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**Changes to legislation:** European Union (Withdrawal) Act 2018, Paragraph 16 is up to date with all changes known to be in force on or before 19 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

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## SCHEDULES

### SCHEDULE 8

#### CONSEQUENTIAL, TRANSITIONAL, TRANSITORY AND SAVING PROVISION

##### PART 1

##### GENERAL CONSEQUENTIAL PROVISION

*Explanatory statements for instruments amending or revoking regulations etc. under section 2(2) of the ECA*

- 16 (1) This paragraph applies where, on or after [<sup>F1</sup>IP completion day]—
- (a) a Scottish statutory instrument which amends or revokes any subordinate legislation made under section 2(2) of the European Communities Act 1972, or
  - (b) a draft of such an instrument,
- is to be laid before the Scottish Parliament.
- (2) Before the instrument or draft is laid, the relevant authority must make a statement as to why, in the opinion of the relevant authority, there are good reasons for the amendment or revocation.
- (3) Before the instrument or draft is laid, the relevant authority must make a statement otherwise explaining—
- (a) the law which is relevant to the amendment or revocation, and
  - (b) the effect of the amendment or revocation on [<sup>F2</sup>assimilated] law.
- (4) If the relevant authority fails to make a statement required by sub-paragraph (2) or (3) before the instrument or draft is laid, the relevant authority must make a statement explaining why the relevant authority has failed to make the statement as so required.
- (5) A statement under sub-paragraph (2), (3) or (4) must be made in writing and be published in such manner as the relevant authority considers appropriate.
- (6) This paragraph applies in relation to instruments whether the power to make them is conferred before, on or after [<sup>F3</sup>IP completion day] including where the power is conferred by regulations under this Act (but not where it is conferred by this Act).
- [<sup>F4</sup>(7) The references in this paragraph to subordinate legislation made under section 2(2) of the European Communities Act 1972—
- (a) do not include references to any provision of such legislation which is made (whether or not by way of amendment) otherwise than under section 2(2) of that Act, and
  - (b) do include references to subordinate legislation made otherwise than under section 2(2) of that Act so far as that legislation is amended by provision

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made under that section (but do not include references to any primary legislation so far as so amended).]

- (8) In this paragraph “the relevant authority” means—
- (a) in the case of a Scottish statutory instrument which is not made by the Scottish Ministers, other than an Order in Council, the person who makes, or is to make, the instrument, and
  - (b) in any other case, the Scottish Ministers.
- [<sup>F5</sup>(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, <sup>F6</sup>...
  - (c) the Swiss citizens' rights agreement [<sup>F7</sup>, or
  - (d) a future relationship agreement].]

#### Textual Amendments

- F1** Words in Sch. 8 para. 16(1) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 54(11)(a)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F2** Word in Sch. 8 para. 16(3)(b) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(15)(c)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F3** Words in Sch. 8 para. 16(6) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 54(11)(a)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F4** Sch. 8 para. 16(7) substituted (29.6.2023) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), **ss. 10(2)(b)**, 22(1)(d) (with s. 10(3))
- F5** Sch. 8 para. 16(9) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 54(11)(b)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F6** Word in Sch. 8 para. 16(9)(b) omitted (31.12.2020) by virtue of European Union (Future Relationship) Act 2020 (c. 29), s. 40(7), **Sch. 6 para. 8(a)**; S.I. 2020/1662, reg. 2(ff)
- F7** Sch. 8 para. 16(9)(d) and word inserted (31.12.2020) by European Union (Future Relationship) Act 2020 (c. 29), s. 40(7), **Sch. 6 para. 8(b)**; S.I. 2020/1662, reg. 2(ff)

#### Commencement Information

- I1** Sch. 8 para. 16 in force at 31.12.2020 by S.I. 2020/1622, **reg. 3(n)**

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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.)