
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Law Applicable to Contractual
Obligations and Non-Contractual Obligations
(Amendment etc.) (EU Exit) Regulations 2019**

PART 4

Amendment of retained EU law

Amendment of the Rome I Regulation

10.—(1) Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) is amended as follows.

(2) In Article 1 (material scope)—

- (a) in paragraph 2(j), for the words beginning with “Article 2” and ending with “assurance” substitute “Article 2(1) of Directive 2009/138/EU(1) which carry on life assurance under Article 2(3) of that Directive”;
- (b) for paragraph 4, substitute—

“4. In this Regulation, “relevant state” means the United Kingdom and—

- (a) in Article 3(4) and Article 7, all the Member States;
- (b) in all other Articles, the Member States to which Regulation (EC) No. 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), as it has effect in EU law and as amended from time to time, applies(2).”.

(3) In Article 2 (universal application), for “a Member State”, substitute “the United Kingdom or a part of the United Kingdom”.

(4) In Article 3(4) (parties’ choice of applicable law shall not prejudice application of community law under certain circumstances)—

- (a) for “Member States” substitute “relevant states”;
- (b) for “Member State”, in the first place it appears, substitute “relevant state”;
- (c) for “Community law, where appropriate as implemented in the Member State of the forum,”, substitute “retained EU law”.

(5) In Article 4(1)(h) (applicable law in the absence of choice), for “by Article 4(1), point (17) of Directive 2004/39/EC” substitute “in Part 1 of Schedule 2 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(3)”.

(6) In Article 6(4) (consumer contracts: general rules not to apply in certain circumstances)—

(1) OJ L 335, 17.12.2009, p.1.

(2) OJ L 177, 4.7.2008, p.6.

(3) S.I. 2001/544. Schedule 2 was substituted by S.I. 2006/3384. The substituted Schedule 2 was amended by S.I. 2017/488.

- (a) in point (b), for the words from “Council” to the end substitute “Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements⁽⁴⁾”;
 - (b) in point (c), for “[Directive 94/47/EC](#)” substitute “[Directive 2008/122/EC](#)⁽⁵⁾”.
- (7) In Article 7 (insurance contracts)—
- (a) in paragraph 1—
 - (i) for “Member State” substitute “relevant state”;
 - (ii) for “Member States” substitute “relevant states”;
 - (b) in paragraph 2, for the words from “Article 5(d)” to “life assurance” substitute “Article 13(27) of [Directive 2009/138/EU](#)”;
 - (c) in paragraph 3—
 - (i) for “Member State” in each place it appears substitute “relevant state”;
 - (ii) for “Member States” in each place it appears substitute “relevant states”;
 - (d) in paragraph 4—
 - (i) in the words before point (a) for “rules” substitute “rule”;
 - (ii) for “Member State” in each place it appears substitute “relevant state”;
 - (iii) omit point (b);
 - (e) in paragraph 5, for “Member State” in both places it appears substitute “relevant state”;
 - (f) in paragraph 6—
 - (i) for the words from “Article 2(d)” to “services” substitute “Article 13(13) of [Directive 2009/138/EU](#)”;
 - (ii) for “Article 1(1)(g) of [Directive 2002/83/EC](#)” substitute “Article 13(14) of [Directive 2009/138/EU](#)”.
- (8) Omit Article 22(2) (Member States comprising territorial units with different rules of law not required to apply the Regulation).
- (9) In Article 23 (relationship with other provisions of Community law), and in the heading to that Article, for “Community law”, substitute “retained EU law”.
- (10) In Article 24 (relationship with Rome Convention)—
- (a) for paragraph 1 substitute—

“1. This Regulation replaces the provision made by section 2 of, and Schedule 1 to, the Contracts (Applicable Law) Act 1990.”.
 - (b) in paragraph 2 for “provisions of the Rome Convention” substitute “provision made by section 2 of, and Schedule 1 to, the Contracts (Applicable Law) Act 1990” and for “that” substitute “the Rome”.
- (11) In Article 25 (relationship with existing international conventions)—
- (a) in paragraph 1—
 - (i) for “one or more Member States are parties”, substitute “the United Kingdom was a party”;
 - (ii) for “is adopted” substitute “was adopted”;
 - (b) in paragraph 2, for “Member States” substitute “relevant states”.

(4) OJ L 326, 11.2.2015, p.1.

(5) OJ L 33, 3.2.2009, p.10.

- (12) Omit Articles 26 and 27 (list of conventions and review clause).
- (13) Omit from Article 29 (entry into force and application) to the end.

Amendment of the Rome II Regulation

11.—(1) Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) is amended as follows.

(2) In Article 1(4) (scope), for ““Member State’ shall mean”, substitute ““relevant state” means the United Kingdom or”.

(3) In Article 3 (universal application), for “a Member State”, substitute “the United Kingdom or a part of the United Kingdom”.

(4) In Article 6(3)(b) (unfair competition and acts restricting free competition: claimant may choose court seised under certain circumstances)—

- (a) for “the court of the domicile of the defendant” substitute “a court in a part of the United Kingdom”;
- (b) for “that Member State”, substitute “the United Kingdom”;
- (c) for “Member State of that court”, substitute “United Kingdom”.

(5) In Article 8 (infringement of intellectual property rights)—

- (a) in paragraph 2—
 - (i) after “infringement” in the first place it appears, insert “which occurred before exit day”;
 - (ii) after “law applicable” insert “in any proceedings of which a court was seised before exit day and which are not concluded before exit day”;
 - (iii) for “the relevant Community instrument” substitute “retained EU law”;
- (b) after paragraph 2 insert—

“**2A.** In paragraph 2, “unitary Community intellectual property right” refers to that right as it had effect immediately before exit day.”.

(6) In Article 14(3) (parties’ choice of applicable law shall not prejudice application of Community law under certain circumstances)—

- (a) for “the Member States” substitute “relevant states”;
- (b) for “Member State”, in the first place it appears, substitute “relevant state”;
- (c) for “provisions of Community law, where appropriate as implemented in the Member State of the forum,”, substitute “retained EU law”.

(7) Omit Article 25(2) (Member States containing territorial units with different rules of law not required to apply the Regulation).

(8) In Article 27 (relationship with other provisions of Community law), and in the heading to that Article, for “Community law”, substitute “retained EU law”.

(9) In Article 28 (relationship with existing international conventions)—

- (a) in paragraph 1—
 - (i) for “one or more Member States are parties”, substitute “the United Kingdom was a party”;
 - (ii) for “is adopted” substitute “was adopted”;
- (b) in paragraph 2, for “Member States” substitute “relevant states”.

(10) Omit Articles 29 and 30 (list of conventions and review clause).

(11) In Article 31 (application in time) for “its entry into force” substitute “on or after 11 January 2009”.

(12) Omit from Article 32 (date of application) to the end.

Revocation of Regulation EC No 662/2009

12. Regulation EC No 662/2009 of the European Parliament and of the Council of 13 July 2009 establishing a procedure for the negotiation and conclusion of agreements between Member States and third countries on particular matters concerning the law applicable to contractual and non-contractual obligations is revoked.