

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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

SCHEDULES

SCHEDULE 8

CONSEQUENTIAL, TRANSITIONAL, TRANSITORY AND SAVING PROVISION

PART 1

GENERAL CONSEQUENTIAL PROVISION

Existing ambulatory references to [F1assimilated direct] legislation

Textual Amendments

F1 Words in Sch. 8 para. 1 cross-heading substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), Sch. 2 para. 8(15)(a) (with s. 22(6)); S.I. 2023/1363, reg. 3(e)

- 1 (1) Any reference [F2so far as it], immediately before [F3IP completion day]—
- (a) exists in—
 - (i) any enactment,
 - (ii) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement which is to form part of domestic law by virtue of section 3, or
 - (iii) any document relating to anything falling within sub-paragraph (i) or (ii), and
 - (b) is a reference to (as it has effect from time to time) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement which is to form part of domestic law by virtue of section 3,
- is to be read, on or after [F3IP completion day], as a reference to the EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement as it forms part of domestic law by virtue of section 3 and, unless the contrary intention appears, as modified by domestic law from time to time.
- (2) Sub-paragraph (1) does not apply to any reference [F4so far as it] forms part of a power to make, confirm or approve subordinate legislation so far as the power to make the subordinate legislation—
- (a) continues to be part of domestic law by virtue of section 2, and
 - (b) is subject to a procedure before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.
- (3) Sub-paragraphs (1) and (2) are subject to any other provision made by or under this Act or any other enactment.

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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

Textual Amendments

- F2** Words in Sch. 8 para. 1(1) substituted (31.12.2020) by [The European Union Withdrawal \(Consequential Modifications\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1447\)](#), regs. 1(3), **3(2)(a)(i)**
- F3** Words in Sch. 8 para. 1(1) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(7), **Sch. 5 para. 54(2)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F4** Words in Sch. 8 para. 1(2) substituted (31.12.2020) by [The European Union Withdrawal \(Consequential Modifications\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1447\)](#), regs. 1(3), **3(2)(a)(ii)**

Commencement Information

- I1** Sch. 8 para. 1 in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 3(n)** (with reg. 19)

[^{F5}Existing ambulatory references to relevant separation agreement law

Textual Amendments

- F5** Sch. 8 para. 1A and cross-heading inserted (31.12.2020) by [The European Union Withdrawal \(Consequential Modifications\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1447\)](#), regs. 1(3), **3(2)(b)**

- 1A (1) Any reference which, immediately before IP completion day—
- (a) exists in—
 - (i) any enactment,
 - (ii) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement which is to form part of domestic law by virtue of section 3, or
 - (iii) any document relating to anything falling within sub-paragraph (i) or (ii), and
 - (b) is a reference to (as it has effect from time to time) any of the EU Treaties, any EU instrument or any other document of an EU entity,
- is, if the treaty, instrument or document has effect on or after IP completion day by virtue of section 7A or 7B and so far as required for the purposes of relevant separation agreement law, to be read on or after that day as, or including, a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).
- (2) In sub-paragraph (1) “treaty” includes any international agreement (and any protocol or annex to a treaty or international agreement).
- (3) Sub-paragraphs (1) and (2) are subject to any other provision made by or under this Act or any other enactment.]

Other existing ambulatory references

- 2 (1) Any reference [^{F6}so far as it]—
- (a) exists, immediately before [^{F7}IP completion day], in—
 - (i) any enactment,
 - (ii) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement which is to form part of domestic law by virtue of section 3, or

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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

- (iii) any document relating to anything falling within sub-paragraph (i) or (ii),
- (b) is not a reference to which paragraph 1(1) applies, and
- (c) is, immediately before [^{F7}IP completion day], a reference to (as it has effect from time to time) any of the EU Treaties, any EU instrument or any other document of an EU entity,
- is to be read, on or after [^{F7}IP completion day], as a reference to the EU Treaty, instrument or document as it has effect immediately before [^{F7}IP completion day].
- (2) Sub-paragraph (1) does not apply to any reference [^{F8}so far as it] forms part of a power to make, confirm or approve subordinate legislation so far as the power to make the subordinate legislation—
- (a) continues to be part of domestic law by virtue of section 2, and
- (b) is subject to a procedure before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.
- [^{F9}(2A) Sub-paragraph (1) does not apply so far as any reference forms part of relevant separation agreement law.]
- (3) Sub-paragraphs (1) [^{F10}to (2A)] are subject to any other provision made by or under this Act or any other enactment.

Textual Amendments

- F6** Words in Sch. 8 para. 2(1) substituted (31.12.2020) by The European Union Withdrawal (Consequential Modifications) (EU Exit) Regulations 2020 (S.I. 2020/1447), regs. 1(3), **3(2)(c)(i)**
- F7** Words in Sch. 8 para. 2(1) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 54(3)(a)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F8** Words in Sch. 8 para. 2(2) substituted (31.12.2020) by The European Union Withdrawal (Consequential Modifications) (EU Exit) Regulations 2020 (S.I. 2020/1447), regs. 1(3), **3(2)(c)(ii)**
- F9** Sch. 8 para. 2(2A) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 54(3)(b)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F10** Words in Sch. 8 para. 2(3) substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 54(3)(c)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)

Modifications etc. (not altering text)

- C1** Sch. 8 para. 2 excluded (30.1.2020) by Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2), s. 9(3), **Sch. 1 para. 2**

Commencement Information

- I2** Sch. 8 para. 2 in force at 31.12.2020 by S.I. 2020/1622, **reg. 3(n)** (with reg. 19)

[^{F11}Existing non-ambulatory references

Textual Amendments

- F11** Sch. 8 para. 2A and cross-heading inserted (31.12.2020) by The European Union Withdrawal (Consequential Modifications) (EU Exit) Regulations 2020 (S.I. 2020/1447), regs. 1(3), **3(2)(d)** (as amended by S.I. 2020/1636, regs. 1(3), **4(2)**)

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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

- 2A (1) Any reference which, immediately before IP completion day—
- (a) exists in—
 - (i) any enactment, or
 - (ii) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement which is to form part of domestic law by virtue of section 3, and
 - (b) is a reference to any of the EU Treaties, any EU instrument or any other document of an EU entity as it has effect at a particular time which is earlier than IP completion day,
- is to be read, on or after IP completion day, in accordance with one or more of sub-paragraphs (2) to (4).
- (2) If the treaty, instrument or document has effect by virtue of section 7A or 7B on or after IP completion day and so far as required for the purposes of relevant separation agreement law, the reference is to be read on or after that day as, or as including, a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).
- (3) So far as—
- (a) the reference is a reference to—
 - (i) any EU regulation, EU decision or EU tertiary legislation,
 - (ii) any provision of the EEA agreement, or
 - (iii) any part of anything falling within sub-paragraph (i) or (ii),
 - (b) what has been referred to (“the subject law”) is to form part of domestic law by virtue of section 3 or forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, and
 - (c) there has been no relevant modification of the subject law after the particular time and before IP completion day (or, where the subject law forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, before exit day),
- the reference is to be read, on or after IP completion day, as a reference to the subject law as it forms part of domestic law by virtue of section 3 or (as the case may be) section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020.
- (4) So far as the reference is not to be read in accordance with sub-paragraphs (2) and (3), the reference is to be read, on or after IP completion day, as a reference to the treaty, instrument or document as it had effect in EU law at the particular time.
- (5) Sub-paragraph (3) does not determine whether, where the subject law is modified by domestic law on or after IP completion day, the reference is to be read as a reference to the subject law as modified; but, where the subject law forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020 and is modified by domestic law before IP completion day, the reference is to be read by virtue of sub-paragraph (3) as a reference to the subject law as so modified.
- (6) This paragraph is subject to any provision made by or under this Act or any other enactment.
- (6A) This paragraph does not apply to a reference in—
- (a) the Direct Payments to Farmers (Legislative Continuity) Act 2020 or any subordinate legislation made under that Act, or

Changes to legislation: *European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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*

(b) any [^{F12}assimilated direct] CAP legislation (within the meaning given by section 2(10) of that Act).

(7) In this paragraph—

“relevant modification” means any modification in EU law which—

(a) is to form part of domestic law by virtue of section 3 or forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, and

(b) would, if the reference were to the subject law as modified, result in an alteration to the effect of the reference (ignoring any alteration which is irrelevant in the context concerned);

“the subject law” has the meaning given by sub-paragraph (3)(b);

“treaty” includes any international agreement (and any protocol or annex to a treaty or international agreement).]

Textual Amendments

F12 Words in Sch. 8 para. 2A(6A)(b) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), Sch. 2 para. 8(15)(b) (with s. 22(6)); S.I. 2023/1363, reg. 3(e)

Modifications etc. (not altering text)

C2 Sch. 8 para. 2A(3) excluded (31.12.2020) by The European Union (Withdrawal) Act 2018 and European Union (Withdrawal Agreement) Act 2020 (Commencement, Transitional and Savings Provisions) Regulations 2020 (S.I. 2020/1622), regs. 1(2), 19(1)

Existing powers to make subordinate legislation etc.

3 (1) Any power to make, confirm or approve subordinate legislation which—

(a) was conferred before the day on which this Act is passed, ^{F13}...

^{F13}(b)

is to be read, so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of) any [^{F14}assimilated direct] legislation ^{F15}....

^{F16}(2)

Textual Amendments

F13 Sch. 8 para. 3(1)(b) and word omitted (29.6.2023) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 9(2)(a), 22(1)(d)

F14 Words in Sch. 8 para. 3(1) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), Sch. 2 para. 8(15)(b) (with s. 22(6)); S.I. 2023/1363, reg. 3(e)

F15 Words in Sch. 8 para. 3(1) 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(6)(a)

F16 Sch. 8 para. 3(2) omitted (29.6.2023) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 9(2)(b), 22(1)(d)

Changes to legislation: *European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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*

Modifications etc. (not altering text)

C3 Sch. 8 paras. 3-8 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

I3 Sch. 8 para. 3 in force at 30.1.2020 for specified purposes by [2020 c. 2, s. 2\(11\)\(a\)\(b\)](#)

I4 Sch. 8 para. 3 in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1622, reg. 3\(n\)](#)

- 4 ^{F17}(1)
- ^{F17}(2)
- ^{F17}(3)
- ^{F17}(4)
- ^{F17}(5)

[^{F18}(5A) Any subordinate legislation which is (or is to be) made, confirmed or approved by virtue of paragraph 3 is subject to the same procedure (if any) before Parliament, the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly as would apply to that legislation if it were amending or revoking an enactment contained in subordinate legislation made under a different power.]

(6) Any provision which may be made, confirmed or approved by virtue of paragraph 3 may be included in the same instrument as any other provision which may be so made, confirmed or approved.

(7) Where more than one procedure of a kind falling within sub-paragraph (8) would otherwise apply in the same legislature for an instrument falling within sub-paragraph (6), the higher procedure is to apply in the legislature concerned.

(8) The order of procedures is as follows (the highest first)—

- (a) a procedure which requires a statement of urgency before the instrument is made and the approval of the instrument after it is made to enable it to remain in force,
- (b) a procedure which requires the approval of the instrument in draft before it is made,
- (c) a procedure not falling within paragraph (a) which requires the approval of the instrument after it is made to enable it to come into, or remain in, force,
- (d) a procedure which provides for the annulment of the instrument after it is made,
- (e) a procedure not falling within any of the above paragraphs which provides for the laying of the instrument after it is made,
- (f) no procedure.

(9) The references in this paragraph to ^{F19}... amending or revoking an enactment contained in subordinate legislation do not include references to ^{F19}... amending or revoking an enactment contained in any Northern Ireland legislation which is an Order in Council.

- ^{F20}(10)

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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

Textual Amendments

- F17** Sch. 8 para. 4(1)–(5) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), [ss. 9\(3\)\(a\)](#), 22(1)(d)
- F18** Sch. 8 para. 4(5A) inserted (29.6.2023) by [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), [ss. 9\(3\)\(b\)](#), 22(1)(d)
- F19** Words in Sch. 8 para. 4(9) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), [ss. 9\(3\)\(c\)](#), 22(1)(d)
- F20** Sch. 8 para. 4(10) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), [ss. 9\(3\)\(d\)](#), 22(1)(d)

Modifications etc. (not altering text)

- C3** Sch. 8 paras. 3–8 applied (with modifications) (30.1.2020) by [Direct Payments to Farmers \(Legislative Continuity\) Act 2020](#) (c. 2), [ss. 2\(3\)–\(5\)](#), 9(3)
- C4** Sch. 8 para. 4 excluded (29.6.2023) by 2006 c. 51, s. 12(3) (as inserted by [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), [ss. 16\(3\)](#), 22(1)(d))

Commencement Information

- I5** Sch. 8 para. 4 in force at 30.1.2020 for specified purposes by [2020 c. 2, s. 2\(11\)\(a\)\(b\)](#)
- I6** Sch. 8 para. 4 in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1622, reg. 3\(n\)](#)

F21₅

Textual Amendments

- F21** Sch. 8 para. 5 omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), [ss. 9\(4\)](#), 22(1)(d)

F22₆

Textual Amendments

- F22** Sch. 8 para. 6 omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), [ss. 9\(4\)](#), 22(1)(d)

[^{F23}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 [^{F24}assimilated] law,

so far as the restriction concerned is not applicable to and in the United Kingdom by virtue of the withdrawal agreement.]

Textual Amendments

- F23** Sch. 8 para. 7 substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(7), [Sch. 5 para. 54\(4\)](#) (with s. 38(3), Sch. 5 para. 66); [S.I. 2020/75, reg. 4\(n\)\(xxv\)](#)
- F24** Word in Sch. 8 para. 7 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\(e\)](#)

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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

Modifications etc. (not altering text)

- C3** Sch. 8 paras. 3-8 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

- I7** Sch. 8 para. 7 in force at 30.1.2020 for specified purposes by [2020 c. 2, s. 2\(11\)\(a\)\(b\)](#)
I8 Sch. 8 para. 7 in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1622, reg. 3\(n\)](#)

- 8 (1) Paragraphs 3 to 7 and this paragraph—
- (a) do not prevent the conferral of wider powers,
 - ^{F25}(b) ... and
 - (c) are subject to any other provision made by or under this Act or any other enactment.
- (2) For the purposes of paragraphs 3 and 5—
- (a) a power is conferred whether or not it is in force, and
 - (b) a power in [^{F26}assimilated direct] legislation is not conferred before the day on which this Act is passed.
- (3) A power which, by virtue of paragraph 3 or 5 or any Act of Parliament passed before, and in the same Session as, this Act, is capable of being exercised to modify any retained EU law is capable of being so exercised before [^{F27}IP completion day] so as to come into force on or after [^{F27}IP completion day].

Textual Amendments

- F25** Sch. 8 para. 8(1)(b) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\), regs. 1\(1\), 6\(4\)\(c\)](#)
F26 Words in Sch. 8 para. 8(2) substituted (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), s. 22\(3\), Sch. 2 para. 8\(15\)\(b\)](#) (with s. 22(6)); [S.I. 2023/1363, reg. 3\(e\)](#)
F27 Words in Sch. 8 para. 8(3) substituted (30.1.2020 for specified purposes, 31.1.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 54\(5\)\(b\)](#) (with s. 38(3), [Sch. 5 para. 66](#)); [2020 c. 2, s. 2\(11\)\(c\)](#); [S.I. 2020/75, reg. 4\(n\)\(xxv\)](#)

Modifications etc. (not altering text)

- C3** Sch. 8 paras. 3-8 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** Sch. 8 para. 8 in force at 30.1.2020 for specified purposes by [2020 c. 2, s. 2\(11\)\(a\)\(b\)](#)
I10 Sch. 8 para. 8 in force at 31.1.2020 in so far as not already in force by [S.I. 2020/74, reg. 2\(c\)\(i\)](#)

Review provisions in existing subordinate legislation

- 9 (1) In carrying out a review of a provision of subordinate legislation on or after [^{F28}IP completion day] (whether under provision made in accordance with section 28 of the Small Business, Enterprise and Employment Act 2015 or otherwise), a person is not required, by any [^{F29}pre-IP completion day] enactment, to have regard to how any former EU obligation is implemented elsewhere than in the United Kingdom.

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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

(2) In this paragraph—

“former EU obligation” means an obligation by which the United Kingdom is, as a result of the United Kingdom's withdrawal from the EU, no longer bound at the time of the review;

“^{F30}pre-IP completion day] enactment” means an Act passed, or subordinate legislation made, before ^{F31}IP completion day];

“subordinate legislation” does not include an instrument made under an Act of the Scottish Parliament, Northern Ireland legislation or a Measure or Act of the National Assembly for Wales.

Textual Amendments

- F28** Words in Sch. 8 para. 9(1) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 54\(6\)\(a\)\(i\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F29** Words in Sch. 8 para. 9(1) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 54\(6\)\(a\)\(ii\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F30** Words in Sch. 8 para. 9(2) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 54\(6\)\(b\)\(i\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F31** Words in Sch. 8 para. 9(2) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 54\(6\)\(b\)\(ii\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)

Commencement Information

- I11** Sch. 8 para. 9 in force at 31.12.2020 by [S.I. 2020/1622, reg. 3\(n\)](#)

Future powers to make subordinate legislation

^{F32}10

Textual Amendments

- F32** [Sch. 8 para. 10](#) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 9\(5\), 22\(1\)\(d\)](#)

^{F33}11

Textual Amendments

- F33** [Sch. 8 para. 11](#) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 9\(5\), 22\(1\)\(d\)](#)

^{F34}11A —

(1) This paragraph applies to a power to make, confirm or approve subordinate legislation which is conferred—

- (a) on or after the day on which this Act is passed, and
- (b) before the day on which [section 9](#) of the [Retained EU Law \(Revocation and Reform\) Act 2023](#) comes into force.

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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

- (2) The power is to be read, so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of) any [^{F35}assimilated direct] legislation ^{F36}....
- (3) But **sub-paragraph (2)** enables a power in [^{F37}assimilated direct minor] legislation to be exercised to modify (or result in the modification of) any [^{F38}assimilated direct principal] legislation ^{F39}... only if—
- (a) the modification is—
 - (i) consistent with any [^{F38}assimilated direct principal] legislation ^{F39}..., and
 - (ii) supplementary, incidental or consequential in connection with any modification of any [^{F37}assimilated direct minor] legislation, or
 - (b) the power is a power to make, confirm or approve transitional, transitory or saving provision.]

Textual Amendments

- F34** Sch. 8 paras. 11A, 11B inserted (29.6.2023) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), **ss. 9(6), 22(1)(d)**
- F35** Words in Sch. 8 para. 11A(2) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(15)(b)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F36** Words in Sch. 8 para. 11A(2) 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(6)(b)**
- F37** Words in Sch. 8 para. 11A(3) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(15)(d)(i)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F38** Words in Sch. 8 para. 11A(3) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 8(15)(d)(ii)** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F39** Words in Sch. 8 para. 11A(3) 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(6)(b)**

[^{F34}11B —

- (1) This paragraph applies to a power to make, confirm or approve subordinate legislation which is conferred on or after the day on which [section 9](#) of the Retained EU Law (Revocation and Reform) Act 2023 comes into force.
- (2) The power is to be read, so far as applicable and unless the contrary intention appears, as being capable of being exercised to modify (or, as the case may be, result in the modification of) any [^{F40}assimilated direct] legislation ^{F41}....
- (3) But **sub-paragraph (2)** enables a power in [^{F42}assimilated direct minor] legislation to be exercised to modify (or result in the modification of) any [^{F43}assimilated direct principal] legislation ^{F44}... only if—
 - (a) the modification is—
 - (i) consistent with any [^{F42}assimilated direct principal] legislation ^{F44}..., and
 - (ii) supplementary, incidental or consequential in connection with any modification of any [^{F42}assimilated direct minor] legislation, or

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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

- (b) the power is a power to make, confirm or approve transitional, transitory or saving provision.
- (4) For the purposes of [sub-paragraph \(2\)](#), there is no contrary intention merely because a power is expressed as being capable of being exercised—
 - (a) to modify all enactments or a particular category of enactments, or
 - (b) to make a particular category of modifications to all enactments or to a particular category of enactments.]

Textual Amendments

- F34** Sch. 8 paras. 11A, 11B inserted (29.6.2023) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), [ss. 9\(6\)](#), [22\(1\)\(d\)](#)
- F40** Words in Sch. 8 para. 11B(2) substituted (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(3), [Sch. 2 para. 8\(15\)\(b\)](#) (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F41** Words in Sch. 8 para. 11B(2) 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\(6\)\(c\)](#)
- F42** Words in Sch. 8 para. 11B(3) substituted (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(3), [Sch. 2 para. 8\(15\)\(d\)\(i\)](#) (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F43** Words in Sch. 8 para. 11B(3) substituted (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(3), [Sch. 2 para. 8\(15\)\(d\)\(ii\)](#) (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F44** Words in Sch. 8 para. 11B(3) 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\(6\)\(c\)](#)

- 12 (1) Paragraphs [\[^{F45}11A and 11B\]](#) and this paragraph—
- (a) do not prevent the conferral of wider powers,
 - [\[^{F46}\(b\)\]](#) ... and
 - (c) are subject to any other provision made by or under this Act or any other enactment.
- (2) For the purposes of paragraphs [\[^{F47}11A and 11B\]](#)—
- (a) a power is conferred whether or not it is in force,
 - (b) a power in [\[^{F48}assimilated direct\]](#) legislation is conferred on or after the day on which this Act is passed, and
 - (c) the references to powers conferred include powers conferred by regulations under this Act (but not powers conferred by this Act).
- (3) A power which, by virtue of paragraph 10 or 11 or any Act of Parliament passed after [\[^{F49}this Act and before IP completion day\]](#), is capable of being exercised to modify any retained EU law is capable of being so exercised before [\[^{F50}IP completion day\]](#) so as to come into force on or after [\[^{F50}IP completion day\]](#).
- [\[^{F51}\(4\)\]](#) [Sub-paragraph \(5\)](#) applies in relation to a power if—
- (a) [paragraph 11A](#) applies in relation to the power, and
 - (b) immediately before the coming into force of [section 9](#) of the Retained EU Law (Revocation and Reform) Act 2023, and by virtue of a combination of provision in the power and paragraph 10 or 11 as it then had effect, the power was capable of being exercised to modify (or, as the case may be, result in the modification of) any retained direct EU legislation [\[^{F52}....\]](#)

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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) The continued existence of the provision in the power does not prevent the context from permitting or requiring the power to be read in accordance with [paragraph 11A](#) so far as the reading provided for by that paragraph is not provided for by the provision concerned (and, accordingly, the power continues to be capable of being exercised as mentioned in [sub-paragraph \(4\)](#) on and after the coming into force of [section 9](#) of the Retained EU Law (Revocation and Reform) Act 2023.)]

Textual Amendments

- F45** Words in [Sch. 8 para. 12\(1\)](#) substituted (29.6.2023) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 9\(7\)\(a\), 22\(1\)\(d\)](#)
- F46** [Sch. 8 para. 12\(1\)\(b\)](#) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\), regs. 1\(1\), 6\(4\)\(c\)](#)
- F47** Words in [Sch. 8 para. 12\(2\)](#) substituted (29.6.2023) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 9\(7\)\(a\), 22\(1\)\(d\)](#)
- F48** Words in [Sch. 8 para. 12\(2\)\(b\)](#) substituted (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), s. 22\(3\), Sch. 2 para. 8\(15\)\(b\)](#) (with [s. 22\(6\)](#)); [S.I. 2023/1363, reg. 3\(e\)](#)
- F49** Words in [Sch. 8 para. 12\(3\)](#) substituted (30.1.2020 for specified purposes, 31.1.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 54\(7\)\(b\)\(i\)](#) (with [s. 38\(3\), Sch. 5 para. 66](#)); [2020 c. 2, s. 2\(11\)\(c\)](#); [S.I. 2020/75, reg. 4\(n\)\(xxv\)](#)
- F50** Words in [Sch. 8 para. 12\(3\)](#) substituted (30.1.2020 for specified purposes, 31.1.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\), s. 42\(7\), Sch. 5 para. 54\(7\)\(b\)\(ii\)](#) (with [s. 38\(3\), Sch. 5 para. 66](#)); [2020 c. 2, s. 2\(11\)\(c\)](#); [S.I. 2020/75, reg. 4\(n\)\(xxv\)](#)
- F51** [Sch. 8 para. 12\(4\)\(5\)](#) inserted (29.6.2023) by [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 9\(7\)\(b\), 22\(1\)\(d\)](#)
- F52** Words in [Sch. 8 para. 12\(4\)\(b\)](#) 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\(6\)\(d\)](#)

Modifications etc. (not altering text)

- C5** [Sch. 8 paras. 10-12](#) 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

- I12** [Sch. 8 para. 12](#) in force at 30.1.2020 for specified purposes by [2020 c. 2, s. 2\(11\)\(a\)\(b\)](#)
- I13** [Sch. 8 para. 12](#) in force at 31.1.2020 in so far as not already in force by [S.I. 2020/74, reg. 2\(c\)\(ii\)](#)

F53
...

Textual Amendments

- F53** [Sch. 8 para. 13 cross-heading](#) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\), ss. 10\(1\), 22\(1\)\(d\)](#) (with [s. 10\(3\)](#))

F54 13

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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

Textual Amendments

F54 Sch. 8 para. 13 omitted (29.6.2023) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 10(1)(a), 22(1)(d) (with s. 10(3))

F55
...

Textual Amendments

F55 Sch. 8 para. 14 cross-heading omitted (29.6.2023) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 10(1), 22(1)(d) (with s. 10(3))

F56 14

Textual Amendments

F56 Sch. 8 para. 14 omitted (29.6.2023) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 10(1)(b), 22(1)(d) (with s. 10(3))

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

F57 15

Textual Amendments

F57 Sch. 8 para. 15 omitted (29.6.2023) by virtue of Retained EU Law (Revocation and Reform) Act 2023 (c. 28), ss. 10(1)(c), 22(1)(d) (with s. 10(3))

- 16 (1) This paragraph applies where, on or after [F58 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 [F59 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.

Changes to legislation: European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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) 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 ^{F60}[IP completion day] including where the power is conferred by regulations under this Act (but not where it is conferred by this Act).
- ^{F61}(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 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.
- ^{F62}(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, ^{F63}...
 - (c) the Swiss citizens' rights agreement ^{F64}, or
 - (d) a future relationship agreement].]

Textual Amendments

- F58** 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)
- F59** 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)
- F60** 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)
- F61** 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))
- F62** 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)
- F63** 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)
- F64** 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

- I14** Sch. 8 para. 16 in force at 31.12.2020 by S.I. 2020/1622, **reg. 3(n)**

Changes to legislation:

European Union (Withdrawal) Act 2018, Part 1 is up to date with all changes known to be in force on or before 09 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.
[View outstanding changes](#)

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.)