
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in sections 19(1) and 20(1)(b) of the Retained EU Law (Revocation and Reform) Act 2023 (c. 28) (“the REUL Act”). Section 19(1) is the power to make appropriate provision in consequence of the REUL Act provisions and which by virtue of section 20(1) includes the ability to make supplementary, incidental, consequential, transitional, transitory or saving provision. The relevant REUL Act provisions in relation to which these Regulations are making consequential amendments are sections 2, 4 and 5.

Section 5 of the REUL Act renames retained EU law (“REUL”) so that at all times after the end of 2023, REUL that remains in force will be known as “assimilated law”. Assimilated law will be domestic law which was previously REUL, but which is no longer interpreted in line with the REUL principles of interpretation, which from the end of 2023 will be removed from domestic law by sections 2, 3 and 4 of the REUL Act:

- (a) section 2 of the REUL Act repeals section 4 of the European Union (Withdrawal) Act 2018 (“EUWA”) so that nothing retained as a result of that section is recognised, available or enforceable in UK law from the end of 2023. Section 4 of EUWA provided that EU rights, powers, liabilities, obligations, restrictions, remedies and procedures which were recognised and available in the UK legal system, but which did not fall within section 3 of EUWA, continued to be recognised and available in domestic law following the UK’s exit from the EU;
- (b) section 3 of the REUL Act makes amendments to section 5 of EUWA which applies the principle of supremacy of EU law in relation to any domestic legislation made on or before 31 December 2020. Section 3 of the REUL Act repeals the principle of the supremacy of EU law at the end of 2023 in relation to any domestic law, whenever made;
- (c) section 4 of the REUL Act makes amendments to EUWA so that general principles of EU law are no longer part of UK law from the end of 2023. The general principles are a part of EU law which the EU institutions and member states must comply with. Section 6(3) of EUWA has provided that general principles of EU law have continued to have effect in domestic law following the UK’s exit from the EU, by requiring REUL to be interpreted consistently with them.

Section 5(1) of the REUL Act sets out what REUL and related terms will be known as after the end of 2023. For example, “retained case law” will be known as “assimilated case law”.

Regulation 1(2) provides that these Regulations and the Schedule (amendments of primary legislation) come into force on 1st January 2024.

Regulation 1(3) provides that a provision that amends or repeals an enactment has the same extent as the enactment to which it relates, unless otherwise specified.

Regulation 2 gives effect to the Schedule which contains amendments to primary legislation that are needed in consequence of sections 2, 4 and 5 of the REUL Act.

A full impact assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary, or public sector is foreseen.