

*Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, PART 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

#### INDEPENDENT MONITORING AUTHORITY FOR THE CITIZENS' RIGHTS AGREEMENTS

#### PART 3

##### FURTHER PROVISIONS

###### *Disclosure of HMRC's information*

- 36 (1) Her Majesty's Revenue and Customs (or anyone acting on their behalf) may disclose information for the purpose of—
- (a) facilitating the exercise by the IMA of any of its functions, or
  - (b) facilitating the exercise by the Secretary of State or another relevant public authority of functions relating to the IMA.
- (2) A person who receives information as a result of sub-paragraph (1) may not—
- (a) use the information for a purpose other than one mentioned in sub-paragraph (1), or
  - (b) further disclose the information,
- except with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (3) If a person discloses information in contravention of sub-paragraph (2) which relates to a person whose identity—
- (a) is specified in the disclosure, or
  - (b) can be deduced from it,
- section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of information in contravention of section 20(9) of that Act.
- (4) This paragraph does not limit the circumstances in which information may be disclosed under section 18(2) of the Commissioners for Revenue and Customs Act 2005 or under any other enactment or rule of law.

###### **Commencement Information**

**II** Sch. 2 para. 36 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

###### *Data protection and disclosure of information*

- 37 Nothing in this Schedule authorises the making of a disclosure which—

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- (a) contravenes the data protection legislation within the meaning of the Data Protection Act 2018 (see section 3 of that Act), or
- (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

**Commencement Information**

**I2** Sch. 2 para. 37 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

*Disclosure of information to IMA: national security*

- 38 (1) A relevant public authority must not disclose information to the IMA if a Minister of the Crown certifies that the disclosure would be undesirable for reasons of national security.
- (2) The power conferred by sub-paragraph (1) on a Minister of the Crown is exercisable only by—
- (a) a Minister who is a member of the Cabinet, or
  - (b) the Attorney General or the Advocate General for Scotland.

**Commencement Information**

**I3** Sch. 2 para. 38 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

*Transfer of IMA's functions and abolition*

- 39 (1) The Secretary of State may by regulations—
- (a) transfer the functions of the IMA to another body that is a relevant public authority, and
  - (b) in view of that transfer of functions, make any modifications that the Secretary of State considers appropriate to the constitutional or funding arrangements or the functions of the transferee.
- (2) The Secretary of State may make regulations under sub-paragraph (1) only if satisfied that the transfer of functions serves the purpose of improving the exercise of the transferred functions, having regard to efficiency, effectiveness and economy.
- (3) In making regulations under sub-paragraph (1), the Secretary of State must have regard to the need to ensure that the transferee—
- (a) has operational independence when exercising the transferred functions and that it is able to make impartial assessments when exercising those functions, and
  - (b) has appropriate funding to exercise the transferred functions.
- (4) Regulations under sub-paragraph (1)—
- (a) may not provide for the transfer of the IMA's functions under paragraph 33 (which, accordingly, will lapse on the abolition of the IMA), but
  - (b) must make provision corresponding to that paragraph in relation to the transferee.
- (5) Regulations under sub-paragraph (1) may include provision—

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- (a) transferring the IMA's property, rights and liabilities (including rights and liabilities in respect of contracts of employment);
  - (b) abolishing the IMA.
- (6) Before making regulations under this paragraph, the Secretary of State must consult—
- (a) the Scottish Ministers,
  - (b) the Welsh Ministers,
  - (c) the Executive Office in Northern Ireland, and
  - (d) if the IMA has functions in relation to Gibraltar by virtue of paragraph 33, the Gibraltar Ministers.
- (7) The power to make regulations under sub-paragraph (1) may (among other things) be exercised by modifying any provision made by or under an enactment (including this Act).
- (8) In this paragraph “constitutional arrangements” has the meaning given by section 3(2) of the Public Bodies Act 2011.

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**Commencement Information**

**I4** Sch. 2 para. 39 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

- 40 (1) The Secretary of State may by regulations—
- (a) remove functions of the IMA, if it appears to the Secretary of State that, in accordance with Article 159(3) of the withdrawal agreement or Article 64(4) of the EEA EFTA separation agreement, it is no longer necessary for the IMA to continue to exercise those functions, or
  - (b) abolish the IMA, if it appears to the Secretary of State that, in accordance with Article 159(3) of the withdrawal agreement and Article 64(4) of the EEA EFTA separation agreement, it is no longer necessary for the IMA to continue to exist.
- (2) Regulations under sub-paragraph (1) may include provision transferring the IMA's property, rights and liabilities (including rights and liabilities in respect of contracts of employment).
- (3) The power to make regulations under sub-paragraph (1) may (among other things) be exercised by modifying any provision made by or under an enactment (including this Act).

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**Commencement Information**

**I5** Sch. 2 para. 40 in force at 31.12.2020 by S.I. 2020/1622, reg. 5(h)

*Interpretation*

- 41 (1) In this Schedule—
- “civil servant” means a person employed in the civil service of the State;
  - “devolved legislature” means—
- (a) the Scottish Parliament,

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- (b) the National Assembly for Wales, or
- (c) the Northern Ireland Assembly;

“domestic law” means the law of England and Wales, Scotland or Northern Ireland;

“Part 2” has the meaning given by paragraph 22(3);

“relevant public authority” has the meaning given by paragraph 22(3);

“relevant right” means—

- (a) a right created or arising by or under Part 2, or
- (b) a right which—
  - (i) corresponds to such a right, and
  - (ii) is created or arises by or under a provision of domestic law so far as that provision has effect in connection with Part 2.

- (2) In this Schedule, references to a relevant public authority acting include references to the relevant public authority failing to act.

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**Commencement Information**

**I6** Sch. 2 para. 41 in force at 31.1.2020 by S.I. 2020/75, reg. 4(m)

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