
STATUTORY INSTRUMENTS

2020 No. 1622

The European Union (Withdrawal) Act 2018 and European Union (Withdrawal Agreement) Act 2020 (Commencement, Transitional and Savings Provisions) Regulations 2020

PART 3

Transitional and saving provisions

European Communities Act 1972

6. Despite the ECA 1972 ceasing to have effect by virtue of section 1A(5) of EU(W)A 2018, section 11(2) of ECA 1972 continues to have effect on and after IP completion day in relation to the communication, or public disclosure, of any classified information on or after IP completion day by a person who acquired, or obtained cognisance of, the classified information before IP completion day.

Interpretation Act 1978

7.—(1) The repeal by paragraph 22(a) of Schedule 8 to EU(W)A 2018 of the definitions of “the Treaties” and “the EU Treaties” (as defined by section 1(2) of ECA 1972⁽¹⁾) in Schedule 1 to IA 1978, and the insertion by paragraph 22(e) of Schedule 8 to EU(W)A 2018 of definitions of those expressions in Schedule 1 to IA 1978, do not affect the interpretation of those expressions in pre-IPCD legislation on and after IP completion day in relation to a time before IP completion day.

(2) In its application to an Act passed, or subordinate legislation made, before 19th June 2008, the definition of “the Communities” in Schedule 1 to IA 1978, as inserted by paragraph 22(e) of Schedule 8 to EU(W)A 2018, has effect on and after IP completion day, in its application in relation to a time before 19th June 2008, as if the words from “but” to the end were omitted.

(3) In this regulation—

“pre-IPCD legislation” means an Act passed, or subordinate legislation made, before IP completion day;

“subordinate legislation” has the same meaning as in IA 1978.

(1) The definition of “Treaties” and “the EU Treaties” in section 1(2) of the European Communities Act 1972 (c. 68) was amended by the European Communities (Greek Accession) Act 1979 (c. 57), section 1; the European Communities (Spanish and Portuguese Accession) Act 1985 (c. 75), section 1; the European Communities (Amendment) Act 1986 (c. 58), section 1; the European Communities (Amendment) Act 1993 (c. 32), section 1; the European Parliamentary Elections Act 1993 (c. 41), section 3; the European Economic Area Act 1993 (c. 51), section 1; the European Union (Accessions) Act 1994 (c. 38), section 1; the European Communities (Amendment) Act 1998 (c. 21), section 1; the European Communities (Finance) Act 2001 (c. 22), section 1; the European Communities (Amendment) Act 2002 (c. 3), section 1; the European Union (Accessions) Act 2003 (c. 35), section 1; the European Union (Accessions) Act 2006 (c. 2), section 1; the European Union (Amendment) Act 2008 (c. 7), paragraph 1, the Schedule; the European Union Act 2011 (c. 12), section 15; the European Union (Croatian Accession and Irish Protocol) Act 2013 (c. 5), section 3; the European Union (Finance) Act 2015 (c. 32), section 1; S.I. 2011/1043.

European Union (Amendment) Act 2008

8.—(1) Despite the repeal of EU(A)A 2008 by section 23(8) of, and Schedule 9 to, EU(W)A 2018—

- (a) section 3(2) of EU(A)A 2008 continues to have effect on and after IP completion day in relation to any reference to the EU to which it applied immediately before IP completion day, and
- (b) section 3(6) of EU(A)A 2008 continues to have effect on and after IP completion day in relation to any reference to all or any of the Communities to which it applied immediately before IP completion day.

(2) Paragraph (1)(a) does not apply where the reference to the EU is to be construed in accordance with a new definition of “the EU”.

(3) Paragraph (1)(b) does not apply where the reference to all or any of the Communities is to be construed in accordance with a new definition of “the Communities”.

(4) In this regulation, “new definition” means a definition—

- (a) inserted into Schedule 1 to IA 1978 by paragraph 22(e) of Schedule 8 to EU(W)A 2018,
- (b) inserted into Schedule 1 to ILR(S)A 2010 by paragraph 35(b) of Schedule 8 to EU(W)A 2018, or
- (c) treated as inserted into Schedule 2 to the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999(2) by virtue of regulation 4(5) of the European Union (Withdrawal) Act 2018 (Consequential Modifications and Repeals and Revocations) (EU Exit) Regulations 2019(3).

Further savings in relation to the European Union (Amendment) Act 2008

9. The repeal of section 3(3), (4) and (5) of, and the Schedule to, EU(A)A 2008 by section 23(8) of, and Schedule 9 to, EU(W)A 2018 does not affect an amendment of an enactment made under section 3(3), (4) or (5) of, or the Schedule to, EU(A)A 2008 so far as—

- (a) the enactment as amended otherwise continues to have effect (whether by virtue of transitional or saving provision or otherwise), or
- (b) any other transitional or saving provision relating to the enactment as amended otherwise continues to have effect.

Devolution

10.—(1) Paragraphs 41(1) and (2) and 42 of Schedule 8 to EU(W)A 2018 apply on and after IP completion day to the amendments made by—

- (a) Part 3 of Schedule 3 to that Act;
- (b) paragraph 29 of Schedule 8 to that Act; and
- (c) paragraphs 18, 19, 21, 23, 25, 26, 28, 29 and 30 of Schedule 5 to EU(WA)A 2020;

as they apply to the amendments made by Part 1 of Schedule 3 to that Act.

(2) Paragraph 42 of Schedule 8 to EU(W)A 2018 applies on and after IP completion day to acts (other than the making, confirming or approving of subordinate legislation) done before IP completion day by any person.

(2) [S.I. 1999/1379](#); revoked by article 8 of that Order but subject to savings specified in s. 55(2) of the Interpretation and Legislative Reform (Scotland) Act [2010 \(asp 10\)](#).

(3) [S.I. 2019/628](#).

- (3) The amendments made by—
- (a) section 12 of EU(W)A 2018;
 - (b) Parts 1 and 3 of Schedule 3 to that Act;
 - (c) paragraph 29 of Schedule 8 to that Act; and
 - (d) paragraphs 18, 19, 21, 23, 25, 26, 28, 29 and 30 of Schedule 5 to EU(WA)A 2020
- do not apply on and after IP completion day in relation to any pre-IPCD failure.
- (4) Accordingly—
- (a) for the purposes of determining whether a question relating to pre-IPCD legislation, a pre-IPCD act or a pre-IPCD failure is a devolution issue within the meaning of Schedule 6 to SA 1998, paragraph 1 of that Schedule(4) continues to have effect on and after IP completion day without the amendments made by paragraph 23 of Schedule 3 to EU(W)A 2018,
 - (b) for the purposes of determining whether a question relating to pre-IPCD legislation, a pre-IPCD act or a pre-IPCD failure is a compatibility issue within the meaning of section 288ZA of the Criminal Procedure (Scotland) Act 1995(5), that section continues to have effect on and after IP completion day without the amendments made by paragraph 29 of Schedule 8 to EU(W)A 2018,
 - (c) for the purposes of determining whether a question relating to a pre-IPCD act or a pre-IPCD failure is a devolution issue within the meaning of Schedule 10 to NIA 1998, paragraph 1 of that Schedule(6) continues to have effect on and after IP completion day without the amendment made by paragraph 62 of Schedule 3 to EU(W)A 2018, and
 - (d) for the purposes of determining whether a question relating to a pre-IPCD act or a pre-IPCD failure is a devolution issue within the meaning of Schedule 9 to GOWA 2006, paragraphs 1(1)(c) and (d) of that Schedule continue to have effect on and after IP completion day as if the references to section 80(1), (7) and (8) of that Act were to those provisions without the amendments made by paragraph 2 or 37 of Schedule 3 to EU(W)A 2018.
- (5) It does not matter whether the question referred to in paragraph (4)(a), (b), (c) or (d) arises before or on or after IP completion day or whether it arises in proceedings which begin before or on or after IP completion day.
- (6) In this regulation—
- “pre-IPCD legislation” means an Act of the Scottish Parliament, or a provision of such an Act, the Bill for which received Royal Assent before IP completion day;
 - “pre-IPCD act” means an act, or a purported or proposed act, before IP completion day;
 - “pre-IPCD failure” means a failure to act before IP completion day;
- and references to Part 3 of Schedule 3 to EU(W)A 2018 do not include any provisions of that Part which have come into force before IP completion day.

Scotland Act 1998

11.—(1) Despite its repeal by paragraph 11 of Schedule 3 to EU(W)A 2018, section 34 of SA 1998(7) continues to have effect on and after IP completion day in relation to a Bill where—

(4) Amended by section 12 and 36 Scotland Act 2012 (c. 11) and S.I. 2011/1043.
(5) 1995 c. 46. Section 288ZA was inserted by section 34 of the Scotland Act 2012 (c. 11).
(6) Amended by S.I. 2011/1043.
(7) Amended by the Constitutional Reform Act 2005 (c. 4), paragraph 97, Schedule 9, and S.I. 2012/1809.

- (a) a reference has been made in relation to the Bill under section 33 of SA 1998(8) before IP completion day,
 - (b) a reference for a preliminary ruling (within the meaning of section 34 of that Act) has been made before IP completion day by the Supreme Court in connection with that reference, and
 - (c) neither of those references has been decided or otherwise disposed of before IP completion day.
- (2) Where section 34 of SA 1998 continues to have effect in relation to a Bill by virtue of paragraph (1), the following do not apply in relation to the Bill—
- (a) the amendments made to section 32 of SA 1998(9) by paragraph 10 of Schedule 3 to EU(W)A 2018, and
 - (b) the amendments made to section 36 of SA 1998(10) by paragraph 12 of Schedule 3 to EU(W)A 2018.

Scottish Taxpayers

12.—(1) The amendments made to sections 80D and 80DA of SA 1998(11) by paragraphs 14 and 15 of Schedule 3 to EU(W)A 2018 have effect in relation to the tax year 2020-21 and subsequent tax years.

(2) In paragraph (1), “tax year” means a year beginning on 6th April and ending on the following 5th April.

Interpretation and Legislative Reform (Scotland) Act 2010

13.—(1) The repeal by paragraph 35(a) of Schedule 8 to EU(W)A 2018 of the definitions of “the Treaties” and “the EU Treaties” (as defined by section 1(2) of ECA 1972) in Schedule 1 to ILR(S)A 2010 and the insertion by paragraph 35(b) of Schedule 8 to EU(W)A 2018 of definitions of those expressions in Schedule 1 to ILR(S)A 2010 and the amendment of those definitions by paragraph 37(f) of Schedule 5 to EU(W)A 2020 do not affect the interpretation of those expressions in pre-IPCD legislation on and after IP completion day in relation to a time before IP completion day.

(2) In this regulation—

- (a) “pre-IPCD legislation” means an Act of the Scottish Parliament the Bill for which received Royal Assent before IP completion day or a Scottish instrument made before IP completion day;
- (b) “Scottish instrument” has the same meaning as in Part 1 of ILR(S)A 2010.

Government of Wales Act 2006

14.—(1) Despite its repeal by paragraph 39 of Schedule 3 to EU(W)A 2018, section 113 of GOWA 2006(12) continues to have effect on and after IP completion day in relation to a Bill where—

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- (8) Amended by the Constitutional Reform Act 2005 (c. 4), paragraph 96, Schedule 9, and the Scotland Act 2016 (c. 11), section 11.
 - (9) Amended by the Constitutional Reform Act 2005 (c. 4), paragraph 95, Schedule 9, and the Scotland Act 2016 (c. 11), section 11.
 - (10) Amended by the Constitutional Reform Act 2005 (c. 4), paragraph 99, Schedule 9, and the Scotland Act 2016 (c. 11), section 11.
 - (11) Section 80D was inserted by the Scotland Act 2012 (c. 11), section 25 and amended by the Wales Act 2014 (c. 29), section 11; Section 80DA was inserted by the Wales Act 2014, section 11.
 - (12) Amended by the Wales Act 2017 (c. 4), section 12, the Senedd and Elections (Wales) Act 2020 (anaw 1), paragraph 2, Schedule 1, and S.I. 2012/1809.

- (a) a reference has been made in relation to the Bill under section 112 of GOWA 2006(13) before IP completion day,
 - (b) a reference for a preliminary European Court ruling (within the meaning of section 113 of that Act) has been made before IP completion day by the Supreme Court in connection with that reference, and
 - (c) neither of those references has been decided or otherwise disposed of before IP completion day.
- (2) Where section 113 of GOWA 2006 continues to have effect in relation to a Bill by virtue of paragraph (1), the following do not apply in relation to the Bill—
- (a) the amendments made to section 111 of GOWA 2006(14) by paragraph 38 of Schedule 3 to EU(W)A 2018, and
 - (b) the amendments made to section 115 of GOWA 2006(15) by paragraph 40 of Schedule 3 to EU(W)A 2018.

Welsh taxpayers

15.—(1) The amendments made to sections 116E and 116F of GOWA 2006(16) by paragraphs 41 and 42 of Schedule 3 to EU(W)A 2018 have effect in relation to the tax year 2020-21 and subsequent tax years.

(2) In paragraph (1), “tax year” means a year beginning on 6th April and ending on the following 5th April.

Northern Ireland Act 1998

16.—(1) Despite its repeal by paragraph 52 of Schedule 3 to EU(W)A 2018, section 12 of NIA 1998(17) continues to have effect on and after IP completion day in relation to a Bill where—

- (a) a reference has been made in relation to the Bill under section 11 of NIA 1998(18) before IP completion day,
 - (b) a reference for a preliminary ruling (within the meaning of section 12 of that Act) has been made before IP completion day by the Supreme Court in connection with that reference, and
 - (c) neither of those references has been decided or otherwise disposed of before IP completion day.
- (2) Where section 12 of NIA 1998 continues to have effect in relation to a Bill by virtue of paragraph (1), the following do not apply in relation to the Bill—
- (a) the amendment made to section 13 of NIA 1998(19) by paragraph 53 of Schedule 3 to EU(W)A 2018, and

(13) Amended by the Wales Act 2017 (c. 4), sections 10 and 12 and the Senedd and Elections (Wales) Act 2020 (anaw 1), paragraph 2, Schedule 1.

(14) Amended by the Wales Act 2014 (c. 29), section 6, the Wales Act 2017 (c. 4), section 10, and the Senedd and Elections (Wales) Act 2020 (anaw 1), paragraph 2, Schedule 1.

(15) Amended by the Wales Act 2017 (c. 4), sections 10 and 12, the Senedd and Elections (Wales) Act 2020 (anaw 1), paragraph 2, Schedule 1, and S.I. 2011/1011.

(16) Inserted by the Wales Act 2014 (c. 29), section 8, and the Senedd and Elections (Wales) Act 2020 (anaw 1), paragraph 2, Schedule 1.

(17) Amended by the Constitutional Reform Act 2005 (c. 4), paragraph 110, Schedule 9, the Justice (Northern Ireland) Act 2002 (c. 26), paragraph 1, Schedule 7, and S.I. 2012/1809.

(18) Amended by the Constitutional Reform Act 2005 (c. 4), paragraph 109, Schedule 9, and the Justice (Northern Ireland) Act 2002 (c. 26), paragraph 1, Schedule 7.

(19) Amended by the Constitutional Reform Act 2005 (c. 4), paragraph 111, Schedule 9.

- (b) the amendments made to section 14 of NIA 1998⁽²⁰⁾ by paragraph 54 of Schedule 3 to EU(W)A 2018.

Transitional provision for section 5A of EU(W)A 2018

17. Nothing in section 5A of EU(W)A 2018 prevents the modification on or after IP completion day of retained EU law by an enactment passed or made before IP completion day and coming into force or otherwise having effect on or after IP completion day (whether or not that enactment is itself retained EU law).

Transitional provision for paragraph 14 of Schedule 8 to EU(W)A 2018

18. Paragraph 14 of Schedule 8 to EU(W)A 2018 does not apply to a statutory instrument which was made before IP completion day but which would otherwise be subject to that paragraph.

Cross-references

19.—(1) Paragraphs 1 and 2A(3) of Schedule 8 to EU(W)A 2018 do not apply to any reading on or after IP completion day of a reference so far as the reference relates to a time before IP completion day (unless a contrary intention appears in relation to the reference concerned).

(2) Paragraph 2 of that Schedule does not apply to any reading on or after IP completion day of a reference so far as the reference relates to a time before IP completion day which is earlier than immediately before IP completion day (unless a contrary intention appears in relation to the reference concerned).

Relation to interpretation legislation

20.—(1) Parts 3 and 4 of Schedule 8 to EU(W)A 2018, Part 3 of Schedule 5 to EU(WA)A 2020, these Regulations and other regulations made under section 23(6) of EU(W)A 2018 or section 41(5) of EU(WA)A 2020 are without prejudice (so far as it is required) to section 16 of IA 1978 or any provision of interpretation legislation which corresponds to that section.

(2) In this regulation, “interpretation legislation” means ILR(S)A 2010, the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999, the Interpretation Act (Northern Ireland) 1954⁽²¹⁾ or the Legislation (Wales) Act 2019⁽²²⁾.

General saving provision

21. Any saving of a provision by Part 4 of Schedule 8 to EU(W)A 2018, these Regulations or other regulations made under section 23(6) of that Act or section 41(5) of EU(WA)A 2020 includes, so far as is required for the operation of the saved provision, the saving of any other provision relating to that provision.

General provision relating to repeals

22. The repeal of an enactment by EU(W)A 2018 does not affect an amendment of an enactment made by the repealed enactment so far as—

- (a) the enactment as amended otherwise continues to have effect (whether by virtue of transitional or saving provision or otherwise), or

⁽²⁰⁾ Amended by the Constitutional Reform Act 2005 (c. 4), paragraph 112, Schedule 9, the Justice (Northern Ireland) Act 2002 (c. 26), paragraph 1, Schedule 7, and the Northern Ireland (Miscellaneous Provision) Act 2014 (c. 13), section 6.

⁽²¹⁾ 1954 c. 33 (N.I.).

⁽²²⁾ 2019 anaw 4.

- (b) any other transitional or saving provision relating to the enactment as amended otherwise continues to have effect.