the Northern Ireland Act 1998 (unless the regulations are made by virtue of paragraph 21(b) of Schedule 7 to this Act or are amending or repealing any provision of those Acts which modifies another enactment).
- (8) Regulations under sub-paragraph (1) or (3) are also subject to paragraphs 11H and 11I.
- (9) In this paragraph references to Part 3 of the withdrawal agreement or of the EEA EFTA separation agreement include references to any provision of EU law which is applied by, or referred to in, that Part (to the extent of the application or reference).
- 11H (1) No provision may be made by a devolved authority acting alone in regulations under this Part unless the provision is within the devolved competence of the devolved authority.
- (2) See paragraphs 11J to 11L for the meaning of “devolved competence” for the purposes of this Part.
- 11I Paragraphs 5 to 7 apply for the purposes of this Part as they apply for the purposes of Part 1.
- 11J A provision is within the devolved competence of the Scottish Ministers for the purposes of this Part if—

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- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament (ignoring section 29(2)(d) of the Scotland Act 1998 so far as relating to EU law and retained EU law), or
  - (b) it is provision which could be made in other subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone (ignoring section 57(2) of the Scotland Act 1998 so far as relating to EU law and section 57(4) of that Act).
- 11K A provision is within the devolved competence of the Welsh Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (ignoring section 108A(2)(e) of the Government of Wales Act 2006 so far as relating to EU law and retained EU law but including any provision that could be made only with the consent of a Minister of the Crown), or
  - (b) it is provision which could be made in other subordinate legislation by the Welsh Ministers acting alone (ignoring section 80(8) of the Government of Wales Act 2006).
- 11L A provision is within the devolved competence of a Northern Ireland department for the purposes of this Part if—
- (a) the provision, if it were contained in an Act of the Northern Ireland Assembly—
    - (i) would be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998), and
    - (ii) would not require the consent of the Secretary of State,
  - (b) the provision—
    - (i) amends or repeals Northern Ireland legislation, and
    - (ii) would, if it were contained in an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998) and require the consent of the Secretary of State, or
  - (c) the provision is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority acting alone (ignoring section 24(1)(b) and (3) of the Northern Ireland Act 1998).”

### *Main financial provision*

## 20 Financial provision

- (1) Any sum that is required to be paid to the EU or an EU entity to meet any obligation that the United Kingdom has by virtue of the withdrawal agreement is to be charged on and paid out of the Consolidated Fund or, if the Treasury so decides, the National Loans Fund.



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- (2) After 31 March 2021, subsection (1) does not apply in relation to any expenditure other than sums required to be paid in respect of the traditional own resources of the EU.
- (3) Any money received by a Minister of the Crown or a government department by virtue of the withdrawal agreement is to be paid into the Consolidated Fund or, if the Treasury so decides, the National Loans Fund.
- (4) A Minister of the Crown, government department or devolved authority may incur expenditure, for the purpose of, or in connection with, preparing for anything about which provision may be made under a power to make subordinate legislation conferred or modified by or under this Act, before any such provision is made.
- (5) There is to be paid out of money provided by Parliament—
  - (a) any expenditure in relation to which subsection (1) does not apply which is incurred by a Minister of the Crown, government department or other public authority by virtue of this Act, and
  - (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.
- (6) Subsections (1), (3) and (5) are subject to any other provision made by or under this Act or any other enactment.
- (7) In this section—
  - “EU entity” means an EU institution or any office, body or agency of the EU;
  - “government department” means any department of the Government of the United Kingdom;
  - “the traditional own resources of the EU” means the EU's traditional own resources referred to in Article 2(1)(a) of the Council Decision of 26 May 2014 on the system of own resources of the European Union (2014/335/EU, Euratom).

PROSPECTIVE

*Ireland/Northern Ireland Protocol*

**21 Main power in connection with Ireland/Northern Ireland Protocol**

After section 8B of the European Union (Withdrawal) Act 2018 (power in connection with certain other separation issues) (for which see section 18 above) insert—

**“8C “8C Power in connection with Ireland/Northern Ireland Protocol in withdrawal agreement**

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate—
  - (a) to implement the Protocol on Ireland/Northern Ireland in the withdrawal agreement,
  - (b) to supplement the effect of section 7A in relation to the Protocol, or

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- (c) otherwise for the purposes of dealing with matters arising out of, or related to, the Protocol (including matters arising by virtue of section 7A and the Protocol).
- (2) Regulations under subsection (1) may make any provision that could be made by an Act of Parliament (including modifying this Act).
- (3) Regulations under subsection (1) may (among other things) make provision facilitating the access to the market within Great Britain of qualifying Northern Ireland goods.
- (4) Such provision may (among other things) include provision about the recognition within Great Britain of technical regulations, assessments, registrations, certificates, approvals and authorisations issued by—
  - (a) the authorities of a member State, or
  - (b) bodies established in a member State,
 in respect of qualifying Northern Ireland goods.
- (5) Regulations under subsection (1) may (among other things) restate, for the purposes of making the law clearer or more accessible, anything that forms part of domestic law by virtue of section 7A and the Protocol.
- (6) A Minister of the Crown may by regulations define “qualifying Northern Ireland goods” for the purposes of this Act.
- (7) In this section any reference to the Protocol on Ireland/Northern Ireland includes a reference to—
  - (a) any other provision of the withdrawal agreement so far as applying to the Protocol, and
  - (b) any provision of EU law which is applied by, or referred to in, the Protocol (to the extent of the application or reference),
 but does not include the second sentence of Article 11(1) of the Protocol (which provides that the United Kingdom and the Republic of Ireland may continue to make new arrangements that build on the provisions of the Belfast Agreement in other areas of North-South cooperation on the island of Ireland).”

## **22 Powers corresponding to section 21 involving devolved authorities**

After Part 1B of Schedule 2 to the European Union (Withdrawal) Act 2018 (corresponding powers involving devolved authorities: provision in connection with certain other separation issues) (for which see section 19 above) insert—

### **“PART 1C**

#### PROVISION IN CONNECTION WITH PROTOCOL ON IRELAND/NORTHERN IRELAND

- 11M (1) A devolved authority may by regulations make such provision as the devolved authority considers appropriate—
- (a) to implement the Protocol on Ireland/Northern Ireland in the withdrawal agreement,

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- (b) to supplement the effect of section 7A in relation to the Protocol, or
    - (c) otherwise for the purposes of dealing with matters arising out of, or related to, the Protocol (including matters arising by virtue of section 7A and the Protocol).
  - (2) A Minister of the Crown acting jointly with a devolved authority may by regulations make such provision as they consider appropriate—
    - (a) to implement the Protocol on Ireland/Northern Ireland in the withdrawal agreement,
    - (b) to supplement the effect of section 7A in relation to the Protocol, or
    - (c) otherwise for the purposes of dealing with matters arising out of, or related to, the Protocol (including matters arising by virtue of section 7A and the Protocol).
  - (3) Regulations under this Part may make any provision that could be made by an Act of Parliament.
  - (4) Regulations under this Part may (among other things) make provision facilitating the access to the market within Great Britain of qualifying Northern Ireland goods.
  - (5) Such provision may (among other things) include provision about the recognition within Great Britain of technical regulations, assessments, registrations, certificates, approvals and authorisations issued by—
    - (a) the authorities of a member State, or
    - (b) bodies established in a member State,in respect of qualifying Northern Ireland goods.
  - (6) Regulations under this Part may (among other things) restate, for the purposes of making the law clearer or more accessible, anything that forms part of domestic law by virtue of section 7A and the Protocol.
  - (7) Regulations under sub-paragraph (1) are also subject to paragraphs 11N and 11O.
  - (8) In this paragraph any reference to the Protocol on Ireland/Northern Ireland includes a reference to—
    - (a) any other provision of the withdrawal agreement so far as applying to the Protocol, and
    - (b) any provision of EU law which is applied by, or referred to in, the Protocol (to the extent of the application or reference),but does not include the second sentence of Article 11(1) of the Protocol (which provides that the United Kingdom and the Republic of Ireland may continue to make new arrangements that build on the provisions of the Belfast Agreement in other areas of North-South cooperation on the island of Ireland).
- 11N (1) No provision may be made by a devolved authority acting alone in regulations under this Part unless the provision is within the devolved competence of the devolved authority.

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- (2) See paragraphs 11P to 11R for the meaning of “devolved competence” for the purposes of this Part.
- 11O Paragraphs 5 to 7 apply for the purposes of this Part as they apply for the purposes of Part 1.
- 11P A provision is within the devolved competence of the Scottish Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament (ignoring section 29(2)(d) of the Scotland Act 1998 so far as relating to EU law), or
  - (b) it is provision which could be made in other subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone (ignoring section 57(2) of the Scotland Act 1998 so far as relating to EU law).
- 11Q A provision is within the devolved competence of the Welsh Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (ignoring section 108A(2)(e) of the Government of Wales Act 2006 so far as relating to EU law but including any provision that could be made only with the consent of a Minister of the Crown), or
  - (b) it is provision which could be made in other subordinate legislation by the Welsh Ministers acting alone (ignoring section 80(8) of the Government of Wales Act 2006 so far as relating to EU law).
- 11R A provision is within the devolved competence of a Northern Ireland department for the purposes of this Part if—
- (a) the provision, if it were contained in an Act of the Northern Ireland Assembly—
    - (i) would be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998 so far as relating to EU law), and
    - (ii) would not require the consent of the Secretary of State,
  - (b) the provision—
    - (i) amends or repeals Northern Ireland legislation, and
    - (ii) would, if it were contained in an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998 so far as relating to EU law) and require the consent of the Secretary of State, or
  - (c) the provision is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority acting alone (ignoring section 24(1)(b) of the Northern Ireland Act 1998).”

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## **23 Protection for certain rights, safeguards etc. in Belfast Agreement**

Schedule 3 contains provision about the implementation of Article 2(1) of the Protocol on Ireland/Northern Ireland in the withdrawal agreement.

## **24 No alteration of North-South co-operation**

In section 10 of the European Union (Withdrawal) Act 2018 (continuation of North-South co-operation and the prevention of new border arrangements), after subsection (2), insert—

“(3) A Minister of the Crown may not agree to the making of a recommendation by the Joint Committee under Article 11(2) of the Protocol on Ireland/Northern Ireland in the withdrawal agreement (recommendations as to North-South cooperation) to—

- (a) alter the arrangements for North-South co-operation as provided for by the Belfast Agreement,
- (b) establish a new implementation body, or
- (c) alter the functions of an existing implementation body.

(4) In this section—

“the Belfast Agreement” has the meaning given by section 98 of the Northern Ireland Act 1998;

“implementation body” has the meaning given by section 55(3) of that Act.”

### *Relationship to EUWA 2018*

## **25 Retention of saved EU law at end of implementation period**

(1) In section 2 of the European Union (Withdrawal) Act 2018 (saving for EU-derived domestic legislation)—

- (a) in subsection (1) for “exit day”, in both places where it appears, substitute “IP completion day”,
- (b) omit subsection (2), and
- (c) in subsection (3) after “incorporation” insert “ and section 5A (savings and incorporation: supplementary) ”.

(2) In section 3 of that Act (incorporation of direct EU legislation)—

- (a) in subsection (1) for “exit day”, in both places where it appears, substitute “IP completion day”,
- (b) in subsection (2)(a)—
  - (i) for “exit day” substitute “IP completion day”,
  - (ii) before sub-paragraph (i) insert—

“(ai) it is applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement,

(bi) it neither has effect nor is to have effect by virtue of section 7A or 7B,”

(iii) at the end of sub-paragraph (i) insert “ and ”, and

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- (iv) omit sub-paragraph (ii) and the word “and” at the end of the sub-paragraph,
  - (c) in subsection (2)(b)—
    - (i) for “exit day” substitute “ IP completion day ”, and
    - (ii) before sub-paragraph (i) insert—
      - “(ai) it is applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement,
      - (bi) it neither has effect nor is to have effect by virtue of section 7A or 7B,”
  - (d) in subsection (2)(c) for “exit day” substitute “IP completion day and so far as—
    - (i) it is applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement, and
    - (ii) it neither has effect nor is to have effect by virtue of section 7A or 7B”,
  - (e) in subsection (3) for “exit day”, wherever it appears, substitute “ IP completion day ”, and
  - (f) in subsection (5) after “incorporation)” insert “ and section 5A (savings and incorporation: supplementary) ”.
- (3) In section 4 of that Act (saving for rights etc. under section 2(1) of the ECA)—
- (a) in subsection (1) for “exit day”, in both places where it appears, substitute “ IP completion day ”,
  - (b) in subsection (2)—
    - (i) after paragraph (a) (and before the “or” at the end of the paragraph) insert—
      - “(aa) are, or are to be, recognised and available in domestic law (and enforced, allowed and followed accordingly) by virtue of section 7A or 7B,” and
    - (ii) in paragraph (b) for “exit day” substitute “ IP completion day ”, and
  - (c) in subsection (3) after “incorporation)” insert “ and section 5A (savings and incorporation: supplementary) ”.
- (4) In section 5 of that Act (exceptions to savings and incorporation)—
- (a) in subsections (1) to (5) for “exit day”, wherever it appears, substitute “ IP completion day ”, and
  - (b) after subsection (6) insert—
    - “(7) Subsections (1) to (6) and Schedule 1 are subject to relevant separation agreement law (for which see section 7C).”
- (5) After section 5 of that Act insert—

**“5A “5A Savings and incorporation: supplementary**

The fact that anything which continues to be, or forms part of, domestic law on or after IP completion day by virtue of section 2, 3 or 4 has an effect immediately before IP completion day which is time-limited by reference to the implementation period does not prevent it from having an indefinite effect on and after IP completion day by virtue of section 2, 3 or 4.”

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- (6) In Schedule 1 to that Act (further provision about exceptions to savings and incorporation)—
- (a) for “exit day”, wherever it appears, substitute “ IP completion day ”, and
  - (b) in paragraph 5(1) for “in accordance with this Act” substitute “ by virtue of section 2, 3, 4 or 6(3) or (6) and otherwise in accordance with this Act ”.

#### Commencement Information

**18** S. 25(4)(b)(6)(a) in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(h)

## 26 Interpretation of retained EU law and relevant separation agreement law

- (1) In section 6 of the European Union (Withdrawal) Act 2018 (interpretation of retained EU law)—
- (a) for “exit day”, wherever it appears, substitute “ IP completion day ”,
  - (b) in subsection (4), after paragraph (b) (but before the “and” at the end of the paragraph) insert—
    - “(ba) a relevant court or relevant tribunal is not bound by any retained EU case law so far as is provided for by regulations under subsection (5A),”
  - (c) in subsection (5) after “EU case law” insert “ by virtue of subsection (4)(a) or (b) ”,
  - (d) after subsection (5) insert—
    - “(5A) A Minister of the Crown may by regulations provide for—
      - (a) a court or tribunal to be a relevant court or (as the case may be) a relevant tribunal for the purposes of this section,
      - (b) the extent to which, or circumstances in which, a relevant court or relevant tribunal is not to be bound by retained EU case law,
      - (c) the test which a relevant court or relevant tribunal must apply in deciding whether to depart from any retained EU case law, or
      - (d) considerations which are to be relevant to—
        - (i) the Supreme Court or the High Court of Justiciary in applying the test mentioned in subsection (5), or
        - (ii) a relevant court or relevant tribunal in applying any test provided for by virtue of paragraph (c) above.
- (5B) Regulations under subsection (5A) may (among other things) provide for—
- (a) the High Court of Justiciary to be a relevant court when sitting otherwise than as mentioned in subsection (4)(b)(i) and (ii),
  - (b) the extent to which, or circumstances in which, a relevant court or relevant tribunal not being bound by retained EU case law includes (or does not include) that court or tribunal not being bound by retained domestic case law which relates to retained EU case law,

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- (c) other matters arising in relation to retained domestic case law which relates to retained EU case law (including by making provision of a kind which could be made in relation to retained EU case law), or
- (d) the test mentioned in paragraph (c) of subsection (5A) or the considerations mentioned in paragraph (d) of that subsection to be determined (whether with or without the consent of a Minister of the Crown) by a person mentioned in subsection (5C)(a) to (e) or by more than one of those persons acting jointly.

(5C) Before making regulations under subsection (5A), a Minister of the Crown must consult—

- (a) the President of the Supreme Court,
- (b) the Lord Chief Justice of England and Wales,
- (c) the Lord President of the Court of Session,
- (d) the Lord Chief Justice of Northern Ireland,
- (e) the Senior President of Tribunals, and
- (f) such other persons as the Minister of the Crown considers appropriate.

(5D) No regulations may be made under subsection (5A) after IP completion day.”, and

(e) after subsection (6) insert—

“(6A) Subsections (1) to (6) are subject to relevant separation agreement law (for which see section 7C).”

(2) After section 7B of that Act (general implementation of EEA EFTA and Swiss agreements) (for which see section 6 above) insert—

**“7C “7C Interpretation of relevant separation agreement law**

(1) Any question as to the validity, meaning or effect of any relevant separation agreement law is to be decided, so far as they are applicable—

- (a) in accordance with the withdrawal agreement, the EEA EFTA separation agreement and the Swiss citizens' rights agreement, and
- (b) having regard (among other things) to the desirability of ensuring that, where one of those agreements makes provision which corresponds to provision made by another of those agreements, the effect of relevant separation agreement law in relation to the matters dealt with by the corresponding provision in each agreement is consistent.

(2) See (among other things)—

- (a) Article 4 of the withdrawal agreement (methods and principles relating to the effect, the implementation and the application of the agreement),
- (b) Articles 158 and 160 of the withdrawal agreement (jurisdiction of the European Court in relation to Part 2 and certain provisions of Part 5 of the agreement),



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- (c) Articles 12 and 13 of the Protocol on Ireland/Northern Ireland in the withdrawal agreement (implementation, application, supervision and enforcement of the Protocol and common provisions),
  - (d) Article 4 of the EEA EFTA separation agreement (methods and principles relating to the effect, the implementation and the application of the agreement), and
  - (e) Article 4 of the Swiss citizens' rights agreement (methods and principles relating to the effect, the implementation and the application of the agreement).
- (3) In this Act “relevant separation agreement law” means—
- (a) any of the following provisions or anything which is domestic law by virtue of any of them—
    - (i) section 7A, 7B, 8B or 8C or Part 1B or 1C of Schedule 2 or this section, or
    - (ii) Part 3, or section 20, of the European Union (Withdrawal Agreement) Act 2020 (citizens' rights and financial provision), or
  - (b) anything not falling within paragraph (a) so far as it is domestic law for the purposes of, or otherwise within the scope of—
    - (i) the withdrawal agreement (other than Part 4 of that agreement),
    - (ii) the EEA EFTA separation agreement, or
    - (iii) the Swiss citizens' rights agreement,
- 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.”

#### Commencement Information

- I9** S. 26(1) in force at 30.1.2020 for specified purposes by 2020 c. 2, reg. 2(11)(c)
- I10** S. 26(1)(a) in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(i)
- I11** S. 26(2) in force at 31.1.2020 by S.I. 2020/75, reg. 4(j)

## 27 Dealing with deficiencies in retained EU law

- (1) Section 8 of the European Union (Withdrawal) Act 2018 (dealing with deficiencies arising from withdrawal) is amended in accordance with subsections (2) to (6).
- (2) In subsection (2)—
  - (a) in paragraph (d)(ii), after “membership of the EU” insert “ or Part 4 of the withdrawal agreement ”,
  - (b) in paragraph (e), after “Treaties” insert “ or as a result of either the end of the implementation period or any other effect of the withdrawal agreement ”,
  - (c) after paragraph (e) insert—
    - “(ea) is not clear in its effect as a result of the operation of any provision of sections 2 to 6 or Schedule 1,”, and
  - (d) in paragraph (f)(i) for “exit day” substitute “ IP completion day ”.
- (3) In subsection (4) for “exit day” substitute “ IP completion day ”.

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- (4) In subsection (7), omit paragraph (e).
- (5) In subsection (8) for “exit day” substitute “ IP completion day ”.
- (6) In subsection (9)—
- (a) for “that withdrawal taken together” substitute “—
    - (a) any aspect of that withdrawal, including (among other things)
      - (i) the end of the implementation period, or
      - (ii) any other effect of the withdrawal agreement, or
    - (b) that withdrawal, or any such aspect of it, taken together”, and
  - (b) after “Act” insert “ or the European Union (Withdrawal Agreement) Act 2020 ”.
- (7) In the following provisions of Part 1 of Schedule 2 to the European Union (Withdrawal) Act 2018 (dealing with deficiencies arising from withdrawal: devolved authorities) for “exit day” substitute “ IP completion day ”
- (a) paragraph 4(a),
  - (b) paragraph 8(2)(a)(i),
  - (c) paragraph 9(2)(a)(i), and
  - (d) paragraph 10(2)(a)(i).

#### Commencement Information

**I12** S. 27 in force at 31.1.2020 by S.I. 2020/75, reg. 4(k)

PROSPECTIVE

## 28 Ancillary fee-charging powers

In Part 1 of Schedule 4 to the European Union (Withdrawal) Act 2018 (charging in connection with certain new functions)—

- (a) in paragraph 1(1), after paragraph (a) (but before the “or” at the end of that paragraph) insert—
  - “(aa) section 8B or Part 1B of Schedule 2 (powers in connection with Part 3 of the withdrawal agreement and Part 3 of the EEA EFTA separation agreement), or
  - (ab) section 8C or Part 1C of Schedule 2 (powers in connection with the Ireland/Northern Ireland Protocol in the withdrawal agreement)”, and
- (b) in paragraph 5—
  - (i) in sub-paragraph (1), for “sub-paragraph (2)” substitute “ sub-paragraphs (2) and (2A) ”, and
  - (ii) after sub-paragraph (2) insert—
    - “(2A) This paragraph does not apply in relation to regulations made under paragraph 1(1)(aa) or (ab).”

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### Parliamentary oversight

## 29 Review of EU legislation during implementation period

After section 13 of the European Union (Withdrawal) Act 2018 (Parliamentary approval of the outcome of negotiations with the EU) insert—

### “13A “13A Review of EU legislation during implementation period

- (1) Subsection (2) applies where the European Scrutiny Select Committee of the House of Commons (“the ESC”) publishes a report in respect of any EU legislation made, or which may be made, during the implementation period and the report—
  - (a) states that, in the opinion of the ESC, the EU legislation raises a matter of vital national interest to the United Kingdom,
  - (b) confirms that the ESC has taken such evidence as it considers appropriate as to the effect of the EU legislation and has consulted any Departmental Select Committee of the House of Commons which the ESC considers also has an interest in the EU legislation, and
  - (c) sets out the wording of a motion to be moved in the House of Commons in accordance with subsection (2).
- (2) A Minister of the Crown must, within the period of 14 Commons sitting days beginning with the day on which the report is published, make arrangements for the motion mentioned in subsection (1)(c) to be debated and voted on by the House of Commons.
- (3) Subsection (4) applies where the EU Select Committee of the House of Lords (“the EUC”) publishes a report in respect of any EU legislation made, or which may be made, during the implementation period and the report—
  - (a) states that, in the opinion of the EUC, the EU legislation raises a matter of vital national interest to the United Kingdom,
  - (b) confirms that the EUC has taken such evidence as it considers appropriate as to the effect of the EU legislation, and
  - (c) sets out the wording of a motion to be moved in the House of Lords in accordance with subsection (4).
- (4) A Minister of the Crown must, within the period of 14 Lords sitting days beginning with the day on which the report is published, make arrangements for the motion mentioned in subsection (3)(c) to be debated and voted on by the House of Lords.
- (5) In this section—

“EU legislation” means—

  - (a) any amendment to the Treaty on European Union, the Treaty on the Functioning of the European Union, the Euratom Treaty or the EEA agreement,
  - (b) any EU directive, or
  - (c) any EU regulation or EU decision which is not EU tertiary legislation;

“the European Scrutiny Select Committee of the House of Commons” means the Select Committee of the House of Commons

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known as the European Scrutiny Select Committee or any successor of that committee;

“the EU Select Committee of the House of Lords” means the Select Committee of the House of Lords known as the EU Select Committee or any successor of that committee.”

PROSPECTIVE

### 30 Certain dispute procedures under withdrawal agreement

After section 13A of the European Union (Withdrawal) Act 2018 (review of EU legislation during implementation period) (for which see section 29 above) insert—

#### “13B “13B Certain dispute procedures under withdrawal agreement

- (1) Subsection (2) applies if a request has been made under Article 170 of the withdrawal agreement to the other party in a dispute (request to establish an arbitration panel in relation to a dispute between the EU and the United Kingdom).
- (2) A Minister of the Crown must, within the 14 day period beginning with the day on which the request is made, make a statement in writing to each House of Parliament that the request has been made and setting out the details of it.
- (3) Subsection (4) applies if the European Court has given a ruling in response to a request by an arbitration panel under Article 174(1) of the withdrawal agreement (request for ruling by European Court on certain questions arising in a dispute submitted to arbitration).
- (4) A Minister of the Crown must, within the 14 day period beginning with the publication in the Official Journal of the European Union of the ruling of the European Court, make a statement in writing to each House of Parliament that the ruling has been made and setting out the details of it contained in the Official Journal.
- (5) After the end of each reporting period, a Minister of the Crown must lay before each House of Parliament a report setting out the number of times within the reporting period that the Joint Committee has been provided with notice under Article 169(1) of the withdrawal agreement (notice concerning the commencement of consultations in the Joint Committee to resolve a dispute between the EU and the United Kingdom about the interpretation and application of the withdrawal agreement).
- (6) In this section—
  - “reporting period” means—
    - (a) the period of one year beginning with the day on which IP completion day falls, and
    - (b) each subsequent year;
  - “the 14 day period” means—
    - (a) in relation to the House of Commons, the period of 14 Commons sitting days, and

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(b) in relation to the House of Lords, the period of 14 Lords sitting days.”

### **31 Repeal of section 13 of EUWA 2018**

- (1) Section 13 of the European Union (Withdrawal) Act 2018 (Parliamentary approval of the outcome of negotiations with the EU) is repealed.
- (2) Accordingly, none of the conditions set out in paragraphs (a) to (d) of subsection (1) of that section apply in relation to the ratification of the withdrawal agreement.

### **32 Requirements in Part 2 of CRAGA**

Section 20 of the Constitutional Reform and Governance Act 2010 (treaties to be laid before Parliament before ratification) does not apply in relation to the withdrawal agreement (but this does not affect whether that section applies in relation to any modification of the agreement).

#### *Other matters*

### **33 Prohibition on extending implementation period**

After section 15 of the European Union (Withdrawal) Act 2018 (publication and rules of evidence) insert—

#### **“15A “15A Prohibition on extending implementation period**

A Minister of the Crown may not agree in the Joint Committee to an extension of the implementation period.”

### **34 Ministerial co-chairs of the Joint Committee**

After section 15A of the European Union (Withdrawal) Act 2018 (prohibition on extending implementation period) (for which see section 33 above) insert—

#### **“15B “15B Ministerial co-chairs of the Joint Committee**

The functions of the United Kingdom's co-chair of the Joint Committee, under Annex VIII of the withdrawal agreement (rules of procedure of the Joint Committee and specialised committees), are to be exercised personally by a Minister of the Crown (and, accordingly, only a Minister of the Crown may be designated as a replacement under Rule 1(3)).”

### **35 No use of written procedure in the Joint Committee**

After section 15B of the European Union (Withdrawal) Act 2018 (ministerial co-chairs of the Joint Committee) (for which see section 34 above) insert—

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### **“15C “15C No use of written procedure in the Joint Committee**

- (1) The United Kingdom's co-chair of the Joint Committee may not consent to the Joint Committee using the written procedure provided for in Rule 9(1) of Annex VIII of the withdrawal agreement.
- (2) In subsection (1) the reference to the United Kingdom's co-chair of the Joint Committee includes a reference to any designee of the co-chair designated under Rule 1(3) of Annex VIII of the withdrawal agreement.”

### **36 Repeal of unnecessary or spent enactments**

The following enactments are repealed—

- (a) section 9 of the European Union (Withdrawal) Act 2018 (implementing the withdrawal agreement),
- (b) sections 16 and 18 of that Act (spent duties in relation to environmental principles etc. and a customs arrangement),
- (c) section 19 of that Act (future interaction with the law and agencies of the EU),
- (d) Part 2 of Schedule 2 to that Act (implementing the withdrawal agreement),
- (e) the European Union (Withdrawal) Act 2019 (provisions in connection with an extension under Article 50(3) of the Treaty on European Union), and
- (f) the European Union (Withdrawal) (No. 2) Act 2019 (duties in connection with an extension under Article 50(3) of the Treaty on European Union).

### **37 Arrangements with EU about unaccompanied children seeking asylum**

In section 17 of the European Union (Withdrawal) Act 2018 (family unity for those seeking asylum or other protection in Europe), for subsection (1) substitute—

- “(1) A Minister of the Crown must, within the period of two months beginning with the day on which the European Union (Withdrawal Agreement) Act 2020 is passed, lay before Parliament a statement of policy in relation to any future arrangements between the United Kingdom and the EU about—
- (a) unaccompanied children, who make an application for international protection to a member State, coming to the United Kingdom where it is in their best interests to join a relative who—
    - (i) is a lawful resident of the United Kingdom, or
    - (ii) has made a protection claim which has not been decided, and
  - (b) unaccompanied children in the United Kingdom, who make a protection claim, going to a member State to join a relative there in equivalent circumstances.”

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## PART 5

### GENERAL AND FINAL PROVISION

#### *Parliamentary sovereignty*

#### **38 Parliamentary sovereignty**

- (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),
  - (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 (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.

#### *Interpretation*

#### **39 Interpretation**

- (1) In this Act—
  - “devolved authority” means—
    - (a) the Scottish Ministers,
    - (b) the Welsh Ministers, or
    - (c) a Northern Ireland department;
  - “EEA EFTA separation agreement” means (as modified from time to time in accordance with any provision of it) the Agreement on arrangements between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland following the withdrawal of the United Kingdom from the European Union, the EEA Agreement and other agreements applicable between the United Kingdom and the EEA EFTA States by virtue of the United Kingdom's membership of the European Union;
  - “enactment” means an enactment whenever passed or made and includes—
    - (a) an enactment contained in any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made under an Act of Parliament,
    - (b) an enactment contained in any Order in Council made in exercise of Her Majesty's Prerogative,

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- (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
- (d) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales,
- (e) an enactment contained in, or in an instrument made under, Northern Ireland legislation,
- (f) an enactment contained in any instrument made by a member of the Scottish Government, the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government, a Northern Ireland Minister, the First Minister in Northern Ireland, the deputy First Minister in Northern Ireland or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty,
- (g) an enactment contained in, or in an instrument made under, a Measure of the Church Assembly or of the General Synod of the Church of England, and

(h) any retained direct EU legislation;

“IP completion day” means 31 December 2020 at 11.00 p.m (and see subsections (2) to (5));

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 and also includes the Commissioners for Her Majesty's Revenue and Customs;

“modify” includes amend, repeal or revoke (and related expressions are to be read accordingly);

“primary legislation” means—

- (a) an Act of Parliament,
- (b) an Act of the Scottish Parliament,
- (c) a Measure or Act of the National Assembly for Wales, or
- (d) Northern Ireland legislation;

“subordinate legislation” means any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made under any primary legislation;

“Swiss citizens' rights agreement” means (as modified from time to time in accordance with any provision of it) the Agreement signed at Bern on 25 February 2019 between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on citizens' rights following the withdrawal of the United Kingdom from—

- (a) the European Union, and
- (b) the free movement of persons agreement,

so far as the Agreement operates for the purposes of the case where “specified date” for the purposes of that Agreement has the meaning given in Article 2(b)(ii) of that Agreement;

“withdrawal agreement” means the agreement between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for the United Kingdom's withdrawal from the EU (as that agreement is modified from time to time in accordance with any provision of it).



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- (2) In this Act references to before, after or on IP completion day, or to beginning with IP completion day, are to be read as references to before, after or at 11.00 p.m. on 31 December 2020 or (as the case may be) to beginning with 11.00 p.m. on that day.
- (3) Subsection (4) applies if, by virtue of any change to EU summer-time arrangements, the transition or implementation period provided for by Part 4 of the withdrawal agreement is to end on a day or time which is different from that specified in the definition of “IP completion day” in subsection (1).
- (4) A Minister of the Crown may by regulations—
  - (a) amend the definition of “IP completion day” in subsection (1) to ensure that the day and time specified in the definition are the day and time that the transition or implementation period provided for by Part 4 of the withdrawal agreement is to end, and
  - (b) amend subsection (2) in consequence of any such amendment.
- (5) In subsection (3) “EU summer-time arrangements” means the arrangements provided for by Directive [2000/84/EC](#) of the European Parliament and of the Council of 19 January 2001 on summer-time arrangements.
- (6) In this Act any reference to an Article of the Treaty on European Union includes a reference to that Article as applied by Article 106a of the Euratom Treaty.

### *Supplementary and final*

#### **40 Regulations**

Schedule 4 contains provision about regulations under this Act (including provision about procedure).

#### **41 Consequential and transitional provision etc.**

- (1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate in consequence of this Act.
- (2) The power to make regulations under subsection (1) may (among other things) be exercised by modifying any provision made by or under an enactment.
- (3) In subsection (2) “enactment” does not include primary legislation passed or made after IP completion day.
- (4) Parts 1 and 2 of Schedule 5 contain minor and consequential provision.
- (5) A Minister of the Crown may by regulations make such transitional, transitory or saving provision as the Minister considers appropriate in connection with the coming into force of any provision of this Act (including its operation in connection with exit day or IP completion day).
- (6) Part 3 of Schedule 5 contains transitional, transitory and saving provision.

#### **Commencement Information**

**I13** [S. 41\(1\)-\(3\)\(5\)](#) in force at 23.1.2020 and [s. 41\(4\)\(6\)](#) in force for specified purposes at 23.1.2020, see [s. 42\(6\)\(d\)\(e\)](#)

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- I14** S. 41(4) in force at 31.1.2020 immediately before IP completion day for specified purposes by S.I. 2020/75, reg. 3(a)
- I15** S. 41(4)(6) in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(l)

## 42 Extent, commencement and short title

- (1) Subject to subsections (2) to (5), this Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Any provision of this Act which amends or repeals an enactment has the same extent as the enactment amended or repealed.
- (3) Accordingly, section 1 (but not section 2) also extends to the Isle of Man, the Channel Islands and Gibraltar.
- (4) The power in section 36 of the Immigration Act 1971 or (as the case may be) section 60(4) of the UK Borders Act 2007 may be exercised so as to extend (with or without modifications) to the Isle of Man or any of the Channel Islands the modifications made to that Act by section 10 above.
- (5) Paragraphs 1 and 2 of Schedule 5, so far as they relate to the modification of any provision in subordinate legislation which extends outside England and Wales, Scotland and Northern Ireland, also extend there.
- (6) The following provisions—
  - (a) sections 3 and 4,
  - (b) sections 11, 16 and 17,
  - (c) sections 20, 29 and 31 to 40 (including Schedule 4),
  - (d) section 41(1) to (3) and (5),
  - (e) the following provisions of Schedule 5—
    - (i) paragraphs 1(3) to (6) and 2,
    - (ii) paragraph 3(2) to (8),
    - (iii) paragraph 4,
    - (iv) paragraphs 5 and 7(a) and (b),
    - (v) paragraphs 8 and 12(a) and (b),
    - (vi) paragraphs 17, 20, 22, 24, 27 and 31,
    - (vii) paragraphs 32, 36(a) and (b) and 37(b) and (c),
    - (viii) paragraphs 38, 41(1) and (3)(a), 42, 44(1), (2)(a), (d) and (e) and (3), 47(1), (2), (4) and (6) and 50,
    - (ix) paragraphs 51 and 56(1) and (7)(b) for the purposes of making regulations under section 8A of, or Part 1A of Schedule 2 to, the European Union (Withdrawal) Act 2018,
    - (x) paragraphs 52(1) and (3) to (7) and 53(1) to (4), (6), (7)(a), (8)(a) and (9) to (13),
    - (xi) paragraph 56(1) and (6)(b) to (d), and
    - (xii) paragraphs 65 to 68,
 (and section 41(4) and (6) so far as relating to any provision so far as it falls within any of sub-paragraphs (i) to (xii)), and
  - (f) this section,
 come into force on the day on which this Act is passed.

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- (7) The provisions of this Act, so far as they are not brought into force by subsection (6), come into force on such day as a Minister of the Crown may by regulations appoint; and different days may be appointed for different purposes.
- (8) This Act may be cited as the European Union (Withdrawal Agreement) Act 2020.

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## SCHEDULES

PROSPECTIVE

### SCHEDULE 1

Sections 12, 13 and 14

#### POWERS OF DEVOLVED AUTHORITIES UNDER SECTIONS 12, 13 AND 14

*No power to make provision outside devolved competence*

- |   |   |
|---|---|
| 1 | No provision may be made by a devolved authority acting alone in regulations under section 12, 13 or 14 unless the provision is within the devolved competence of the devolved authority.   |
| 2 | <p>A provision is within the devolved competence of the Scottish Ministers for the purposes of this Schedule if—</p> <ul style="list-style-type: none"> <li>(a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament (ignoring section 29(2)(d) of the Scotland Act 1998 so far as relating to EU law and retained EU law), or</li> <li>(b) it is provision which could be made in other subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone (ignoring section 57(2) of the Scotland Act 1998 so far as relating to EU law and section 57(4) of that Act).</li> </ul>   |
| 3 | <p>A provision is within the devolved competence of the Welsh Ministers for the purposes of this Schedule if—</p> <ul style="list-style-type: none"> <li>(a) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (ignoring section 108A(2)(e) of the Government of Wales Act 2006 so far as relating to EU law and retained EU law but including any provision that could be made only with the consent of a Minister of the Crown), or</li> <li>(b) it is provision which could be made in other subordinate legislation by the Welsh Ministers acting alone (ignoring section 80(8) of the Government of Wales Act 2006).</li> </ul>  |
| 4 | <p>A provision is within the devolved competence of a Northern Ireland department for the purposes of this Schedule if—</p> <ul style="list-style-type: none"> <li>(a) the provision, if it were contained in an Act of the Northern Ireland Assembly—           <ul style="list-style-type: none"> <li>(i) would be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998), and</li> <li>(ii) would not require the consent of the Secretary of State,</li> </ul> </li> <li>(b) the provision—           <ul style="list-style-type: none"> <li>(i) amends or repeals Northern Ireland legislation, and</li> <li>(ii) would, if it were contained in an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly</li> </ul> </li> </ul> |

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(ignoring section 6(2)(d) of the Northern Ireland Act 1998) and require the consent of the Secretary of State, or

- (c) the provision is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority acting alone (ignoring section 24(1)(b) and (3) of the Northern Ireland Act 1998).

*Requirement for consent where it would otherwise be required*

- 5 (1) The consent of a Minister of the Crown is required before any provision is made by the Welsh Ministers acting alone in regulations under section 12, 13 or 14 so far as that provision, if contained in an Act of the National Assembly for Wales, would require the consent of a Minister of the Crown.
- (2) The consent of the Secretary of State is required before any provision is made by a Northern Ireland department acting alone in regulations under section 12, 13 or 14 so far as that provision, if contained in an Act of the Northern Ireland Assembly, would require the consent of the Secretary of State.
- (3) Sub-paragraph (1) or (2) does not apply if—
- (a) the provision could be contained in subordinate legislation made otherwise than under this Act by the Welsh Ministers acting alone or (as the case may be) a Northern Ireland devolved authority acting alone, and
- (b) no such consent would be required in that case.
- (4) The consent of a Minister of the Crown is required before any provision is made by a devolved authority acting alone in regulations under section 12, 13 or 14 so far as that provision, if contained in—
- (a) subordinate legislation made otherwise than under this Act by the devolved authority, or
- (b) subordinate legislation not falling within paragraph (a) and made otherwise than under this Act by—
- (i) in the case of Scotland, the First Minister or Lord Advocate acting alone, or
- (ii) in the case of Northern Ireland, a Northern Ireland devolved authority acting alone,
- would require the consent of a Minister of the Crown.
- (5) Sub-paragraph (4) does not apply if—
- (a) the provision could be contained in—
- (i) an Act of the Scottish Parliament, an Act of the National Assembly for Wales or (as the case may be) an Act of the Northern Ireland Assembly, or
- (ii) different subordinate legislation of the kind mentioned in sub-paragraph (4)(a) or (b) and of a devolved authority acting alone or (as the case may be) another person acting alone, and
- (b) no such consent would be required in that case.

*Requirement for joint exercise where it would otherwise be required*

- 6 (1) No regulations may be made under section 12, 13 or 14 by the Scottish Ministers, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by—

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- (a) the Scottish Ministers acting jointly with a Minister of the Crown, or
- (b) the First Minister or Lord Advocate acting jointly with a Minister of the Crown,

unless the regulations are, to that extent, made jointly with the Minister of the Crown.

- (2) No regulations may be made under section 12, 13 or 14 by the Welsh Ministers, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers acting jointly with a Minister of the Crown, unless the regulations are, to that extent, made jointly with the Minister of the Crown.
- (3) No regulations may be made under section 12, 13 or 14 by a Northern Ireland department, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by—
- (a) a Northern Ireland department acting jointly with a Minister of the Crown, or
  - (b) another Northern Ireland devolved authority acting jointly with a Minister of the Crown,
- unless the regulations are, to that extent, made jointly with the Minister of the Crown.
- (4) Sub-paragraph (1), (2) or (3) does not apply if the provision could be contained in—
- (a) an Act of the Scottish Parliament, an Act of the National Assembly for Wales or (as the case may be) an Act of the Northern Ireland Assembly without the need for the consent of a Minister of the Crown, or
  - (b) different subordinate legislation made otherwise than under this Act by—
    - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
    - (ii) the Welsh Ministers acting alone, or
    - (iii) (as the case may be), a Northern Ireland devolved authority acting alone.

*Requirement for consultation where it would otherwise be required*

- 7 (1) No regulations may be made under section 12, 13 or 14 by the Welsh Ministers acting alone, so far as they contain provision which, if contained in an Act of the National Assembly for Wales, would require consultation with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (2) No regulations may be made under section 12, 13 or 14 by the Scottish Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Scottish Ministers, the First Minister or the Lord Advocate after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (3) No regulations may be made under section 12, 13 or 14 by the Welsh Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.

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- (4) No regulations may be made under section 12, 13 or 14 by a Northern Ireland department acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by a Northern Ireland department after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (5) Sub-paragraph (2), (3) or (4) does not apply if—
- (a) the provision could be contained in an Act of the Scottish Parliament, an Act of the National Assembly for Wales or (as the case may be) an Act of the Northern Ireland Assembly, and
  - (b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.
- (6) Sub-paragraph (2), (3) or (4) does not apply if—
- (a) the provision could be contained in different subordinate legislation made otherwise than under this Act by—
    - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
    - (ii) the Welsh Ministers acting alone, or
    - (iii) (as the case may be), a Northern Ireland devolved authority acting alone, and
  - (b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.

#### *Interpretation*

- 8 In this Schedule “Northern Ireland devolved authority” means—
- (a) the First Minister and deputy First Minister in Northern Ireland acting jointly,
  - (b) a Northern Ireland Minister, or
  - (c) a Northern Ireland department.

## SCHEDULE 2

Section 15

### INDEPENDENT MONITORING AUTHORITY FOR THE CITIZENS' RIGHTS AGREEMENTS

#### **PART 1**

##### CONSTITUTION, PROCEEDINGS ETC.

#### *Status*

- 1 (1) The IMA is not to be regarded—
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The IMA's property is not to be regarded—

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- (a) as the property of the Crown, or
- (b) as property held on behalf of the Crown.

**Commencement Information**

**I16** Sch. 2 para. 1 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Membership*

- 2 (1) The IMA is to consist of the following members—
- (a) a chair (who is to be a non-executive member),
  - (b) at least 2 but not more than 6 other non-executive members,
  - (c) the chief executive (who is to be an executive member), and
  - (d) at least 1 but not more than 3 other executive members.
- (2) The Secretary of State is to appoint the non-executive members.
- (3) The non-executive members are to appoint the executive members (subject to paragraph 3).
- (4) The non-executive members may make appointments under sub-paragraph (3) only if the chair and at least 2 other non-executive members have been appointed.
- (5) The non-executive members must consult the Secretary of State before appointing the chief executive.
- (6) The Secretary of State and the non-executive members must, so far as possible, ensure that the number of non-executive members exceeds the number of executive members.
- (7) A person may not hold office as a member of the IMA if the person is a civil servant.
- (8) The executive members are employees of the IMA.
- (9) In sub-paragraphs (3) to (6), the references to the non-executive members are to all the non-executive members for the time being.

**Commencement Information**

**I17** Sch. 2 para. 2 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Interim chief executive*

- 3 (1) The Secretary of State may appoint a person to be the IMA's chief executive until the appointment of a chief executive by the non-executive members under paragraph 2(3) first takes effect.
- (2) A chief executive appointed by the Secretary of State may incur expenditure and do other things in the name and on behalf of the IMA until the membership of the IMA is first constituted in accordance with paragraph 2(1).



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- (3) In exercising the power in sub-paragraph (2), a chief executive appointed by the Secretary of State must act in accordance with any directions given by the Secretary of State.

#### Commencement Information

**I18** Sch. 2 para. 3 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

#### *Requirements relating to appointment*

- 4 (1) In making appointments, the Secretary of State and the non-executive members must have regard to the desirability of the IMA's members (between them) having knowledge of conditions in the United Kingdom relating to matters in relation to which provision is made in Part 2 of the withdrawal agreement and Part 2 of the EEA EFTA separation agreement (“the relevant matters”).
- (2) The Secretary of State must, so far as possible, ensure that the non-executive members of the IMA include—
- (a) a member who knows about conditions in Scotland relating to the relevant matters,
  - (b) a member who knows about conditions in Wales relating to the relevant matters, and
  - (c) a member who knows about conditions in Northern Ireland relating to the relevant matters.
- (3) If the IMA has functions in relation to Gibraltar by virtue of paragraph 33, the Secretary of State must, so far as possible, ensure that the non-executive members of the IMA include a member who knows about conditions in Gibraltar relating to the relevant matters.
- (4) Before appointing a person, the Secretary of State or the non-executive members (as the case may be) must be satisfied that the person does not have a conflict of interest.
- (5) In sub-paragraph (4), “conflict of interest”, in relation to a person, means a financial or other interest which is likely to affect prejudicially the discharge by the person of the person's functions as a member of the IMA.

#### Commencement Information

**I19** Sch. 2 para. 4 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

#### *Procedure for appointing members with knowledge of conditions in devolved areas etc.*

- 5 (1) This paragraph applies in relation to the appointment of non-executive members for the purposes of paragraph 4(2) and (3).
- (2) Before making an appointment, the Secretary of State must tell the relevant authority who the Secretary of State proposes to appoint and why.
- (3) If the relevant authority approves the proposed appointment within the period of one month beginning with the day on which the Secretary of State complies with

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- sub-paragraph (2), the Secretary of State must appoint that person (subject to sub-paragraph (4)).
- (4) If that person is no longer available or the Secretary of State and the relevant authority agree, after the relevant authority has given its approval as mentioned in sub-paragraph (3), that it is no longer appropriate to appoint that person—
- (a) the Secretary of State must propose to appoint a different person, and
  - (b) sub-paragraphs (2) and (3) apply again.
- (5) If the relevant authority does not approve the proposed appointment as mentioned in sub-paragraph (3), the Secretary of State may—
- (a) make the proposed appointment without the approval of the relevant authority, or
  - (b) propose to appoint a different person.
- (6) If the Secretary of State proposes to appoint a different person, sub-paragraphs (2) to (5) apply again.
- (7) If the Secretary of State makes a proposed appointment without the approval of the relevant authority as mentioned in sub-paragraph (3), the Secretary of State must publish a statement explaining why the Secretary of State has proceeded with the appointment.
- (8) In this paragraph, the “relevant authority” means—
- (a) in relation to an appointment for the purposes of paragraph 4(2)(a), the Scottish Ministers,
  - (b) in relation to an appointment for the purposes of paragraph 4(2)(b), the Welsh Ministers,
  - (c) in relation to an appointment for the purposes of paragraph 4(2)(c), the Executive Office in Northern Ireland, and
  - (d) in relation to an appointment for the purposes of paragraph 4(3), the Gibraltar Ministers.

#### **Commencement Information**

**I20** Sch. 2 para. 5 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

#### *Non-executive members: terms of appointment and tenure etc.*

- 6 (1) A person holds and vacates office as a non-executive member of the IMA in accordance with the terms and conditions of the person's appointment.
- (2) The terms and conditions of a person's appointment as a non-executive member of the IMA are to be determined by the Secretary of State, subject to the following provisions of this Schedule.
- (3) The chair is to be appointed for a period of up to 5 years.
- (4) Any other non-executive member of the IMA is to be appointed for a period of up to 4 years.
- (5) A non-executive member may resign by giving notice in writing to the Secretary of State.

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- (6) The Secretary of State may by notice in writing remove a person from office as a non-executive member of the IMA on any of the grounds mentioned in sub-paragraph (7), but must consult the other non-executive members before doing so.
- (7) The grounds are—
- (a) that the person has been absent from the IMA's meetings for a continuous period of more than 6 months without the IMA's permission;
  - (b) that, in the opinion of the Secretary of State, the person has a conflict of interest (within the meaning of paragraph 4(5)) which prevents the person carrying out the functions of the office;
  - (c) that the person has been convicted of a criminal offence;
  - (d) that, in the opinion of the Secretary of State, the person is unable, unwilling or unfit to carry out the functions of the office;
  - (e) any other grounds specified in the person's terms of appointment.

#### Commencement Information

**I21** Sch. 2 para. 6 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

#### *Remuneration of non-executive members*

- 7 (1) The IMA must pay its non-executive members such remuneration as the Secretary of State may determine.
- (2) The IMA must pay, or make provision for paying, to or in respect of any person who is or has been a non-executive member such sums as the Secretary of State may determine in respect of allowances and gratuities.
- (3) Sub-paragraph (4) applies where—
- (a) a person ceases to hold office as a non-executive member other than by reason of their term of office expiring, and
  - (b) the Secretary of State thinks there are special circumstances that make it right for the person to receive compensation.
- (4) The IMA must make a payment to the person of such amount as the Secretary of State may determine.

#### Commencement Information

**I22** Sch. 2 para. 7 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

#### *Staffing of the IMA*

- 8 (1) The IMA may—
- (a) appoint employees (in addition to the executive members), and
  - (b) make such other arrangements for the staffing of the IMA as it considers appropriate.
- (2) The terms and conditions of appointment as an employee are to be determined—

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- (a) in the case of employees other than a chief executive appointed by the Secretary of State, by the IMA with the approval of the Secretary of State, or
  - (b) in the case of a chief executive appointed by the Secretary of State, by the Secretary of State.
- (3) The IMA must pay its employees such remuneration—
- (a) in the case of employees other than a chief executive appointed by the Secretary of State, as the IMA may determine with the approval of the Secretary of State, or
  - (b) in the case of a chief executive appointed by the Secretary of State, as the Secretary of State may determine.
- (4) The IMA must pay, or make provision for paying, to or in respect of a person who is or has been an employee of the IMA, such sums in respect of pensions, allowances and gratuities—
- (a) in the case of employees other than a chief executive appointed by the Secretary of State, as the IMA may determine with the approval of the Secretary of State, or
  - (b) in the case of a chief executive appointed by the Secretary of State, as the Secretary of State may determine.
- (5) In the Superannuation Act 1972 (“the 1972 Act”), in Schedule 1 (kinds of employment to which a scheme under section 1 of the 1972 Act can apply), in the list of “Other Bodies”, at the appropriate place insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”
- (6) The IMA must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase in the sums payable out of money provided by Parliament which is attributable to the provision of pensions by virtue of section 1 of the 1972 Act or section 1 of the Public Service Pensions Act 2013 in respect of employees of the IMA.
- (7) In relation to executive members of the IMA, references in sub-paragraphs (2) to (4) to the IMA determining something with the approval of the Secretary of State are to be read as references to the non-executive members determining that thing with the approval of the Secretary of State.

#### **Commencement Information**

**I23** Sch. 2 para. 8 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

#### *Procedure*

- 9
- (1) The IMA may regulate its own procedure, subject to the following.
  - (2) The IMA must establish and maintain a register of members' interests.
  - (3) The IMA must publish entries recorded in the register.
  - (4) A meeting of the IMA is not quorate unless—
    - (a) at least half the members appointed for the time being are present, and
    - (b) a majority of the members present are non-executive members.

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- (5) The IMA's procedures must include arrangements for dealing with conflicts of interests (within the meaning of paragraph 4(5)) of members.
- (6) The arrangements must oblige each member—
  - (a) to declare all financial interests,
  - (b) to declare any other personal interest relevant to the exercise of a function, and
  - (c) to withdraw from the exercise of any function to which an interest of a sort mentioned in paragraph (a) or (b) is relevant, unless the IMA is satisfied that the interest will not influence the exercise of the function.
- (7) The validity of any proceedings of the IMA, or of its committees or sub-committees, is not affected by a vacancy or a defective appointment.

**Commencement Information**

**I24** Sch. 2 para. 9 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Discharge of functions*

- 10 (1) The IMA may authorise a committee, member or employee of the IMA to do anything the IMA may do apart from approving an annual report to be provided as mentioned in paragraph 31.
- (2) A committee of the IMA may authorise the following to do anything which the committee may do under sub-paragraph (1)—
  - (a) a sub-committee,
  - (b) a member of the committee,
  - (c) a member of the IMA, or
  - (d) an employee of the IMA.
- (3) Committees and sub-committees may include employees of the IMA who are not members of it.

**Commencement Information**

**I25** Sch. 2 para. 10 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Seal and evidence*

- 11 (1) The application of the IMA's seal must be authenticated by the signature of—
  - (a) the chief executive of the IMA, or
  - (b) some other person authorised for that purpose by the IMA.
- (2) A document purporting to be duly executed under the IMA's seal or signed on its behalf—
  - (a) is to be received in evidence, and
  - (b) is to be taken to be executed or signed in that way, unless the contrary is shown.

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- (3) But this paragraph does not apply in relation to any document which is, or is to be, signed in accordance with the law of Scotland.

**Commencement Information**

**I26** Sch. 2 para. 11 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Funding*

- 12 The Secretary of State must pay to the IMA such sums as the Secretary of State considers appropriate for the purpose of enabling the IMA to exercise its functions.

**Commencement Information**

**I27** Sch. 2 para. 12 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Operational independence*

- 13 In exercising functions in respect of the IMA, the Secretary of State must have regard to the need to protect—
- (a) its operational independence, and
  - (b) its ability to make impartial assessments when exercising its functions.

**Commencement Information**

**I28** Sch. 2 para. 13 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

PROSPECTIVE

*Accounts and audit*

- 14 (1) The IMA must—
- (a) keep proper accounts and proper records in relation to them, and
  - (b) prepare a statement of accounts in respect of each financial year.
- (2) Each statement of accounts must comply with any directions given by the Secretary of State as to—
- (a) its content and form;
  - (b) the methods and principles to be applied in preparing it;
  - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The IMA must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General before the end of August next following the financial year to which the statement relates.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement of accounts, and

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- (b) lay a copy of each statement and the report on the statement before Parliament within the period of 4 months beginning with the day on which the Comptroller and Auditor General receives the statement.
- (5) In this Schedule, “financial year” means—
- (a) the period beginning with the day on which the membership of the IMA is first constituted in accordance with paragraph 2(1) and ending with—
    - (i) the first 31 March after that day, if that results in the first financial year being a period of 6 months or more, or
    - (ii) otherwise, the second 31 March after that day, and
  - (b) each successive period of 12 months.

PROSPECTIVE

*Annual plan*

- 15
- (1) The IMA—
    - (a) must prepare, for each financial year, a plan for the exercise during that year of its functions (“the annual plan”), and
    - (b) may revise the annual plan.
  - (2) The IMA must send the proposed annual plan or any revision of it to the Secretary of State.
  - (3) The first annual plan must—
    - (a) be completed within the period of three months beginning with the day on which the membership of the IMA is first constituted in accordance with paragraph 2(1), and
    - (b) relate to the remainder of the financial year that begins with that day.
  - (4) Each subsequent annual plan must be sent to the Secretary of State not later than one month before the beginning of the financial year to which the plan relates.

PROSPECTIVE

*Public records*

- 16
- In Part 2 of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place, insert— “ Independent Monitoring Authority for the Citizens' Rights Agreements. ”

PROSPECTIVE

*Investigation by the Parliamentary Commissioner*

- 17
- In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation), at the appropriate place, insert— “ Independent Monitoring Authority for the Citizens' Rights Agreements. ”

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*House of Commons disqualification*

- 18 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place, insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”

**Commencement Information**

**I29** Sch. 2 para. 18 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

*Northern Ireland Assembly disqualification*

- 19 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place, insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”

**Commencement Information**

**I30** Sch. 2 para. 19 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

PROSPECTIVE

*Freedom of information*

- 20 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which that Act applies), at the appropriate place, insert— “ The Independent Monitoring Authority for the Citizens' Rights Agreements. ”

PROSPECTIVE

*Public sector equality duty*

- 21 In Part 1 of Schedule 19 to the Equality Act 2010 (authorities subject to the public sector equality duty), after the group of entries under the heading “Broadcasting”, insert—

*“Citizens' rights*

The Independent Monitoring Authority for the Citizens' Rights Agreements.”



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## PART 2

### FUNCTIONS OF THE IMA ETC.

PROSPECTIVE

#### *General duties*

- 22 (1) The IMA must monitor the implementation and application in the United Kingdom of Part 2 of the withdrawal agreement and Part 2 of the EEA EFTA separation agreement.
- (2) The duty in sub-paragraph (1) includes keeping under review the adequacy and effectiveness of—
- (a) the legislative framework which implements or otherwise deals with matters arising out of, or related to, Part 2, and
  - (b) the exercise by relevant public authorities of functions in relation to Part 2.
- (3) In this Schedule—
- “Part 2” means Part 2 of the withdrawal agreement or (as the case may be) Part 2 of the EEA EFTA separation agreement, so far as the Part in question applies to and in the United Kingdom;
  - “relevant public authority” means the Secretary of State or any other person who exercises functions of a public nature, apart from—
    - (a) a court or tribunal;
    - (b) either House of Parliament or a person exercising functions in connection with proceedings in Parliament;
    - (c) the devolved legislatures or a person exercising functions in connection with proceedings in any of the devolved legislatures.
- 23 (1) The IMA must promote the adequate and effective implementation and application in the United Kingdom of Part 2 of the withdrawal agreement and Part 2 of the EEA EFTA separation agreement.
- (2) For related functions see—
- (a) paragraph 27 (reports following an inquiry), and
  - (b) paragraph 30 (instituting or intervening in legal proceedings).
- 24 In exercising its functions, the IMA must have regard to the importance of addressing general or systemic failings in the implementation or application of Part 2.

PROSPECTIVE

#### *Inquiries*

- 25 (1) Subject to sub-paragraph (3), the IMA may carry out an inquiry—
- (a) in response to a request from the Secretary of State,

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- (b) in response to a request from the Scottish Ministers relating to a relevant public authority which is a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998),
  - (c) in response to a request from the Welsh Ministers relating to a relevant public authority which is a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006,
  - (d) in response to a request from the Executive Office in Northern Ireland relating to a relevant public authority—
    - (i) which exercises functions only in or as regards Northern Ireland, and
    - (ii) whose functions are wholly or mainly functions which relate to transferred matters (within the meaning of the Northern Ireland Act 1998),
  - (e) following a complaint by a person under paragraph 29, or
  - (f) on its own initiative.
- (2) The purposes of an inquiry are for the IMA—
- (a) to decide whether—
    - (i) the United Kingdom has failed to comply with Part 2, or
    - (ii) a relevant public authority has acted or is proposing to act in a way that prevents a person exercising a relevant right (see paragraph 41(1)), and
  - (b) to identify any recommendations that it considers appropriate to be made to a relevant public authority to promote the adequate and effective implementation or application of Part 2.
- (3) The IMA may not carry out an inquiry under sub-paragraph (1)(e) or (f) unless satisfied that there are reasonable grounds to believe that the inquiry may conclude—
- (a) that the United Kingdom has failed to comply with Part 2, or
  - (b) that a relevant public authority has acted or is proposing to act in a way that prevents a person exercising a relevant right.
- (4) The IMA may decide not to carry out an inquiry even if satisfied as mentioned in sub-paragraph (3).
- (5) Among the reasons the IMA may decide not to carry out an inquiry is if it considers that there are no reasonable grounds to believe that the inquiry may identify general or systemic failings in the implementation or application of Part 2.
- 26 (1) The IMA must publish its intention to carry out an inquiry.
- (2) Where an inquiry is about matters raised in a complaint by a person under paragraph 29(1)(a) or (b), the IMA must invite representations from—
- (a) the person,
  - (b) any relevant public authority about which the person is complaining, and
  - (c) any other person the IMA considers appropriate.
- (3) In any other inquiry, the IMA must invite representations from any person it considers appropriate.
- (4) The IMA must publish information about how and when a person may submit representations in relation to an inquiry.
- (5) The IMA must consider any representations which are submitted accordingly.

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PROSPECTIVE

### *Reports following an inquiry*

- 27 (1) When the IMA has carried out an inquiry under paragraph 25, it must—
- (a) prepare a written report of its conclusions, and
  - (b) include in the report any recommendations it considers appropriate to be made to a relevant public authority to promote the adequate and effective implementation or application of Part 2.
- (2) The IMA must publish a report as soon as reasonably practicable after preparing it.
- (3) Before publishing a report that contains material relating to border security or terrorism (including material about individual cases), the IMA must give the Secretary of State an opportunity to require the IMA to remove from the report any material which, in the opinion of the Secretary of State, should not be published on the grounds that its publication—
- (a) is undesirable for reasons of national security, or
  - (b) might jeopardise an individual's safety.
- (4) As soon as reasonably practicable after publishing a report, the IMA must send it to—
- (a) the Secretary of State, the Scottish Ministers, the Welsh Ministers and the Executive Office in Northern Ireland,
  - (b) any relevant public authority which was invited to make representations in relation to the inquiry,
  - (c) any relevant public authority to which a recommendation is made in the report, and
  - (d) any other relevant public authority the IMA considers appropriate.
- 28 (1) Where a report under paragraph 27 includes recommendations to a relevant public authority, the authority must—
- (a) have regard to the recommendations, and
  - (b) publish a response to the recommendations expeditiously and, in any event, within the period of 3 months beginning with the day on which the IMA published its report.
- (2) The authority's response must explain—
- (a) what, if anything, it proposes to do in response to each recommendation, and
  - (b) its reasons.

PROSPECTIVE

### *Complaints*

- 29 (1) A person who claims to have a relevant right may complain to the IMA that—
- (a) the United Kingdom has failed to comply with Part 2;
  - (b) a relevant public authority has acted or is proposing to act in a way that prevents the person exercising the right in question.

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- (2) The IMA must carry out a preliminary review of each complaint in order to decide whether to carry out an inquiry under paragraph 25 in relation to it.
- (3) In deciding whether to carry out an inquiry in response to a complaint, the IMA must consider whether it would be more appropriate for the person who made the complaint to deal with its subject matter by other means (for example, court proceedings) than for the IMA to carry out an inquiry.
- (4) If the IMA decides not to carry out an inquiry, the IMA—
  - (a) must inform the person who made the complaint, and
  - (b) may advise the person about other ways of dealing with the subject matter of the complaint.

PROSPECTIVE

*Applying for review or intervening in legal proceedings*

- 30
- (1) The IMA may, if it considers it appropriate to do so in order to promote the adequate and effective implementation or application of Part 2—
    - (a) make an application for review, or
    - (b) intervene in any legal proceedings (including proceedings on an application for review).
  - (2) For the purposes of sub-paragraph (1), the IMA is to be treated as having title and interest in relation to the subject matter of any application which it may make, or of any legal proceedings in which it may intervene, in Scotland.
  - (3) Sub-paragraph (1) does not create a cause of action.
  - (4) In this paragraph, “application for review” means—
    - (a) in relation to England and Wales or Northern Ireland, an application for judicial review, and
    - (b) in relation to Scotland, an application to the supervisory jurisdiction of the Court of Session.

PROSPECTIVE

*Annual reports for specialised committee etc.*

- 31
- (1) The IMA must provide annual reports on the implementation and application of Part 2 of the withdrawal agreement to the specialised committee on citizens' rights established by Article 165(1)(a) of that agreement.
  - (2) The IMA must provide annual reports on the implementation and application of Part 2 of the EEA EFTA separation agreement to the Joint Committee established by Article 65(1) of that agreement.
  - (3) The annual reports must contain information on—
    - (a) measures taken by relevant public authorities to implement or comply with Part 2,

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- (b) the number and nature of complaints made to the IMA under paragraph 29(1), and
  - (c) the exercise by the IMA of its functions in relation to Part 2.
- (4) The annual reports may contain any other information which the IMA considers appropriate.
  - (5) The first annual reports must relate to the period of 12 months beginning with IP completion day.
  - (6) Subsequent annual reports must relate to each successive period of 12 months.
  - (7) The IMA must provide annual reports to the committees mentioned in sub-paragraphs (1) and (2) as soon as reasonably practicable after the end of the period to which they relate.
  - (8) The IMA must, at the same time as providing an annual report to the committees mentioned in sub-paragraphs (1) and (2), provide it to—
    - (a) the Secretary of State,
    - (b) the Scottish Ministers,
    - (c) the Welsh Ministers, and
    - (d) the Executive Office in Northern Ireland.
  - (9) The Secretary of State must, as soon as reasonably practicable after receiving an annual report, lay it before Parliament.
  - (10) The Secretary of State must publish the annual report as soon as reasonably practicable after laying it before Parliament.
  - (11) As soon as reasonably practicable after receiving an annual report, the Scottish Ministers, the Welsh Ministers and the Executive Office in Northern Ireland must lay the report before the appropriate devolved legislature.

PROSPECTIVE

### *Guidance*

- 32 (1) The IMA must publish guidance on how it will exercise its functions under paragraphs 22 to 30.
- (2) The guidance must explain how the IMA will give effect to the importance of addressing general or systemic failings in the implementation and application of Part 2.
- (3) In preparing the guidance, the IMA must have regard to—
  - (a) the way in which the European Commission exercises its functions of monitoring and enforcement in relation to citizens' rights under EU law, and
  - (b) any guidance or other publications issued by the European Commission about how it exercises such functions.
- (4) The IMA must first publish guidance within the period of 3 months beginning with the day on which the membership of the IMA is first constituted in accordance with paragraph 2(1).

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PROSPECTIVE

*Gibraltar*

- 33 The IMA is to exercise any function in relation to Gibraltar which—
- (a) the Gibraltar legislature confers on it, and
  - (b) corresponds to a function which the IMA has in relation to the United Kingdom by virtue of this Schedule.

*Supplementary power*

- 34 (1) Subject to sub-paragraph (2), the IMA may do anything which it thinks necessary or expedient for the purposes of, or in connection with, the exercise of its functions.
- (2) The IMA may not—
- (a) borrow money;
  - (b) accept gifts of money, land or other property.

**Commencement Information**

**I31** [Sch. 2 para. 34](#) in force at 31.1.2020 by [S.I. 2020/75](#), [reg. 4\(m\)](#)

PROSPECTIVE

*Cooperation by relevant public authorities*

- 35 A relevant public authority must, so far as reasonably practicable, comply with a request by the IMA to cooperate with it in the exercise of the IMA's functions (including a request to provide information or documents).

**PART 3**

FURTHER PROVISIONS

PROSPECTIVE

*Disclosure of HMRC's information*

- 36 (1) Her Majesty's Revenue and Customs (or anyone acting on their behalf) may disclose information for the purpose of—
- (a) facilitating the exercise by the IMA of any of its functions, or
  - (b) facilitating the exercise by the Secretary of State or another relevant public authority of functions relating to the IMA.
- (2) A person who receives information as a result of sub-paragraph (1) may not—

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- (a) use the information for a purpose other than one mentioned in sub-paragraph (1), or
  - (b) further disclose the information,
- except with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (3) If a person discloses information in contravention of sub-paragraph (2) which relates to a person whose identity—
- (a) is specified in the disclosure, or
  - (b) can be deduced from it,
- section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of information in contravention of section 20(9) of that Act.
- (4) This paragraph does not limit the circumstances in which information may be disclosed under section 18(2) of the Commissioners for Revenue and Customs Act 2005 or under any other enactment or rule of law.

PROSPECTIVE

*Data protection and disclosure of information*

- 37 Nothing in this Schedule authorises the making of a disclosure which—
- (a) contravenes the data protection legislation within the meaning of the Data Protection Act 2018 (see section 3 of that Act), or
  - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

PROSPECTIVE

*Disclosure of information to IMA: national security*

- 38 (1) A relevant public authority must not disclose information to the IMA if a Minister of the Crown certifies that the disclosure would be undesirable for reasons of national security.
- (2) The power conferred by sub-paragraph (1) on a Minister of the Crown is exercisable only by—
- (a) a Minister who is a member of the Cabinet, or
  - (b) the Attorney General or the Advocate General for Scotland.

PROSPECTIVE

*Transfer of IMA's functions and abolition*

- 39 (1) The Secretary of State may by regulations—

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- (a) transfer the functions of the IMA to another body that is a relevant public authority, and
  - (b) in view of that transfer of functions, make any modifications that the Secretary of State considers appropriate to the constitutional or funding arrangements or the functions of the transferee.
- (2) The Secretary of State may make regulations under sub-paragraph (1) only if satisfied that the transfer of functions serves the purpose of improving the exercise of the transferred functions, having regard to efficiency, effectiveness and economy.
- (3) In making regulations under sub-paragraph (1), the Secretary of State must have regard to the need to ensure that the transferee—
- (a) has operational independence when exercising the transferred functions and that it is able to make impartial assessments when exercising those functions, and
  - (b) has appropriate funding to exercise the transferred functions.
- (4) Regulations under sub-paragraph (1)—
- (a) may not provide for the transfer of the IMA's functions under paragraph 33 (which, accordingly, will lapse on the abolition of the IMA), but
  - (b) must make provision corresponding to that paragraph in relation to the transferee.
- (5) Regulations under sub-paragraph (1) may include provision—
- (a) transferring the IMA's property, rights and liabilities (including rights and liabilities in respect of contracts of employment);
  - (b) abolishing the IMA.
- (6) Before making regulations under this paragraph, the Secretary of State must consult—
- (a) the Scottish Ministers,
  - (b) the Welsh Ministers,
  - (c) the Executive Office in Northern Ireland, and
  - (d) if the IMA has functions in relation to Gibraltar by virtue of paragraph 33, the Gibraltar Ministers.
- (7) The power to make regulations under sub-paragraph (1) may (among other things) be exercised by modifying any provision made by or under an enactment (including this Act).
- (8) In this paragraph “constitutional arrangements” has the meaning given by section 3(2) of the Public Bodies Act 2011.
- 40 (1) The Secretary of State may by regulations—
- (a) remove functions of the IMA, if it appears to the Secretary of State that, in accordance with Article 159(3) of the withdrawal agreement or Article 64(4) of the EEA EFTA separation agreement, it is no longer necessary for the IMA to continue to exercise those functions, or
  - (b) abolish the IMA, if it appears to the Secretary of State that, in accordance with Article 159(3) of the withdrawal agreement and Article 64(4) of the EEA EFTA separation agreement, it is no longer necessary for the IMA to continue to exist.



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- (2) Regulations under sub-paragraph (1) may include provision transferring the IMA's property, rights and liabilities (including rights and liabilities in respect of contracts of employment).
- (3) The power to make regulations under sub-paragraph (1) may (among other things) be exercised by modifying any provision made by or under an enactment (including this Act).

### *Interpretation*

- 41 (1) In this Schedule—
- “civil servant” means a person employed in the civil service of the State;
  - “devolved legislature” means—
    - (a) the Scottish Parliament,
    - (b) the National Assembly for Wales, or
    - (c) the Northern Ireland Assembly;
  - “domestic law” means the law of England and Wales, Scotland or Northern Ireland;
  - “Part 2” has the meaning given by paragraph 22(3);
  - “relevant public authority” has the meaning given by paragraph 22(3);
  - “relevant right” means—
    - (a) a right created or arising by or under Part 2, or
    - (b) a right which—
      - (i) corresponds to such a right, and
      - (ii) is created or arises by or under a provision of domestic law so far as that provision has effect in connection with Part 2.
- (2) In this Schedule, references to a relevant public authority acting include references to the relevant public authority failing to act.

#### **Commencement Information**

**I32** Sch. 2 para. 41 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

PROSPECTIVE

### SCHEDULE 3

Section 23

#### PROTECTION FOR CERTAIN RIGHTS, SAFEGUARDS ETC. IN BELFAST AGREEMENT

- 1 The Northern Ireland Act 1998 is amended as follows.
- 2 In section 6(2) (legislative competence), after paragraph (c), insert—
- “(ca) it is incompatible with Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals);”.

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- 3 In section 24(1) (restrictions on powers of Northern Ireland Ministers and departments), after paragraph (a), insert—
- “(aa) is incompatible with Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals);”.
- 4 In section 69 (functions of the Northern Ireland Human Rights Commission), after subsection (10), insert—
- “(10A) For functions of the Commission in relation to Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals), see sections 78A to 78E.”
- 5 In section 71 of the Northern Ireland Act 1998 (restrictions on proceedings)—
- (a) in subsection (2B), for “human rights proceedings” substitute “proceedings which rely on section 7(1)(b) of the Human Rights Act 1998”, and
- (b) in subsection (2C), omit paragraph (a) (including the “and” at the end).
- 6 In section 74 (principal functions of the Equality Commission for Northern Ireland), after subsection (6), insert—
- “(7) For functions of the Commission in relation to Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals), see sections 78A to 78E.”
- 7 After section 78 insert—

*“Protections deriving from EU withdrawal agreement*

### **78A NIHRC functions in relation to EU withdrawal agreement**

#### **78A 78A NIHRC functions in relation to EU withdrawal agreement**

- (1) The Northern Ireland Human Rights Commission must monitor the implementation of Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals).
- (2) The Commission must report to the Secretary of State and the Executive Office in Northern Ireland on the implementation of Article 2(1)—
  - (a) as soon as reasonably practicable after receipt of a general or specific request for such a report, and
  - (b) on such other occasions as the Commission thinks appropriate.
- (3) A report under subsection (2) may require the Secretary of State or the Executive Office in Northern Ireland to reply in writing to any recommendations contained in the report, explaining what steps have been taken or are planned in response to the recommendations.
- (4) On receiving a report under subsection (2)—
  - (a) the Secretary of State must lay a copy of it before Parliament, and
  - (b) the Executive Office in Northern Ireland must lay a copy of it before the Assembly.

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- (5) The Commission must advise the Secretary of State and the Executive Committee of the Assembly of legislative and other measures which ought to be taken to implement Article 2(1)—
  - (a) as soon as reasonably practicable after receipt of a general or specific request for advice, and
  - (b) on such other occasions as the Commission thinks appropriate.
- (6) The Commission must advise the Assembly (or a committee of the Assembly) whether a Bill is compatible with Article 2(1)—
  - (a) as soon as reasonably practicable after receipt of a request for advice, and
  - (b) on such other occasions as the Commission thinks appropriate.
- (7) The Commission must promote understanding and awareness of the importance of Article 2(1); and for this purpose it may undertake, commission or provide financial or other assistance for—
  - (a) research, and
  - (b) educational activities.
- (8) The Commission may decide to publish its advice and the outcome of its research.
- (9) The Commission may, for the purposes of Article 14(c) of the Protocol, bring any appropriate matters to the attention of the Specialised Committee referred to in that Article.

#### **78B ECNI functions in relation to EU withdrawal agreement**

##### **78B 78B ECNI functions in relation to EU withdrawal agreement**

- (1) The Equality Commission for Northern Ireland must monitor the implementation of Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.
- (2) The Commission must report to the Secretary of State and the Executive Office in Northern Ireland on the implementation of Article 2(1)—
  - (a) as soon as reasonably practicable after receipt of a general or specific request for such a report, and
  - (b) on such other occasions as the Commission thinks appropriate.
- (3) A report under subsection (2) may require the Secretary of State or the Executive Office in Northern Ireland to reply in writing to any recommendations contained in the report, explaining what steps have been taken or are planned in response to the recommendations.
- (4) On receiving a report under subsection (2)—
  - (a) the Secretary of State must lay a copy of it before Parliament, and
  - (b) the Executive Office in Northern Ireland must lay a copy of it before the Assembly.
- (5) The Commission must advise the Secretary of State and the Executive Committee of the Assembly of legislative and other measures which ought to be taken to implement Article 2(1)—

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- (a) as soon as reasonably practicable after receipt of a general or specific request for advice, and
  - (b) on such other occasions as the Commission thinks appropriate.
- (6) The Commission must advise the Assembly (or a Committee of the Assembly) whether a Bill is compatible with Article 2(1)—
- (a) as soon as reasonably practicable after receipt of a request for advice, and
  - (b) on such other occasions as the Commission thinks appropriate.
- (7) The Commission must promote understanding and awareness of the importance of Article 2(1); and for this purpose it may undertake, commission or provide financial or other assistance for—
- (a) research, and
  - (b) educational activities.
- (8) The Commission may decide to publish its advice and the outcome of its research.
- (9) The Commission may, for the purposes of Article 14(c) of the Protocol, bring any appropriate matters to the attention of the Specialised Committee referred to in that Article.

#### **78C Power of Commissions to bring, or intervene in, legal proceedings**

#### **78C 78C Power of Commissions to bring, or intervene in, legal proceedings**

- (1) The Northern Ireland Human Rights Commission or Equality Commission for Northern Ireland may—
- (a) bring judicial review proceedings in respect of an alleged breach (or potential future breach) of Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;
  - (b) intervene in legal proceedings, whether for judicial review or otherwise, in so far as they relate to an alleged breach (or potential future breach) of Article 2(1).
- (2) Subsection (1)(a) does not create a cause of action.

#### **78D Power of Commissions to assist persons in legal proceedings**

#### **78D 78D Power of Commissions to assist persons in legal proceedings**

- (1) This section applies to proceedings or proposed proceedings by a person in respect of an alleged breach (or potential future breach) of Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.
- (2) Where the person applies to the Northern Ireland Human Rights Commission, or the Equality Commission for Northern Ireland, for assistance in relation to the proceedings, the Commission may grant the application, so far as it relates to the alleged breach (or potential future breach) of Article 2(1), on any of the following grounds—
- (a) that the case raises a question of principle;
  - (b) that it would be unreasonable to expect the person to deal with the case without assistance because of its complexity, or because of

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the person's position in relation to another person involved, or for some other reason;

- (c) that there are other special circumstances which make it appropriate for the Commission to provide assistance.

(3) Where an application under subsection (2) is granted, the Commission in question may—

- (a) provide, or arrange for the provision of, legal advice;  
(b) arrange for the provision of legal representation;  
(c) provide any other assistance which it thinks appropriate.

(4) Arrangements made under this section for the provision of assistance to a person may include provision for recovery of expenses from the person in certain circumstances.

### **78E Collaborative working**

#### **78E 78E Collaborative working**

The Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland may arrange for any of their functions under sections 78A to 78D to be carried out by one of them acting on behalf of the other (or by them acting jointly)."

- 8 In Schedule 3 (reserved matters), in paragraph 42, after paragraph (b), insert—  
“(ba) in Part VII, sections 78A to 78E;”.

## SCHEDULE 4

Section 40

### REGULATIONS UNDER THIS ACT

#### **PART 1**

#### PROCEDURE

##### *Rights in relation to entry and residence*

- 1 (1) A statutory instrument containing—  
(a) the first regulations under section 7(1)(b), (c), (d), (e), (f) or (g), 8(1) or 9, or  
(b) regulations under section 7, 8 or 9 which amend, repeal or revoke primary legislation or 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 7, 8 or 9 is subject to annulment in pursuance of a resolution of either House of Parliament.
- 2 (1) A statutory instrument containing the first regulations under section 11—  
(a) must be laid before Parliament after being made, and

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- (b) ceases to have effect at the end of the period of 40 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (2) Any other statutory instrument containing regulations under section 11 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.
- (3) A statutory instrument containing regulations under section 11, other than a statutory instrument to which sub-paragraph (1) or (2) applies, is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In calculating the period of 40 days for the purposes of sub-paragraph (1) no account is to be taken of any time during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) either House of Parliament is adjourned for more than four days.
- (5) If regulations cease to have effect as a result of sub-paragraph (1) that—
  - (a) does not affect the validity of anything previously done under the regulations, and
  - (b) does not prevent the making of new regulations.

*Powers under sections 12, 13 and 14: sole exercise*

- 3 (1) A statutory instrument containing regulations under section 12, 13 or 14 of a Minister of the Crown 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, each House of Parliament.
- (2) Any other statutory instrument containing regulations under section 12, 13 or 14 of a Minister of the Crown acting alone is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations under section 12, 13 or 14 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 section 12, 13 or 14 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 section 12, 13 or 14 of the Welsh Ministers acting alone which amend, repeal or revoke—
  - (a) primary legislation, or
  - (b) retained direct principal EU legislation,

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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 section 12, 13 or 14 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (7) Regulations under section 12, 13 or 14 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 section 12, 13 or 14 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.

*Powers under sections 12, 13 and 14: joint exercise*

- 4 (1) This paragraph applies to regulations under section 12, 13 or 14 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).

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- (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 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.



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- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.

*Power to amend definition of “IP completion day”*

- 5 A statutory instrument containing regulations under section 39(4) is subject to annulment in pursuance of a resolution of either House of Parliament.

*Consequential provision*

- 6 A statutory instrument containing regulations under section 41(1) is subject to annulment in pursuance of a resolution of either House of Parliament.

*The IMA*

- 7 A statutory instrument containing regulations under paragraph 39 or 40 of Schedule 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.

*Power under paragraph 1(3) of Schedule 5: sole exercise*

- 8 (1) A statutory instrument containing regulations made by a Minister of the Crown acting alone under paragraph 1(3) of Schedule 5 on or after exit day is subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Regulations made by the Scottish Ministers acting alone under paragraph 1(3) of Schedule 5 on or after exit day are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (3) A statutory instrument containing regulations made by the Welsh Ministers acting alone under paragraph 1(3) of Schedule 5 on or after exit day is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4) Regulations made by a Northern Ireland department acting alone under paragraph 1(3) of Schedule 5 on or after exit day 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.

*Power under paragraph 1(3) of Schedule 5: joint exercise*

- 9 (1) This paragraph applies to regulations under paragraph 1(3) of Schedule 5 of a Minister of the Crown acting jointly with a devolved authority.
- (2) The procedure provided for by sub-paragraph (3) 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 are made on or after exit day is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers on or after exit day are subject to the negative procedure.

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- (5) 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 (4) 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).
- (6) 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 (4) 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).
- (7) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers on or after exit day is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (8) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department on or after exit day 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.
- (9) If in accordance with this paragraph—
  - (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.
- (10) In sub-paragraph (9) “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.
- (11) Sub-paragraph (9) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (12) Sub-paragraphs (9) to (11) apply in place of provision made by any other enactment about the effect of such a resolution.

*Power under paragraph 3(2) of Schedule 5*

- 10 (1) Regulations made by the Scottish Ministers under paragraph 3(2) of Schedule 5 on or after exit day are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (2) A statutory instrument containing regulations made by the Welsh Ministers under paragraph 3(2) of Schedule 5 on or after exit day is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

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- (3) Regulations made by a Northern Ireland department under paragraph 3(2) of Schedule 5 on or after exit day 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.

## PART 2

### GENERAL PROVISION ABOUT POWERS UNDER ACT

#### *Scope and nature of powers: general*

- 11 (1) Any power to make regulations under this Act—
- (a) so far as exercisable by a Minister of the Crown or by a Minister of the Crown acting jointly with a devolved authority, is exercisable by statutory instrument,
  - (b) so far as exercisable by the Welsh Ministers or by the Welsh Ministers acting jointly with a Minister of the Crown, is exercisable by statutory instrument, and
  - (c) so far as exercisable by a Northern Ireland department (other than when acting jointly with a Minister of the Crown), is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (SI 1979/1573 (NI 12)) (and not by statutory instrument).
- (2) For regulations made under this Act by the Scottish Ministers, see also section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (Scottish statutory instruments).
- 12 Any power to make regulations under this Act—
- (a) may be exercised so as to make different provision for different cases or descriptions of case, different circumstances, different purposes or different areas, and
  - (b) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- 13 The fact that a power to make regulations is conferred by this Act does not affect the extent of any other power to make regulations under this Act.

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

- 14 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.

#### *Scope of appointed day power*

- 15 The power of a Minister of the Crown under section 42(7) to appoint a day includes a power to appoint a time on that day if the Minister considers it appropriate to do so.

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### *Hybrid instruments*

- 16 If an instrument, or a draft of an instrument, containing regulations under this Act would, apart from this paragraph, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument.

### *Combinations of instruments*

- 17 (1) Sub-paragraph (2) applies to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament for the approval of the instrument in draft before it is made or its approval after it is made.
- (2) The statutory instrument may also include regulations under this Act or another enactment which are made by statutory instrument which is subject to a procedure before Parliament that provides for the annulment of the instrument after it has been made.
- (3) Where regulations are included as mentioned in sub-paragraph (2), the procedure applicable to the statutory instrument is the procedure mentioned in sub-paragraph (1) and not the procedure mentioned in sub-paragraph (2).
- (4) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before the National Assembly for Wales as they apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament but as if the references to Parliament were references to the National Assembly for Wales.
- (5) Sub-paragraphs (1) to (3) apply in relation to a statutory rule as they apply in relation to a statutory instrument but as if the references to Parliament were references to the Northern Ireland Assembly.
- (6) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as well as a procedure before Parliament as they apply to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament but as if the references to Parliament were references to Parliament and the Scottish Parliament, the National Assembly for Wales or (as the case may be) the Northern Ireland Assembly.
- (7) This paragraph does not prevent the inclusion of other regulations in a statutory instrument or statutory rule which contains regulations under this Act (and, accordingly, references in this Schedule to an instrument containing regulations are to be read as references to an instrument containing (whether alone or with other provision) regulations).

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## SCHEDULE 5

Section 41(4) and (6)

### CONSEQUENTIAL AND TRANSITIONAL PROVISION ETC.

#### PART 1

##### GENERAL CONSEQUENTIAL PROVISION

###### *Subordinate legislation with commencement by reference to exit day*

- 1 (1) Any provision in subordinate legislation made before exit day under—
- (a) any provision of the European Union (Withdrawal) Act 2018 (or any provision made under any such provision), or
  - (b) any other enactment,
- which provides, by reference to exit day (however expressed), for all or part of that or any other subordinate legislation to come into force immediately before exit day, on exit day or at any time after exit day is to be read instead as providing for the subordinate legislation or (as the case may be) the part to come into force immediately before IP completion day, on IP completion day or (as the case may be) at the time concerned after IP completion day.
- (2) Sub-paragraph (1) does not apply so far as it is expressly disapplied by the subordinate legislation that provides as mentioned in that sub-paragraph.
- (3) An appropriate authority may by regulations—
- (a) provide for sub-paragraph (1) not to apply to any extent in particular cases or descriptions of case, or
  - (b) make different provision in particular cases or descriptions of case to that made by sub-paragraph (1).
- (4) But see paragraph 2 for further provision about the power of a devolved authority acting alone to make regulations under sub-paragraph (3).
- (5) No regulations may be made under sub-paragraph (3) after the end of the period of one year beginning with IP completion day.
- (6) In this paragraph “appropriate authority” means—
- (a) a Minister of the Crown,
  - (b) a devolved authority, or
  - (c) a Minister of the Crown acting jointly with a devolved authority.

#### **Modifications etc. (not altering text)**

- C1** Sch. 5 para. 1(1) disapplied (30.1.2020) by [The Value Added Tax \(Miscellaneous Amendments, Revocation and Transitional Provisions\) \(EU Exit\) Regulations 2019 \(Appointed Day No. 1\) \(EU Exit\) Regulations 2020 \(S.I. 2020/87\)](#), **reg. 3**
- C2** Sch. 5 para. 1(1) disapplied (31.1.2020 immediately before exit day) by [The Financial Services \(Consequential Amendments\) Regulations 2020 \(S.I. 2020/56\)](#), **reg. 1**
- C3** Sch. 5 para. 1(1) disapplied (31.1.2020) by [The Immigration \(Citizens’ Rights Appeals\) \(EU Exit\) Regulations 2020 \(S.I. 2020/61\)](#), **reg. 1(2)**
- C4** Sch. 5 para. 1(1) disapplied (31.1.2020) by [The Financing, Management and Monitoring of Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/90\)](#), **reg. 1(2)**

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- C5** Sch. 5 para. 1(1) disappplied (31.1.2020) by [The Rules for Direct Payments to Farmers \(Amendment\) Regulations 2020 \(S.I. 2020/91\)](#), **reg. 1(2)**
- C6** Sch. 5 para. 1(1) disappplied (31.1.2020) by [The European Union \(Withdrawal Agreement\) Act 2020 \(Disapplication of the Deferral of Subordinate Legislation\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/93\)](#), **regs. 1, 2**
- C7** Sch. 5 para. 1(1) disappplied (31.1.2020) by [The Direct Payments to Farmers \(Legislative Continuity\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2020 \(S.S.I. 2020/18\)](#), **reg. 1(2)**
- C8** Sch. 5 para. 1(1) disappplied (31.1.2020) by [The Common Agricultural Policy \(Direct Payments to Farmers\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2020 \(S.I. 2020/104\)](#), **reg. 1(2)**

#### **Commencement Information**

- I33** Sch. 5 para. 1(3)-(6) in force at 23.1.2020, see s. 42(6)(e)(i)
- I34** Sch. 5 para. 1(1)(2) in force at 31.1.2020 by [S.I. 2020/75](#), **reg. 3(b)**

- 2
  - (1) No provision may be made by a devolved authority acting alone in regulations under paragraph 1(3) so far as those regulations relate to the coming into force of regulations under section 23(1) or (6) of, or paragraph 1(2)(b) of Schedule 1 to, the European Union (Withdrawal) Act 2018.
  - (2) Subject to this, no provision may be made by a devolved authority acting alone in regulations under paragraph 1(3) relating to the coming into force of all or part of any subordinate legislation unless—
    - (a) the devolved authority acting alone otherwise than under paragraph 1(3) made the provision for the coming into force of the subordinate legislation or part and either—
      - (i) the regulations provide for paragraph 1(1) not to apply to the subordinate legislation or part, or
      - (ii) the devolved authority acting alone otherwise than under paragraph 1(3) could provide for the subordinate legislation or part to come into force at the same time as is provided for by virtue of the regulations, or
    - (b) the devolved authority acting alone could make provision corresponding to that made by the subordinate legislation or part and could provide for that provision to come into force at the same time as is provided for by virtue of the regulations.
  - (3) Where the test in sub-paragraph (2)(a) or (b) is (to any extent) only met by a devolved authority acting alone with the consent of a Minister of the Crown, the consent of a Minister of the Crown is required before the regulations under paragraph 1(3) may be made by the devolved authority acting alone.
  - (4) Except where sub-paragraph (3) applies, no provision may be made under paragraph 1(3) by a devolved authority acting alone unless the devolved authority has consulted a Minister of the Crown.

*Devolved preparatory legislation of a kind mentioned  
 in paragraph 41(3) to (5) of Schedule 8 to EUWA 2018*

- 3
  - (1) Any provision of primary legislation which—
    - (a) is made before exit day by virtue of any of sub-paragraphs (3) to (5) of paragraph 41 of Schedule 8 to the European Union (Withdrawal) Act 2018, and

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- (b) provides, by reference to exit day (however expressed), for itself or any other provision so made to come into force on exit day or at any time after exit day, is to be read instead as providing for the provision to come into force on IP completion day or (as the case may be) at that time after IP completion day.
- (2) But a relevant devolved authority may, by regulations and subject to sub-paragraphs (4) to (7)—
- (a) provide for sub-paragraph (1) not to apply to any extent in particular cases or descriptions of case,
- (b) make different provision in particular cases or descriptions of case to that made by sub-paragraph (1), or
- (c) make such provision as the relevant devolved authority considers appropriate in consequence of sub-paragraph (1) (including provision restating the effect of that sub-paragraph).
- (3) The power to make regulations under sub-paragraph (2) may (among other things) be exercised by modifying any provision made by or under an enactment.
- (4) No provision may be made by the Scottish Ministers in regulations under sub-paragraph (2) unless it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.
- (5) No provision may be made by the Welsh Ministers in regulations under sub-paragraph (2) unless it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (including any provision that could be made only with the consent of a Minister of the Crown).
- (6) No provision may be made by a Northern Ireland department in regulations under sub-paragraph (2) unless it would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of the Assembly (including any provision that could be made only with the consent of the Secretary of State).
- (7) No regulations may be made under sub-paragraph (2) after the end of the period of one year beginning with IP completion day.
- (8) In this paragraph “relevant devolved authority” means—
- (a) in relation to any provision of an Act of the Scottish Parliament, the Scottish Ministers,
- (b) in relation to any provision of an Act of the National Assembly for Wales, the Welsh Ministers, and
- (c) in relation to any provision of an Act of the Northern Ireland Assembly, a Northern Ireland department.

#### Commencement Information

**I35** Sch. 5 para. 3(2)-(8) in force at 23.1.2020, see s. 42(6)(e)(ii)

**I36** Sch. 5 para. 3(1) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(i)

#### *Power to make consequential regulations under EUWA 2018*

- 4 (1) The power of a Minister of the Crown under section 23(1) of the European Union (Withdrawal) Act 2018 to make such provision as the Minister considers appropriate in consequence of that Act includes the power to make such provision as the Minister

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considers appropriate in consequence of that Act as modified, or to be modified, by or under this Act (and references in the Act of 2018 to the power under section 23(1) of that Act are to be read accordingly).

- (2) Sub-paragraph (1) does not limit the power conferred by section 41(1) above.
- (3) The reference in sub-paragraph (1) to any modification by or under this Act of the European Union (Withdrawal) Act 2018 includes a reference to any modification made by or under this Act of a provision of another Act which was inserted into that other Act or otherwise modified by the Act of 2018.

## PART 2

### SPECIFIC CONSEQUENTIAL PROVISION ETC.

#### *Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.))*

5 The Interpretation Act (Northern Ireland) 1954 is amended as follows.

#### PROSPECTIVE

6 In section 11 (references in enactments), in subsections (1C), (1D) and (1E), for “exit day” substitute “ IP completion day ”.

7 In section 44A (definitions relating to the United Kingdom's withdrawal from the EU)—

(a) before the definition of “exit day” insert—

““EU withdrawal agreement” means the withdrawal agreement within the meaning of the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) and (6) of that Act),”

(b) after the definition of “exit day” insert—

““IP completion day” (and related expressions) have the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) to (5) of that Act),” and

(c) in the definition of “retained EU obligation” for “exit day” substitute “ IP completion day ”.

#### **Commencement Information**

**I37** Sch. 5 para. 7(a)(b) in force at 23.1.2020, see s. 42(6)(e)(iv)

**I38** Sch. 5 para. 7(c) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(ii)

#### *Interpretation Act 1978*

8 The Interpretation Act 1978 is amended as follows.



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PROSPECTIVE

- 9 In section 20(3) (references to other enactments) for “exit day” substitute “ IP completion day ”.

PROSPECTIVE

- 10 In section 21(1) (meaning of “subordinate legislation”) for “exit day” substitute “ IP completion day ”.
- 11 In section 23ZA(4)(a)(ii) (retained direct EU legislation) for “exit day” substitute “ IP completion day ”.

**Commencement Information**

**I39** Sch. 5 para. 11 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(iii)

- 12 In Schedule 1 (words and expressions defined), under the italic heading “Definitions relating to the EU and the United Kingdom's withdrawal”—
- (a) before the definition of “exit day” insert—
- ““EU withdrawal agreement” means the withdrawal agreement within the meaning of the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) and (6) of that Act).”,
- (b) after the definition of “exit day” insert—
- ““IP completion day” (and related expressions) have the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) to (5) of that Act).”,
- (c) in the definition of “retained EU obligation” for “exit day” substitute “ IP completion day ”, and
- (d) in the definition of “ “The Treaties” or “the EU Treaties””—
- (i) for “or EU Treaties,” substitute “ or EU Treaties as at immediately before IP completion day and ”, and
- (ii) for the words from “its repeal” to the end of the definition substitute “ IP completion day ”.

**Commencement Information**

**I40** Sch. 5 para. 12(a)(b) in force at 23.1.2020, see s. 42(6)(e)(v)

**I41** Sch. 5 para. 12(c) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(iv)

PROSPECTIVE

*European Economic Area Act 1993*

- 13 The European Economic Area Act 1993 is amended as follows.

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- 14 In section 2 (consistent application of law to the whole of the EEA), in subsections (3)(a) and (3A), for “exit day” substitute “ IP completion day ”.
- 15 In section 3 (general implementation of the EEA agreement), in subsections (3) (a) and (4A), for “exit day” substitute “ IP completion day ”.
- 16 In section 6(1) (interpretation), in the definition of “the 1972 Act”, for “its repeal by section 1” substitute “ it ceases to have effect by virtue of section 1A(5) ”.

#### *Scotland Act 1998*

- 17 The Scotland Act 1998 is amended as follows.
- 18 In section 30A(2) (legislative competence: restriction relating to retained EU law) for “exit day” substitute “ IP completion day ”.

#### **Commencement Information**

**I42** Sch. 5 para. 18 in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(n)(v)

- 19 In section 57(5)(b) (exception to section 57(4)) for “Schedule 2 or 4 to the European Union (Withdrawal) Act 2018” substitute “—
- (i) Part 1 or 1B of Schedule 2 to the European Union (Withdrawal) Act 2018 (power to deal with deficiencies arising from withdrawal and certain powers in connection with the EU withdrawal agreement),
  - (ii) Schedule 4 to that Act (powers in connection with fees and charges), or
  - (iii) section 12, 13 or 14 of the European Union (Withdrawal Agreement) Act 2020 (certain powers relating to citizens' rights)”.

#### **Commencement Information**

**I43** Sch. 5 para. 19 in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(n)(vi)

- 20 (1) Paragraph 1 of Schedule 4 (enactments etc. protected from modification) is amended as follows.
- (2) In sub-paragraph (2)(g) for “paragraphs 31 to 35 of Schedule 8 to” substitute “ any excluded provision of ”.
- (3) After sub-paragraph (2) insert—
- “(3) For the purposes of sub-paragraph (2)(g), the following are excluded provisions of the European Union (Withdrawal) Act 2018—
- (a) section 1B(3) and (4),
  - (b) sections 8A to 8C,
  - (c) section 10(3) and (4),
  - (d) sections 13A and 13B,
  - (e) sections 15A to 15C,
  - (f) Parts 1A to 1C of Schedule 2,

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- (g) paragraphs 8A to 8G of Schedule 7, and
- (h) paragraphs 31 to 35 of Schedule 8.”

PROSPECTIVE

- 21 In Part 2 of Schedule 5 (specific reservations), in section C8 (product standards, safety and liability) for “exit day” substitute “ IP completion day ”.

*Northern Ireland Act 1998*

- 22 The Northern Ireland Act 1998 is amended as follows.
- 23 In section 6A(2) (restriction relating to retained EU law) for “exit day” substitute “ IP completion day ”.

**Commencement Information**

**I44** Sch. 5 para. 23 in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(n)(vii)

- 24 (1) Section 7 (entrenched enactments) is amended as follows.
- (2) In subsection (1) for “subsection (2A)” substitute “ subsections (2A) and (2B) ”.
- (3) In subsection (2A) for paragraphs (a) and (b) (but not the word “or” at the end of paragraph (b)) substitute—
- “(ba) any excluded provision of the European Union (Withdrawal) Act 2018,”.
- (4) After subsection (2A) insert—
- “(2B) For the purposes of subsection (2A)(ba), the following are excluded provisions of the European Union (Withdrawal) Act 2018—
- (a) section 1B(3) and (4),
  - (b) sections 8A to 8C,
  - (c) section 10(3) and (4),
  - (d) sections 13A and 13B,
  - (e) sections 15A to 15C,
  - (f) Parts 1A to 1C of Schedule 2,
  - (g) paragraphs 1(11) and (12), 2(12) and (13) and 8A to 8G of Schedule 7, and
  - (h) paragraph 21 of Schedule 8.”
- 25 In section 24(4)(b) (exception to section 24(3)) for “Schedule 2 or 4 to the European Union (Withdrawal) Act 2018” substitute “—
- (i) Part 1 or 1B of Schedule 2 to the European Union (Withdrawal) Act 2018 (power to deal with deficiencies arising from withdrawal and certain powers in connection with the EU withdrawal agreement),
  - (ii) Schedule 4 to that Act (powers in connection with fees and charges), or

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(iii) section 12, 13 or 14 of the European Union (Withdrawal Agreement) Act 2020 (certain powers relating to citizens' rights)".

**Commencement Information**

**I45** Sch. 5 para. 25 in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(n)(viii)

PROSPECTIVE

26 In Schedule 3 (reserved matters), in paragraph 38, for "exit day" substitute " IP completion day ".

*Government of Wales Act 2006*

27 The Government of Wales Act 2006 is amended as follows.

28 In section 80(8A)(b) (exception to section 80(8)) for "Schedule 2 or 4 to the European Union (Withdrawal) Act 2018" substitute "—

- (i) Part 1 or 1B of Schedule 2 to the European Union (Withdrawal) Act 2018 (power to deal with deficiencies arising from withdrawal and certain powers in connection with the EU withdrawal agreement),
- (ii) Schedule 4 to that Act (powers in connection with fees and charges), or
- (iii) section 12, 13 or 14 of the European Union (Withdrawal Agreement) Act 2020 (certain powers relating to citizens' rights)".

**Commencement Information**

**I46** Sch. 5 para. 28 in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(n)(ix)

29 In section 109A(2) (legislative competence: restriction relating to retained EU law) for "exit day" substitute " IP completion day ".

**Commencement Information**

**I47** Sch. 5 para. 29 in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(n)(x)

PROSPECTIVE

30 In Part 2 of Schedule 7A (specific reservations), in section C7 (product standards, safety and liability), in paragraph 77, for "exit day" substitute " IP completion day ".

31 (1) Paragraph 5 of Schedule 7B (protected enactments) is amended as follows.

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(2) In sub-paragraph (1), in the entry in the table for the European Union (Withdrawal) Act 2018, after “whole Act” insert “ other than any excluded provision ”.

(3) After sub-paragraph (1) insert—

“(1A) For the purposes of the entry in the table in sub-paragraph (1) for the European Union (Withdrawal) Act 2018, the following are excluded provisions of that Act—

- (a) section 1B(3) and (4),
- (b) sections 8A to 8C,
- (c) section 10(3) and (4),
- (d) sections 13A and 13B,
- (e) sections 15A to 15C,
- (f) Parts 1A to 1C of Schedule 2, and
- (g) paragraphs 8A to 8G of Schedule 7.”

*Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)*

32 The Interpretation and Legislative Reform (Scotland) Act 2010 is amended as follows.

33 In section 1(1)(ba) (application of Part 1 of the Act) for “exit day” substitute “ IP completion day ”.

**Commencement Information**

**I48** Sch. 5 para. 33 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xi)

PROSPECTIVE

34 In section 14(3) (references to other legislative provisions) for “exit day”, in both places where it appears, substitute “ IP completion day ”.

35 In section 30(7) (other instruments laid before the Scottish Parliament) omit “(including that paragraph as applied by paragraph 19(7) of that Schedule)”.

**Commencement Information**

**I49** Sch. 5 para. 35 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xii)

36 In section 55(2B)(d) (transitional Orders: revocation and savings)—

- (a) before the definition of “exit day” (and after the italic heading “Definitions relating to EU exit”) insert—

““EU withdrawal agreement” means the withdrawal agreement within the meaning of the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) and (6) of that Act).”

- (b) after the definition of “exit day” insert—

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- “IP completion day” (and related expressions) have the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) to (5) of that Act).”,
- (c) in the definition of “retained EU obligation” for “exit day” substitute “ IP completion day ”, and
  - (d) in the definition of “ “The Treaties” or “the EU Treaties”” —
    - (i) for “or EU Treaties,” substitute “ or EU Treaties as at immediately before IP completion day and ”, and
    - (ii) for the words from “its repeal” to the end of the definition substitute “ IP completion day ”.

**Commencement Information**

**I50** Sch. 5 para. 36(a)(b) in force at 23.1.2020, see s. 42(6)(e)(vii)

**I51** Sch. 5 para. 36(c) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xiii)

- 37 In Schedule 1 (definitions of words and expressions)—
- (a) in the definition of “subordinate legislation” for “exit day” substitute “ IP completion day ”,
  - (b) before the definition of “exit day” (and after the italic heading “Definitions relating to EU exit”) insert—
 

“EU withdrawal agreement” means the withdrawal agreement within the meaning of the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) and (6) of that Act).”,
  - (c) after the definition of “exit day” insert—
 

“IP completion day” (and related expressions) have the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) to (5) of that Act).”,
  - (d) in the definition of “retained EU obligation” for “exit day” substitute “ IP completion day ”,
  - (e) in the definition of “EU instrument” omit “(within the meaning of the European Union (Withdrawal) Act 2018 (see section 20(1) of that Act))”, and
  - (f) in the definition of “ “The Treaties” or “the EU Treaties”” —
    - (i) for “or EU Treaties,” substitute “ or EU Treaties as at immediately before IP completion day and ”, and
    - (ii) for the words from “its repeal” to the end of the definition substitute “ IP completion day ”.

**Commencement Information**

**I52** Sch. 5 para. 37(b)(c) in force at 23.1.2020, see s. 42(6)(e)(vii)

**I53** Sch. 5 para. 37(d) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xiv)

*European Union (Withdrawal) Act 2018*

- 38 The European Union (Withdrawal) Act 2018 is amended as follows.

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PROSPECTIVE

- 39 In the italic heading before section 2, for “existing EU law” substitute “ saved EU law at end of implementation period ”.
- 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**

**I54** Sch. 5 para. 40(1)(2)(5) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xv)

- 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**

**I55** Sch. 5 para. 41(1)(3)(a) in force at 23.1.2020, see s. 42(6)(e)(viii)

- 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 ”.

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### Commencement Information

**I56** 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 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

**I57** Sch. 5 para. 44(1)(2)(a)(d)(e)(3) in force at 23.1.2020, see s. 42(6)(e)(viii)



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**158** 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—
- 
- “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)”.

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#### Commencement Information

**I59** 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

**I60** 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 ”.
- (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

**I61** Sch. 5 para. 47(1)(2)(4)(6) in force at 23.1.2020, see s. 42(6)(e)(viii)

**I62** 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,

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- (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

**I63** Sch. 5 para. 48(1)(2)(4) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxi)

- 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

**I64** 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)—
- (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.

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- (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.
- (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.

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- (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 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,

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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.

*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).

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- (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.
  - (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,

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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 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)—



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- (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.

*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).

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- (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.
  - (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

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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 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

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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.”

#### Commencement Information

**I65** Sch. 5 para. 51 in force for specified purposes at 23.1.2020, see s. 42(6)(e)(ix)

**I66** Sch. 5 para. 51 in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(n)(xxiii)

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

*“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—
- in sub-paragraph (1) omit “10(3) or”,
  - in sub-paragraph (11) omit paragraphs (b) and (c) and the words after paragraph (c), and
  - in sub-paragraph (12) omit “10(3) or”.
- (6) Omit paragraph 18 (and the italic cross-heading before it).
- (7) In paragraph 19—
- in sub-paragraph (1)—
    - in paragraph (a) omit “, 10(1)”, and
    - in paragraph (b) omit “10(3),”
  - omit sub-paragraph (7), and
  - in sub-paragraph (8) omit “10(3) or”.

#### Commencement Information

**I67** Sch. 5 para. 52(1)(3)-(7) in force at 23.1.2020, see s. 42(6)(e)(x)

- 53 (1) Part 3 of Schedule 7 (general provision about powers under Act) is amended as follows.
- (2) In paragraph 21—
- in paragraph (a)(i) after “modify” insert “ anything which continues to be domestic law by virtue of section 1B(2) or any ”, and

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- (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—
- “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))”.

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#### Commencement Information

**I68** 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)

**I69** 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—
- “(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—
- (a) in sub-paragraph (1)(b) for “exit day” substitute “ IP completion day ”, and
- (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—
- (a) in sub-paragraph (1)(b) for “exit day” substitute “ IP completion day ”, and
- (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 ”.
- (8) In paragraph 13—

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- (a) in sub-paragraph (1)(a) and (4)(a) for “exit day” substitute “ IP completion day ”, and
- (b) after sub-paragraph (8) insert—

“(8A) 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
- (c) the Swiss citizens' rights agreement.”

(9) In paragraph 14—

- (a) in sub-paragraph (1) for “exit day” substitute “ IP completion day ”, and
- (b) after sub-paragraph (11) insert—

“(11A) 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
- (c) the Swiss citizens' rights agreement.”

(10) In paragraph 15—

- (a) in sub-paragraphs (1) and (7) for “exit day” substitute “ IP completion day ”, and
- (b) after sub-paragraph (10) insert—

“(11) 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
- (c) the Swiss citizens' rights agreement.”

(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
- (c) the Swiss citizens' rights agreement.”

#### Commencement Information

**I70** Sch. 5 para. 54(1)(4)(5)(7) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxv)

**I71** Sch. 5 para. 54(5)(7) in force at 30.1.2020 for specified purposes by 2020 c. 2, reg. 2(11)(c)

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- 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 ”,
- (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**

**I72** Sch. 5 para. 55(1)(2) in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxvi)

- 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—



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“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.”

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

#### Commencement Information

**I73** 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)

**I74** Sch. 5 para. 56(7)(a) in force at 31.1.2020 for specified purposes by S.I. 2020/75, reg. 4(n)(xxviii)

PROSPECTIVE

*The European Parliamentary Elections Etc. (Repeal, Revocation, Amendment and Saving Provisions) (United Kingdom and Gibraltar) (EU Exit) Regulations 2018*

57 (1) The European Parliamentary Elections Etc. (Repeal, Revocation, Amendment and Saving Provisions) (United Kingdom and Gibraltar) (EU Exit) Regulations 2018 (S.I. 2018/1310) are amended as follows.

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- (2) Omit regulation 3 (cessation of certain rights etc. which form part of domestic law by virtue of section 4 of the European Union (Withdrawal) Act 2018).
- (3) In table 2 in Part 2 of Schedule 1 (revocations of certain EU decisions etc.) omit the entries relating to Council Decisions 76/787 and 2002/772.

*Legislation (Wales) Act 2019 (anaw 4)*

58 The Legislation (Wales) Act 2019 is amended as follows.

**Commencement Information**

**I75** Sch. 5 para. 58 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxviii)

- 59 In section 24 (references to direct EU legislation retained in domestic law after EU exit), in subsection (1)(a)—
- (a) in the Welsh language text, for “y diwrnod ymadael” substitute “diwrnod cwblhau'r cyfnod gweithredu”, and
- (b) in the English language text, for “exit day” substitute “ implementation period completion day ”.

**Commencement Information**

**I76** Sch. 5 para. 59 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxviii)

- 60 In section 26 (references to EU instruments), in subsection (3)—
- (a) in the Welsh language text, omit “ar gyfer darpariaeth am effaith cyfeiriadau penodol sy'n bodoli cyn y diwrnod ymadael ar y diwrnod ymadael neu ar ôl y diwrnod ymadael”, and
- (b) in the English language text, omit “for provision about the effect on or after exit day of certain references which exist before exit day”.

**Commencement Information**

**I77** Sch. 5 para. 60 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxviii)

- 61 In the Table in Schedule 1 (definitions of words and expressions), in the Welsh language text—
- (a) after the entry for “Cynulliad Cenedlaethol Cymru (*National Assembly for Wales*)” insert—

“cytundeb ymadael â'r UE (*EU* mae i “cytundeb ymadael â'r UE” yr ystyr *withdrawal agreement*) a roddir i “withdrawal agreement” yn Neddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020 (p. 1) (gweler adran 39(1) a (6) o'r Ddeddf honno)”

- (b) in the entry for “cytundeb yr AEE (*EEA agreement*)”, for “y diwrnod ymadael” substitute “diwrnod cwblhau'r cyfnod gweithredu”,

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- (c) in the entry for “y Cytuniadau (*the Treaties*) neu Cytuniadau‘r UE (*EU Treaties*)”, for paragraphs (a) and (b) substitute—
- “(a) mewn perthynas ag amser cyn diwrnod cwblhau'r cyfnod gweithredu, yr ystyr a roddir i “the Treaties” neu “the EU Treaties” gan Ddeddf y Cymunedau Ewropeaidd 1972 (p. 68) fel y mae'n cael effaith yn rhinwedd adran 1A o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018;
- (b) mewn perthynas ag amser ar neu ar ôl diwrnod cwblhau'r cyfnod gweithredu, yr ystyr a roddir i “the Treaties” neu “the EU Treaties” gan Ddeddf y Cymunedau Ewropeaidd 1972 fel yr oedd ganddi effaith yn union cyn diwrnod cwblhau'r cyfnod gweithredu, ac mae'n cyfeirio at y Cytuniadau neu Gytuniadau'r UE fel yr oeddent yn union cyn diwrnod cwblhau'r cyfnod gweithredu”,
- (d) after the entry for “y Deyrnas Unedig (*United Kingdom*)” insert—

“diwrnod cwblhau'r cyfnod mae i “diwrnod cwblhau'r cyfnod gweithredu” gweithredu (*implementation period completion day*) yr ystyr sydd i “IP completion day” o fewn ystyr Deddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020 (p. 1), ac mae ymadroddion perthynol i'w dehongli yn unol â hynny (gweler adran 39(1) i (5) o'r Ddeddf honno)”,

- (e) in the entry for “offeryn UE (*EU instrument*)”, for “y diwrnod ymadael” substitute “diwrnod cwblhau'r cyfnod gweithredu”, and
- (f) in the entry for “rhwymedigaeth UE a ddargedwir (*retained EU obligation*)”, for “y diwrnod ymadael” substitute “diwrnod cwblhau'r cyfnod gweithredu”.

#### Commencement Information

**I78** Sch. 5 para. 61 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxviii)

62 In the Table in Schedule 1 (definitions of words and expressions), in the English language text—

- (a) in the entry for “EEA agreement (*cytundeb yr AEE*)”, for “exit day” substitute “implementation period completion day”,
- (b) in the entry for “EU instrument (*offeryn UE*)”, for “exit day” substitute “implementation period completion day”,
- (c) after the entry for “European Court (*Llys Ewropeaidd*)” insert—

“EU withdrawal agreement (*cytundeb ymadael â'r UE*) “EU withdrawal agreement” means the withdrawal agreement within the meaning of the European Union (Withdrawal Agreement) Act 2020 (c. 1) (see section 39(1) and (6) of that Act)”,

- (d) after the entry for “High Court (*Uchel Lys*)” insert—

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“implementation period completion day (*diwrnod cwblhau'r cyfnod gweithredu*) “implementation period completion day” means “IP completion day” within the meaning of the European Union (Withdrawal Agreement) Act 2020 (c. 1), and related expressions are to be interpreted accordingly (see section 39(1) to (5) of that Act”;

- (e) in the entry for “retained EU obligation (*rhwymedigaeth UE a ddargedwir*)”, for “exit day” substitute “implementation period completion day”, and
- (f) in the entry for “the Treaties (*y Cytuniadau*) or the EU Treaties (*Cytuniadau'r UE*)”, for paragraphs (a) and (b) substitute—
- “(a) in relation to a time before implementation period completion day, has the meaning given by the European Communities Act 1972 (c. 68) as it has effect by virtue of section 1A of the European Union (Withdrawal) Act 2018;
- (b) in relation to a time on or after implementation period completion day, has the meaning given by the European Communities Act 1972 as it had effect immediately before implementation period completion day, and refers to the Treaties or the EU Treaties as they were immediately before implementation period completion day.”

#### Commencement Information

**I79** Sch. 5 para. 62 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxviii)

### PART 3

#### TRANSITIONAL, TRANSITORY AND SAVING PROVISION

##### *Retention of existing grounds for deportation*

- 63 (1) If section 10(2) (which inserts section 3(5A) of the Immigration Act 1971) comes into force before IP completion day, section 3(5A) of the Act of 1971 is to be read, until IP completion day, as if—
- (a) for “Article 20 of the EU withdrawal agreement” there were substituted “Article 19(3) of the EU withdrawal agreement”, and
- (b) for “Article 19 of the EEA EFTA separation agreement” there were substituted “Article 18(3) of the EEA EFTA separation agreement”.
- (2) If section 10(4) (which inserts section 3(10) and (11) of the Immigration Act 1971) comes into force before IP completion day, section 3(10) of the Act of 1971 is to be read, until IP completion day, as if paragraphs (c) and (d) were omitted.
- (3) If section 10(5) (which inserts section 33(6B) to (6D) of the UK Borders Act 2007) comes into force before IP completion day, section 33(6C) of the Act of 2007 is to be read, until IP completion day, as if paragraphs (c) and (d) were omitted.

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#### Commencement Information

**180** Sch. 5 para. 63 in force at 31.1.2020 by S.I. 2020/75, reg. 4(n)(xxix)

#### PROSPECTIVE

##### *Certain powers of devolved authorities in relation to EU law*

- 64 Section 57(2) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 and section 24(1)(b) of the Northern Ireland Act 1998, so far as relating to EU law, do not apply to the making of regulations under section 12, 13 or 14.

##### *Savings in connection with section 36*

- 65 Section 36(e) and (f) do not affect the continued operation of the amendments made by section 2 of the European Union (Withdrawal) Act 2019 and section 4 of the European Union (Withdrawal) (No. 2) Act 2019.

##### *Regulations under EUWA 2018 etc.*

- 66 (1) The fact that a power to make regulations is conferred by this Act in the European Union (Withdrawal) Act 2018 does not affect the extent of any other power to make regulations under that Act.
- (2) The modifications made by this Act to any power to make regulations conferred by the European Union (Withdrawal) Act 2018 do not affect the validity of any regulations made under that power before the coming into force of the modifications.
- (3) Sub-paragraph (2) is subject to any provision made by regulations under section 41(5) above or section 23(6) of the Act of 2018.

##### *Time-limited powers*

- 67 The prohibition on making regulations under paragraph 1(3) or 3(2) of this Schedule after the end of the period of one year beginning with IP completion day does not affect the continuation in force of regulations made at or before that time.

##### *Power to make transitional, transitory or saving regulations under EUWA 2018*

- 68 (1) The power of a Minister of the Crown under section 23(6) of the European Union (Withdrawal) Act 2018 to make such transitional, transitory or saving provision as the Minister considers appropriate in connection with the coming into force of any provision of that Act includes the power to make such transitional, transitory or saving provision as the Minister considers appropriate in connection with the coming into force (whether by virtue of this Act, this Act and that Act, or otherwise) of any provision of that Act as inserted into that Act, or modified, by or under this Act (and references in the Act of 2018 to the power under section 23(6) of that Act are to be read accordingly).
- (2) Sub-paragraph (1) does not limit the power conferred by section 41(5) above; and the power of a Minister of the Crown under section 25(4) of the European Union

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to European Union (Withdrawal Agreement) Act 2020. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

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(Withdrawal) Act 2018 does not apply to any insertions into, or other modifications of, that Act made by this Act (for which see section 42(6) and (7) above).

- (3) References in this paragraph to any modification made by or under this Act of any provision of the European Union (Withdrawal) Act 2018 include references to any modification made by or under this Act of a provision of another Act which was inserted into that other Act or otherwise modified by the Act of 2018.

**Status:**

This version of this Act contains provisions that are prospective.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to European Union (Withdrawal Agreement) Act 2020. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- s. 15(3) coming into force by [S.I. 2020/317 reg. 3\(a\)](#)
- Sch. 2 para. 14 coming into force by [S.I. 2020/317 reg. 3\(b\)\(i\)](#)
- Sch. 2 para. 15 coming into force by [S.I. 2020/317 reg. 3\(b\)\(i\)](#)
- Sch. 2 para. 16 coming into force by [S.I. 2020/317 reg. 3\(b\)\(i\)](#)
- Sch. 2 para. 17 coming into force by [S.I. 2020/317 reg. 3\(b\)\(i\)](#)
- Sch. 2 para. 20 coming into force by [S.I. 2020/317 reg. 3\(b\)\(ii\)](#)
- Sch. 2 para. 21 coming into force by [S.I. 2020/317 reg. 3\(b\)\(ii\)](#)
- Sch. 2 para. 22(3) coming into force by [S.I. 2020/317 reg. 3\(b\)\(iii\)](#)
- Sch. 2 para. 32 coming into force by [S.I. 2020/317 reg. 3\(b\)\(iv\)](#)
- Sch. 3 para. 5 coming into force by [S.I. 2020/317 reg. 4](#)