



European Union (Withdrawal Agreement) Act 2020

2020 CHAPTER 1

PART 5

GENERAL AND FINAL PROVISION

Parliamentary sovereignty

38 Parliamentary sovereignty [^{F1}and the constitutional status of Northern Ireland]

- (1) It is recognised that the Parliament of the United Kingdom is sovereign.
- (2) In particular, its sovereignty subsists notwithstanding—
 - (a) directly applicable or directly effective EU law continuing to be recognised and available in domestic law by virtue of section 1A or 1B of the European Union (Withdrawal) Act 2018 (savings of existing law for the implementation period),
 - (b) section 7A of that Act (other directly applicable or directly effective aspects of the withdrawal agreement [^{F2}(including the Windsor Framework)]),
 - (c) section 7B of that Act (deemed direct applicability or direct effect in relation to the EEA EFTA separation agreement and the Swiss citizens' rights agreement), and
 - (d) section 7C of that Act (interpretation of law relating to the withdrawal agreement [^{F2}(including the Windsor Framework)] (other than the implementation period), the EEA EFTA separation agreement and the Swiss citizens' rights agreement).
- (3) Accordingly, nothing in this Act derogates from the sovereignty of the Parliament of the United Kingdom.

[^{F3}(4) The Windsor Framework is without prejudice to these matters (in particular), which are recognised and continue—

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

Textual Amendments

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

[^{F4}38A Prohibition of certain Northern Ireland-related agreements

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

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

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

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

Textual Amendments

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

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,
- (c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,

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- (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;

[^{F5}“Windsor Framework” means the part of the withdrawal agreement known as the Windsor Framework by virtue of Joint Declaration No. 1/2023 of 24 March 2023 made between the EU and the United Kingdom in the Joint Committee established by the withdrawal 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 [^{F6}as modified in relation to the Windsor Framework (and as

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otherwise modified from time to time in accordance with any provision of that agreement)].

- (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.

Textual Amendments

- F5** Words in s. 39(1) inserted (20.2.2024) by [The Windsor Framework \(Constitutional Status of Northern Ireland\) Regulations 2024 \(S.I. 2024/164\)](#), regs. 1(2), **2(4)(b)**
- F6** Words in s. 39(1) substituted (20.2.2024) by [The Windsor Framework \(Constitutional Status of Northern Ireland\) Regulations 2024 \(S.I. 2024/164\)](#), regs. 1(2), **2(4)(a)**

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.

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- (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

- I1** 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)
- I2** S. 41(4) in force at 31.1.2020 immediately before IP completion day for specified purposes by [S.I. 2020/75, reg. 3\(a\)](#)
- I3** S. 41(4)(6) in force at 31.1.2020 for specified purposes by [S.I. 2020/75, reg. 4\(l\)](#)
- I4** S. 41(4)(6) in force at 19.5.2020 for specified purposes by [S.I. 2020/518, reg. 2\(n\)](#)
- I5** [S. 41\(4\)\(6\)](#) in force at 31.12.2020 for specified purposes by [S.I. 2020/1622, reg. 5\(g\)](#)
- I6** [S. 41\(4\)](#) in force at 31.12.2020 for specified purposes by [S.I. 2020/1622, reg. 4\(a\)](#)

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),

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- (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.
- (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.

Changes to legislation:

There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, PART 5.