



European Union (Withdrawal) Act 2018

2018 CHAPTER 16

Retention of ^{F1}saved EU law at end of implementation period

Textual Amendments

- F1** Words in s. 2 cross-heading substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 39](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)

2 Saving for EU-derived domestic legislation

(1) EU-derived domestic legislation, as it has effect in domestic law immediately before ^{F2}IP completion day], continues to have effect in domestic law on and after ^{F2}IP completion day].

^{F3}(2)

(3) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation) ^{F4}and section 5A (savings and incorporation: supplementary)].

Textual Amendments

- F2** Words in s. 2(1) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(1\)\(a\), 42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F3** S. 2(2) omitted (31.12.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(1\)\(b\), 42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F4** Words in s. 2(3) inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(1\)\(c\), 42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)

Commencement Information

- I1** S. 2 in force at 31.12.2020 by [S.I. 2020/1622, reg. 3\(a\)](#)

Changes to legislation: European Union (Withdrawal) Act 2018, Cross Heading: Retention of saved EU law at end of implementation period is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

3 Incorporation of direct EU legislation

- (1) Direct EU legislation, so far as operative immediately before [F5IP completion day], forms part of domestic law on and after [F5IP completion day].
- (2) In this Act “direct EU legislation” means—
- (a) any EU regulation, EU decision or EU tertiary legislation, as it has effect in EU law immediately before [F6IP completion day] and so far as—
 - [F7(ai) it is applicable to and in the United Kingdom by virtue of Part 4 of the withdrawal agreement,
 - [F8(bi) it neither has effect nor is to have effect by virtue of section 7A or 7B,]]
 - (i) it is not an exempt EU instrument (for which see section 20(1) and Schedule 6), [F9and]
 - F10(ii)
 - (iii) its effect is not reproduced in an enactment to which section 2(1) applies,
 - (b) any Annex to the EEA agreement, as it has effect in EU law immediately before [F11IP completion day] and so far as—
 - [F12(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,]
 - (i) it refers to, or contains adaptations of, anything falling within paragraph (a), and
 - (ii) its effect is not reproduced in an enactment to which section 2(1) applies, or
 - (c) Protocol 1 to the EEA agreement (which contains horizontal adaptations that apply in relation to EU instruments referred to in the Annexes to that agreement), as it has effect in EU law immediately before [F13IP 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].

(3) For the purposes of this Act, any direct EU legislation is operative immediately before [F14IP completion day] if—

 - (a) in the case of anything which comes into force at a particular time and is stated to apply from a later time, it is in force and applies immediately before [F14IP completion day],
 - (b) in the case of a decision which specifies to whom it is addressed, it has been notified to that person before [F14IP completion day], and
 - (c) in any other case, it is in force immediately before [F14IP completion day].

(4) This section—

 - (a) brings into domestic law any direct EU legislation only in the form of the English language version of that legislation, and
 - (b) does not apply to any such legislation for which there is no such version, but paragraph (a) does not affect the use of the other language versions of that legislation for the purposes of interpreting it.

Changes to legislation: European Union (Withdrawal) Act 2018, Cross Heading: Retention of saved EU law at end of implementation period is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(5) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation) [^{F15}and section 5A (savings and incorporation: supplementary)].

Textual Amendments

- F5** Words in s. 3(1) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(2\)\(a\)](#), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F6** Words in s. 3(2)(a) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(2\)\(b\)\(i\)](#), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F7** S. 3(2)(a)(ai)(bi) inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(2\)\(b\)\(ii\)](#), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F8** S. 3(2)(a)(bi) omitted for specified purposes (31.12.2020) by virtue of [Agriculture Act 2020 \(c. 21\), ss. 18, 57\(1\)\(a\)](#)
- F9** Word in s. 3(2)(a)(i) inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(2\)\(b\)\(iii\)](#), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F10** S. 3(2)(a)(ii) and word omitted (31.12.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(2\)\(b\)\(iv\)](#), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F11** Words in s. 3(2)(b) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(2\)\(c\)\(i\)](#), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F12** S. 3(2)(b)(ai)(bi) inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(2\)\(c\)\(ii\)](#), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F13** Words in s. 3(2)(c) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(2\)\(d\)](#), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F14** Words in s. 3(3) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(2\)\(e\)](#), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)
- F15** Words in s. 3(5) inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), ss. 25\(2\)\(f\)](#), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)

Modifications etc. (not altering text)

- C1** S. 3 modified (31.12.2020) by virtue of [Agriculture Act 2020 \(c. 21\), ss. 18, 57\(1\)\(a\)](#)

Commencement Information

- I2** S. 3 in force at 31.12.2020 by [S.I. 2020/1622, reg. 3\(b\)](#)

^{F16} **Saving for rights etc. under section 2(1) of the ECA**

Textual Amendments

- F16** S. 4 repealed (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 2\(1\), 22\(3\)](#) (with [ss. 2\(2\), 22\(5\)](#)) (with savings in [S.I. 2023/1395, regs. 1\(1\), 2](#)); [S.I. 2023/1363, reg. 3\(b\)](#)

5 Exceptions to savings and incorporation

[^{F17}(A1) The principle of the supremacy of EU law is not part of domestic law.

This applies after the end of 2023, in relation to any enactment or rule of law (whenever passed or made).

(A2) Any provision of [^{F18}assimilated direct] legislation—

Changes to legislation: European Union (Withdrawal) Act 2018, Cross Heading: Retention of saved EU law at end of implementation period is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) must, so far as possible, be read and given effect in a way which is compatible with all domestic enactments, and
- (b) is subject to all domestic enactments, so far as it is incompatible with them.

(A3) Subsection (A2) is subject to—

- (a) section 186 of the Data Protection Act 2018 (data subject’s rights and other prohibitions and restrictions);
- (b) regulations under section 7(1) of the Retained EU Law (Revocation and Reform) Act 2023.]

[^{F19}(A4) No general principle of EU law is part of domestic law after the end of 2023.]

^{F20}(1)

^{F20}(2)

^{F20}(3)

(4) The Charter of Fundamental Rights is not part of domestic law on or after [^{F21}IP completion day].

^{F22}(5)

(6) Schedule 1 (which makes further provision about exceptions to savings and incorporation) has effect.

[^{F23}(7) Subsections [^{F24}(A1)] to (6) and Schedule 1 are subject to relevant separation agreement law (for which see section 7C).]

[^{F25}(8) In this section “domestic enactment” means an enactment other than one consisting of [^{F26}assimilated direct] legislation.]

Textual Amendments

F17 Ss. 5(A1)-(A3) inserted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 3(1), 22(3) (with s. 22(5)); S.I. 2023/1363, reg. 3(a)

F18 Words in s. 5(A2) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), Sch. 2 para. 8(2) (with s. 22(6)); S.I. 2023/1363, reg. 3(e)

F19 S. 5(A4) inserted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 4(2)(a), 22(3) (with s. 22(5)); S.I. 2023/1363, reg. 3(b)

F20 S. 5(1)-(3) omitted (1.1.2024) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 3(3)(a)(i), 22(3) (with s. 22(5)); S.I. 2023/1363, reg. 3(a)

F21 Words in s. 5(1)-(5) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(4)(a), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(d)

F22 S. 5(5) omitted (1.1.2024) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 4(2)(b), 22(3) (with s. 22(5)); S.I. 2023/1363, reg. 3(b)

F23 S. 5(7) inserted (31.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal Agreement) Act 2020 (c. 1), ss. 25(4)(b), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(h); S.I. 2020/1622, reg. 5(d)

F24 Word in s. 5(7) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 3(3)(a)(ii), 22(3) (with s. 22(5)); S.I. 2023/1363, reg. 3(a)

F25 S. 5(8) inserted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 3(2), 22(3) (with s. 22(5)); S.I. 2023/1363, reg. 3(a)

F26 Words in s. 5(8) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), Sch. 2 para. 8(2) (with s. 22(6)); S.I. 2023/1363, reg. 3(e)

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Modifications etc. (not altering text)

- C2** S. 5(A2): power to exclude conferred (29.6.2023) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), [ss. 7\(1\)](#), [22\(1\)\(c\)](#)

Commencement Information

- I3** S. 5(1)-(5)(7) in force at 31.12.2020 by [S.I. 2020/1622](#), [reg. 3\(d\)](#)
I4 S. 5(6) in force at 4.7.2018 for specified purposes by [S.I. 2018/808](#), [reg. 3\(a\)](#)
I5 S. 5(6) in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1622](#), [reg. 3\(d\)](#)

[^{F27}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 [^{F28}or 3] 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 [^{F28}or 3].]

Textual Amendments

- F27** S. 5A inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), [ss. 25\(5\)](#), [42\(7\)](#) (with [s. 38\(3\)](#), [Sch. 5 para. 66](#) and [S.I. 2020/1622](#), [reg. 17](#)); [S.I. 2020/1622](#), [reg. 5\(d\)](#)
F28 Words in [s. 5A](#) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), [reg. 1\(2\)](#), [Sch. para. 89\(2\)](#)

6 Interpretation of [^{F29}assimilated] law

- (1) A court or tribunal—
- is not bound by any principles laid down, or any decisions made, on or after [^{F30}IP completion day] by the European Court, and
 - cannot refer any matter to the European Court on or after [^{F30}IP completion day].
- (2) Subject to this and subsections (3) to (6), a court or tribunal may have regard to anything done on or after [^{F30}IP completion day] by the European Court, another EU entity or the EU so far as it is relevant to any matter before the court or tribunal.
- (3) Any question as to the validity, meaning or effect of any [^{F31}assimilated] law is to be decided, so far as that law is unmodified on or after [^{F30}IP completion day] and so far as they are relevant to it—
- in accordance with any [^{F32}assimilated] case law ^{F33}..., and
 - having regard (among other things) to the limits, immediately before [^{F30}IP completion day], of EU competences.
- (4) But—
- the Supreme Court is not bound by any [^{F34}assimilated] EU case law,
 - the High Court of Justiciary is not bound by any [^{F34}assimilated] EU case law when—
 - sitting as a court of appeal otherwise than in relation to a compatibility issue (within the meaning given by section 288ZA(2) of the Criminal Procedure (Scotland) Act 1995) or a devolution issue (within the

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- meaning given by paragraph 1 of Schedule 6 to the Scotland Act 1998), or
- (ii) sitting on a reference under section 123(1) of the Criminal Procedure (Scotland) Act 1995,
- [^{F35}(ba) a relevant court or relevant tribunal is not bound by any [^{F34}assimilated] EU case law so far as is provided for by regulations under subsection (5A),] and
- (c) no court or tribunal is bound by any [^{F34}assimilated] domestic case law that it would not otherwise be bound by.
- (5) In deciding whether to depart from any [^{F34}assimilated] EU case law [^{F36}by virtue of subsection (4)(a) or (b)], the Supreme Court or the High Court of Justiciary must apply the same test as it would apply in deciding whether to depart from its own case law.
- [^{F37}(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,
- (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.]

Changes to legislation: *European Union (Withdrawal) Act 2018, Cross Heading: Retention of saved EU law at end of implementation period is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) Subsection (3) does not prevent the validity, meaning or effect of any [^{F38}assimilated] law which has been modified on or after [^{F30}IP completion day] from being decided as provided for in that subsection if doing so is consistent with the intention of the modifications.

[^{F39}(6A) Subsections (1) to (6) are subject to relevant separation agreement law (for which see section 7C).]

(7) In this Act—

[^{F40}“assimilated case law” means—

- (a) assimilated domestic case law, and
- (b) assimilated EU case law;]

[^{F40}“assimilated domestic case law” means any principles laid down by, and any decisions of, a court or tribunal in the United Kingdom, as they have effect immediately before IP completion day and so far as they—

- (a) relate to anything to which section 2 or 3 applies, and
- (b) are not excluded by section 5 or Schedule 1,

(as those principles and decisions are modified by or under this Act or by other domestic law from time to time);]

[^{F40}“assimilated EU case law” means any principles laid down by, and any decisions of, the European Court, as they have effect in EU law immediately before IP completion day and so far as they—

- (a) relate to anything to which section 2 or 3 applies, and
- (b) are not excluded by section 5 or Schedule 1,

(as those principles and decisions are modified by or under this Act or by other domestic law from time to time);]

[^{F40}“assimilated law” means anything which, on or after IP completion day, continues to be, or forms part of, domestic law by virtue of section 2 or 3 or subsection (3) or (6) above (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);]

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Textual Amendments

F29 Word in s. 6 heading substituted (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(3), **Sch. 2 para. 8(3)(a)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)

F30 Words in s. 6 substituted (30.1.2020 for specified purposes, 31.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), **ss. 26(1)(a)**, 42(7) (with s. 38(3), [Sch. 5 para. 66](#)); 2020 c. 2, reg. 2(11)(c); S.I. 2020/75, reg. 4(i); S.I. 2020/1622, reg. 5(e)

F31 Word in s. 6(3) substituted (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(3), **Sch. 2 para. 8(3)(b)(i)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)

Changes to legislation: European Union (Withdrawal) Act 2018, Cross Heading: Retention of saved EU law at end of implementation period is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F32** Word in s. 6(3)(a) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(3)(b)(ii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F33** Words in s. 6(3)(a) omitted (1.1.2024) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), **ss. 4(3)(a), 22(3)** (with s. 22(5)); S.I. 2023/1363, reg. 3(b)
- F34** Word in s. 6(4)-(5ZA) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(3)(c)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F35** S. 6(4)(ba) inserted (30.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal Agreement) Act 2020 (c. 1), **ss. 26(1)(b), 42(7)** (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, reg. 2(11)(c); S.I. 2020/1622, reg. 5(e)
- F36** Words in s. 6(5) inserted (30.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal Agreement) Act 2020 (c. 1), **ss. 26(1)(c), 42(7)** (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, reg. 2(11)(c); S.I. 2020/1622, reg. 5(e)
- F37** S. 6(5A)-(5D) inserted (30.1.2020 for specified purposes, 19.5.2020 in so far as not already in force) by European Union (Withdrawal Agreement) Act 2020 (c. 1), **ss. 26(1)(d), 42(7)** (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, s. 2(11)(c); S.I. 2020/518, reg. 2(1)
- F38** Word in s. 6(6) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(3)(d)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F39** S. 6(6A) inserted (30.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal Agreement) Act 2020 (c. 1), **ss. 26(1)(e), 42(7)** (with s. 38(3), Sch. 5 para. 66); 2020 c. 2, reg. 2(11)(c); S.I. 2020/1622, reg. 5(e)
- F40** Words in s. 6(7) inserted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(3)(e)(i)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F41** Words in s. 6(7) omitted (1.1.2024) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(3)(e)(ii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F42** Words in s. 6(7) omitted (1.1.2024) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), **ss. 4(3)(b), 22(3)** (with s. 22(5)); S.I. 2023/1363, reg. 3(b)

Modifications etc. (not altering text)

- C3** S. 6 applied (with modifications) (30.1.2020) by Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2), **ss. 2(1)(2)(5)-(7), 9(3)**

Commencement Information

- I6** S. 6(7) in force at 4.7.2018 by S.I. 2018/808, **reg. 3(b)**
- I7** S. 6 in force at 30.1.2020 for specified purposes by 2020 c. 2, **s. 2(11)(a)(b)**
- I8** S. 6(1)-(6) in force at 31.12.2020 in so far as not already in force by S.I. 2020/1622, **reg. 3(e)**

[^{F43}6D] Incompatibility orders

- (1) This section applies if a court or tribunal decides, in the course of any proceedings—
 - (a) that a provision of [^{F44}assimilated direct] legislation is incompatible with, and by virtue of section 5(A2)(b) subject to, any domestic enactment, or
 - (b) that a domestic enactment is incompatible with, and by virtue of section 7(1) of the Retained EU Law (Revocation and Reform) Act 2023 subject to, a provision of [^{F45}assimilated direct] legislation.
- (2) The court or tribunal must make an order (an “incompatibility order”) to that effect (in addition to any exercise of other powers that it may have in relation to the proceedings).
- (3) An incompatibility order may (among other things)—
 - (a) set out the effect of the relevant provision in its operation in relation to that particular case;
 - (b) delay the coming into force of the order;

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- (c) remove or limit any effect of the operation of the relevant provision before the coming into force of the order.
- (4) Provision included in an incompatibility order may be made subject to conditions.
- (5) In this section—
 - “domestic enactment” has the same meaning as in section 5 of this Act;
 - “the relevant provision” means section 5(A2)(b) of this Act or section 7(1) of the Retained EU Law (Revocation and Reform) Act 2023 (as the case may be).]

Textual Amendments

- F43** S. 6D inserted (1.1.2024) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 8, 22(3); S.I. 2023/1363, reg. 3(d)
- F44** Words in s. 6D(1)(a) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), Sch. 2 para. 8(7) (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F45** Words in s. 6D(1)(b) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), Sch. 2 para. 8(7) (with s. 22(6)); S.I. 2023/1363, reg. 3(e)

7 Status of [^{F46}assimilated] law

- (1) Anything which—
 - (a) was, immediately before exit 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 exit day by virtue of [^{F47}section 1A(2) or 1B(2)],continues to be domestic law as an enactment of the same kind.

[^{F48}(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.]

[^{F49}(4A) [^{F50}Assimilated direct] legislation ^{F51}... may only be modified by—

- (a) primary legislation, or
- (b) subordinate legislation so far as it is made under a power which permits such a modification by virtue of—
 - (i) paragraph 3, 8(3), 11A, 11B or 12(3) of Schedule 8,
 - (ii) any other provision made by or under this Act,
 - (iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or
 - (iv) any provision made on or after the passing of this Act by or under primary legislation.]

- (5) For other provisions about the status of [^{F52}assimilated] law, see—

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- (a) section 5 [F53(A1) to (A3)][F54 and (7)] (status of [F52 assimilated] law in relation to other enactments or rules of law),
- (b) section 6 (status of [F55 assimilated] case law F56 ...),
- [F57 (ba) section 7C (status of case law of European Court etc. in relation to [F52 assimilated] law which is relevant separation agreement law),]
- (c) section 15(2) and Part 2 of Schedule 5 (status of [F52 assimilated] law for the purposes of the rules of evidence),
- [F58 (d) paragraph 16 of Schedule 8 (information about Scottish instruments which amend or revoke subordinate legislation under section 2(2) of the European Communities Act 1972),]
- (e) paragraphs 19 and 20 of that Schedule (status of certain [F59 assimilated direct] legislation for the purposes of the Interpretation Act 1978), and
- (f) paragraph 30 of that Schedule (status of [F60 assimilated direct] legislation for the purposes of the Human Rights Act 1998).

F61(6)

Textual Amendments

- F46 Word in s. 7 heading substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(8)(a)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F47 Words in s. 7(1)(b) substituted (31.1.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 40(2)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(n)(xv)
- F48 S. 7(1A) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 40(3)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F49 S. 7(4A) substituted for s. 7(2)-(4) (29.6.2023) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(1)(d), **Sch. 3 para. 13**
- F50 Words in s. 7(4A) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(8)(b)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F51 Words in s. 7(4A) omitted (1.1.2024) by virtue of The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 89(3)**
- F52 Word in s. 7(5) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(8)(c)(i)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F53 Words in s. 7(5)(a) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), **ss. 3(3)(b), 22(3)** (with s. 22(5)); S.I. 2023/1363, reg. 3(a)
- F54 Words in s. 7(5)(a) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 40(4)(a)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F55 Word in s. 7(5)(b) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(8)(c)(ii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F56 Words in s. 7(5)(b) omitted (1.1.2024) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), **ss. 4(4), 22(3)** (with s. 22(5)); S.I. 2023/1363, reg. 3(b)
- F57 S. 7(5)(ba) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 40(4)(b)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F58 S. 7(5)(d) substituted (29.6.2023) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), **ss. 10(2)(a), 22(1)(d)** (with s. 10(3))
- F59 Words in s. 7(5)(e) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(8)(c)(iii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F60 Words in s. 7(5)(f) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(8)(c)(iii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F61 S. 7(6) omitted (1.1.2024) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(8)(d)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)

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Modifications etc. (not altering text)

- C4** S. 7(2)(3) applied (with modifications) (30.1.2020) by [Direct Payments to Farmers \(Legislative Continuity\) Act 2020 \(c. 2\)](#), ss. 2(3)-(5), 9(3)

Commencement Information

- I9** S. 7(2)(3) in force at 30.1.2020 for specified purposes by [2020 c. 2](#), s. 2(11)(a)(b)
I10 S. 7(1)(6) in force at 31.1.2020 by [S.I. 2020/74](#), **reg. 2(a)**
I11 S. 7(4)(5) in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 3(f)**

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6(4)-(5ZA) word substituted by [2023 c. 28 Sch. 2 para. 8\(3\)\(c\)](#) (The inserted text to be amended is still prospective so this amendment is not applied yet.)
- s. 6(5ZA) inserted by [2023 c. 28 s. 6\(4\)](#)
- s. 6(6B) inserted by [2023 c. 28 s. 6\(6\)](#)
- s. 6A-6C inserted by [2023 c. 28 s. 6\(8\)](#)
- s. 6A word substituted by [2023 c. 28 Sch. 2 para. 8\(4\)](#) (The inserted text to be amended is still prospective so this amendment is not applied yet.)
- s. 6B word substituted by [2023 c. 28 Sch. 2 para. 8\(5\)](#) (The inserted text to be amended is still prospective so this amendment is not applied yet.)
- s. 6C word substituted by [2023 c. 28 Sch. 2 para. 8\(6\)](#) (The inserted text to be amended is still prospective so this amendment is not applied yet.)