

**Changes to legislation:** European Union (Withdrawal) Act 2018, Part 4 is up to date with all changes known to be in force on or before 21 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 4

#### SPECIFIC TRANSITIONAL, TRANSITORY AND SAVING PROVISION

#### *Retention of <sup>F1</sup>saved EU law at end of implementation period*

##### Textual Amendments

- F1** Words in Sch. 8 para. 38 cross-heading substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), Sch. 5 para. 56(2) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)

- <sup>F2</sup>37A The repeal of section 1A(1) to (4) by section 1A(5) and the repeal of section 1B(1) to (5) by section 1B(6) do not prevent an enactment to which section 2 applies from continuing to be read, on and after IP completion day and by virtue of section 2, in accordance with section 1B(3) or (4).]

##### Textual Amendments

- F2** Sch. 8 para. 37A inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), Sch. 5 para. 56(3) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)

- 38 Section 4(2)(b) does not apply in relation to any rights, powers, liabilities, obligations, restrictions, remedies or procedures so far as they are of a kind recognised by a court or tribunal in the United Kingdom in a case decided on or after <sup>F3</sup>IP completion day] but begun before <sup>F3</sup>IP completion day] (whether or not as an essential part of the decision in the case).

##### Textual Amendments

- F3** Words in Sch. 8 para. 38 substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), Sch. 5 para. 56(4) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)

##### Commencement Information

- I1** Sch. 8 para. 38 in force at 31.12.2020 by S.I. 2020/1622, reg. 3(n) (with regs. 20, 21)

- 39 (1) Subject as follows and subject to <sup>F4</sup>relevant separation agreement law (for which see section 7C) and] any provision made by regulations under section 23(6) <sup>F5</sup>of this Act or section 41(5) of the European Union (Withdrawal Agreement) Act 2020],

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section 5(4) and paragraphs [F6 1 and 4] of Schedule 1 apply in relation to anything occurring before [F7 IP completion day] (as well as anything occurring on or after [F7 IP completion day]).

- (2) Section 5(4) and paragraphs [F8 1 and 4] of Schedule 1 do not affect any decision of a court or tribunal made before [F7 IP completion day].
- (3) Section 5(4) and [F9 paragraph] 4 of Schedule 1 do not apply in relation to any proceedings begun, but not finally decided, before a court or tribunal in the United Kingdom before [F7 IP completion day].
- (4) Paragraphs [F10 1 and 4] of Schedule 1 do not apply in relation to any conduct which occurred before [F7 IP completion day] which gives rise to any criminal liability.
- F11(5) .....
- F11(6) .....
- (7) Paragraph 4 of Schedule 1 does not apply in relation to any proceedings begun within the period of two years beginning with [F7 IP completion day] so far as the proceedings relate to anything which occurred before [F7 IP completion day].

#### Textual Amendments

- F4** Words in Sch. 8 para. 39(1) inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(7), **Sch. 5 para. 56(5)(b)(i)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F5** Words in Sch. 8 para. 39(1) inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(7), **Sch. 5 para. 56(5)(b)(ii)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F6** Words in Sch. 8 para. 39(1) substituted (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), **ss. 4(7)(a), 22(3)** (with s. 22(5)); S.I. 2023/1363, reg. 3(b)
- F7** Words in Sch. 8 para. 39 substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(7), **Sch. 5 para. 56(5)(a)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/1622, reg. 5(j)
- F8** Words in Sch. 8 para. 39(2) substituted (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), **ss. 4(7)(b), 22(3)** (with s. 22(5)); S.I. 2023/1363, reg. 3(b)
- F9** Word in Sch. 8 para. 39(3) substituted (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), **ss. 4(7)(c), 22(3)** (with s. 22(5)); S.I. 2023/1363, reg. 3(b)
- F10** Words in Sch. 8 para. 39(4) substituted (1.1.2024) by [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), **ss. 4(7)(d), 22(3)** (with s. 22(5)); S.I. 2023/1363, reg. 3(b)
- F11** Sch. 8 para. 39(5)(6) omitted (1.1.2024) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023](#) (c. 28), **ss. 4(7)(e), 22(3)** (with s. 22(5)); S.I. 2023/1363, reg. 3(b)

#### Commencement Information

- I2** Sch. 8 para. 39 in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 3(n)** (with [regs. 20, 21](#))

#### *Main powers in connection with withdrawal*

- 40 The prohibition on making regulations under section [F12 6(5A),] 8, [F13 8A]F14 ... or 23(1) or [F15 Part 1 or 1A of] Schedule 2 after a particular time does not affect the continuation in force of regulations made at or before that time (including the exercise after that time of any power conferred by regulations made at or before that time).

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### Textual Amendments

- F12** Word in Sch. 8 para. 40 inserted (19.5.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 56(6)(a)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/518, reg. 2(p)(iii)
- F13** Word in Sch. 8 para. 40 inserted (23.1.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(6)(e)(xi), **Sch. 5 para. 56(6)(b)** (with s. 38(3), Sch. 5 para. 66)
- F14** Word in Sch. 8 para. 40 omitted (23.1.2020) by virtue of European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(6)(e)(xi), **Sch. 5 para. 56(6)(c)** (with s. 38(3), Sch. 5 para. 66)
- F15** Words in Sch. 8 para. 40 inserted (23.1.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(6)(e)(xi), **Sch. 5 para. 56(6)(d)** (with s. 38(3), Sch. 5 para. 66)

### Commencement Information

- I3** Sch. 8 para. 40 in force at 4.7.2018 by S.I. 2018/808, reg. 3(h)

### Devolution

- 41 (1) The amendments made by section 12 and Part 1 of Schedule 3 do not affect the validity of—
- any provision of an Act of the Scottish Parliament, Act of the National Assembly for Wales or Act of the Northern Ireland Assembly made before [F16IP completion day],
  - any subordinate legislation which is subject to confirmation or approval and is made and confirmed or approved before [F16IP completion day], or
  - any other subordinate legislation made before [F16IP completion day].
- (2) Accordingly and subject to sub-paragraphs (3) to (10), the validity of anything falling within sub-paragraph (1)(a), (b) or (c) is to be decided by reference to the law before [F16IP completion day].
- (3) Section 29(2)(d) of the Scotland Act 1998, so far as relating to EU law, does not apply to any provision of an Act of the Scottish Parliament made before [F16IP completion day] if the provision—
- comes into force on or after [F16IP completion day] or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and
  - is made when there are no regulations under section 30A of the Scotland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before [F16IP completion day], on or after [F16IP completion day]) if the provision were made and the regulations were in force at that time.
- (4) Section 108A(2)(e) of the Government of Wales Act 2006, so far as relating to EU law, does not apply to any provision of an Act of the National Assembly for Wales made before [F16IP completion day] if the provision—
- comes into force on or after [F16IP completion day] or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and
  - is made when there are no regulations under section 109A of the Government of Wales Act 2006 by virtue of which the provision would be in breach of

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the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before [F16IP completion day], on or after [F16IP completion day]) if the provision were made and the regulations were in force at that time.

- (5) Section 6(2)(d) of the Northern Ireland Act 1998, so far as relating to EU law, does not apply to any provision of an Act of the Northern Ireland Assembly made before [F16IP completion day] if the provision—
- (a) comes into force on or after [F16IP completion day] or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and
  - (b) is made when there are no regulations under section 6A of the Northern Ireland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before [F16IP completion day], on or after [F16IP completion day]) if the provision were made and the regulations were in force at that time.
- (6) Section 57(2) of the Scotland Act 1998, so far as relating to EU law, does not apply to the making, confirming or approving before [F16IP completion day] of any subordinate legislation if the legislation—
- (a) comes into force on or after [F16IP completion day], and
  - (b) is made, confirmed or approved when there are no regulations under subsection (4) of section 57 of the Scotland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection when the legislation comes into force if—
    - (i) the making, confirming or approving had occurred at that time,
    - (ii) in the case of legislation confirmed or approved, the legislation was made at that time, and
    - (iii) the regulations were in force at that time.
- (7) Section 80(8) of the Government of Wales Act 2006, so far as relating to EU law, does not apply to the making, confirming or approving before [F16IP completion day] of any subordinate legislation if the legislation—
- (a) comes into force on or after [F16IP completion day], and
  - (b) is made, confirmed or approved when there are no regulations under subsection (8) of section 80 of the Government of Wales Act 2006 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection, so far as relating to retained EU law, when the legislation comes into force if—
    - (i) the making, confirming or approving had occurred at that time,
    - (ii) in the case of legislation confirmed or approved, the legislation was made at that time, and
    - (iii) the regulations were in force at that time.
- (8) Section 24(1)(b) of the Northern Ireland Act 1998, so far as relating to EU law, does not apply to the making, confirming or approving before [F16IP completion day] of any subordinate legislation if the legislation—
- (a) comes into force on or after [F16IP completion day], and

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- (b) is made, confirmed or approved when there are no regulations under subsection (3) of section 24 of the Northern Ireland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection when the legislation comes into force if—
- (i) the making, confirming or approving had occurred at that time,
  - (ii) in the case of legislation confirmed or approved, the legislation was made at that time, and
  - (iii) the regulations were in force at that time.
- (9) For the purposes of sub-paragraphs (3) to (8) assume that the restrictions relating to retained EU law in—
- (a) sections 30A(1) and 57(4) of the Scotland Act 1998,
  - (b) sections 80(8) and 109A(1) of the Government of Wales Act 2006, and
  - (c) sections 6A(1) and 24(3) of the Northern Ireland Act 1998,
- come into force on [F16IP completion day].
- (10) Section 57(2) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 and section 24(1)(b) of the Northern Ireland Act 1998, so far as relating to EU law, do not apply to [F17the making of regulations under Schedule 2 or 4][F17—
- (a) the making of regulations before exit day under Part 1A of Schedule 2, or
  - (b) the making of regulations under—
    - (i) Part 1B or 1C of Schedule 2, or
    - (ii) Schedule 4.]

#### Textual Amendments

- F16** Words in [Sch. 8 para. 41](#) substituted (31.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(7), [Sch. 5 para. 56\(7\)\(a\)](#) (with s. 38(3), [Sch. 5 para. 66](#)); S.I. 2020/75, reg. 4(n)(xxvii); S.I. 2020/1622, reg. 5(j)
- F17** [Sch. 8 para. 41\(10\)\(a\)\(b\)](#) substituted for words (23.1.2020 for specified purposes, 19.5.2020 for specified purposes) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(ix), [Sch. 5 para. 56\(7\)\(b\)](#) (with s. 38(3), [Sch. 5 para. 66](#)); S.I. 2020/518, reg. 2(p)(iv)

#### Commencement Information

- I4** [Sch. 8 para. 41\(10\)](#) in force at Royal Assent, see s. 25(1)(g)
- I5** [Sch. 8 para. 41\(1\)\(2\)](#) in force at 31.12.2020 by S.I. 2020/1622, [reg. 3\(n\)](#) (with [regs. 10, 20, 21](#))
- I6** [Sch. 8 para. 41\(3\)-\(9\)](#) in force at 1.3.2019 by S.I. 2019/399, [reg. 2\(a\)](#)

- 42 The amendments made by Part 1 of Schedule 3 do not affect the validity of any act (other than the making, confirming or approving of subordinate legislation) done before [F18IP completion day] 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.

#### Textual Amendments

- F18** Words in [Sch. 8 para. 42](#) substituted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(7), [Sch. 5 para. 56\(8\)](#) (with s. 38(3), [Sch. 5 para. 66](#)); S.I. 2020/1622, reg. 5(j)

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#### Commencement Information

**I7** Sch. 8 para. 42 in force at 31.12.2020 by [S.I. 2020/1622](#), **reg. 3(n)** (with [regs. 10, 20, 21](#))

<sup>F19</sup>43 .....

#### Textual Amendments

**F19** Sch. 8 para. 43 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\(5\)\(c\)](#)

#### *Other provision*

- 44 (1) The definition of “relevant criminal offence” in section 20(1) is to be read, until the appointed day, as if for the words “the age of 18 (or, in relation to Scotland or Northern Ireland, 21)” there were substituted “ the age of 21 ”.
- (2) In sub-paragraph (1), “the appointed day” means the day on which the amendment made to section 81(3)(a) of the Regulation of Investigatory Powers Act 2000 by paragraph 211 of Schedule 7 to the Criminal Justice and Court Services Act 2000 comes into force.
- 45 (1) The amendment made by paragraph 17 does not affect whether the payment of any fees or other charges may be required under section 56 of the Finance Act 1973 in connection with a service or facilities provided, or an authorisation, certificate or other document issued, before that amendment comes into force.
- (2) Sub-paragraph (3) applies where—
- (a) immediately before the amendment made by paragraph 17 comes into force, the payment of fees or other charges could be required, under section 56 of the Finance Act 1973, in connection with the provision of a service or facilities, or issuing an authorisation, certificate or other document, in pursuance of an EU obligation, and
  - (b) after the amendment made by paragraph 17 comes into force—
    - (i) regulations made under that section (whether or not modified under Part 2 of Schedule 4 or otherwise) prescribing the fees or charges, or under which the fees or charges are to be determined, form part of [<sup>F20</sup>assimilated] law, and
    - (ii) the service or facilities are provided, or the authorisation, certificate or other document is issued, under or in connection with [<sup>F21</sup>assimilated] law.
- (3) Despite the amendment made by paragraph 17, the payment of fees or other charges may be required, under that section and in accordance with the regulations, in connection with the provision of the service or facilities, or the issuing of the authorisation, certificate or other document.

#### Textual Amendments

**F20** Word in [Sch. 8 para. 45\(2\)\(b\)\(i\)](#) 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\(e\)](#)

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**F21** Word in Sch. 8 para. 45(2)(b)(ii) 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)

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**Commencement Information**

**I8** Sch. 8 para. 45 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.)