



European Union (Withdrawal) Act 2018

CHAPTER 16

EUROPEAN UNION (WITHDRAWAL) ACT 2018

Repeal of the ECA

- 1 Repeal of the European Communities Act 1972

Retention of existing EU law

- 2 Saving for EU-derived domestic legislation
- 3 Incorporation of direct EU legislation
- 4 Saving for rights etc. under section 2(1) of the ECA
- 5 Exceptions to savings and incorporation
- 6 Interpretation of retained EU law
- 7 Status of retained EU law

Main powers in connection with withdrawal

- 8 Dealing with deficiencies arising from withdrawal
- 9 Implementing the withdrawal agreement

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- 10 Continuation of North-South co-operation and the prevention of new border arrangements
- 11 Powers involving devolved authorities corresponding to sections 8 and 9
- 12 Retaining EU restrictions in devolution legislation etc.

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- 13 Parliamentary approval of the outcome of negotiations with the EU

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- 20 Interpretation
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SCHEDULES
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- 1 Challenges to validity of retained EU law
- 2 General principles of EU law
- 3 (1) There is no right of action in domestic law...
- 4 Rule in Francovich
- 5 Interpretation

SCHEDULE 2 — Corresponding powers involving devolved authorities**Part 1 — DEALING WITH DEFICIENCIES ARISING FROM WITHDRAWAL**

- 1 Power to deal with deficiencies
- 2 No power to make provision outside devolved competence
- 3 No power to modify retained direct EU legislation or confer certain functions
- 4 Requirement for consultation in certain circumstances
- 5 Requirement for consent where it would otherwise be required
- 6 Requirement for joint exercise where it would otherwise be required
- 7 Requirement for consultation where it would otherwise be required
- 8 Meaning of devolved competence: Part 1
- 9 (1) A provision is within the devolved competence of the...
- 10 (1) A provision is within the devolved competence of a...
- 11 References in paragraphs 8 to 10, in connection with the...

Part 2 — IMPLEMENTING THE WITHDRAWAL AGREEMENT

- 12 Power to implement withdrawal agreement
- 13 No power to make provision outside devolved competence
- 14 No power to modify retained direct EU legislation etc.
- 15 Requirement for consultation in certain circumstances
- 16 Certain requirements for consent, joint exercise or consultation
- 17 Meaning of devolved competence: Part 2
- 18 A provision is within the devolved competence of the Welsh...
- 19 A provision is within the devolved competence of a Northern...

SCHEDULE 3 — Further amendments of devolution legislation and reporting requirement

Part 1 — CORRESPONDING PROVISION IN RELATION TO EXECUTIVE COMPETENCE

- 1 Scotland Act 1998
- 2 Government of Wales Act 2006
- 3 Northern Ireland Act 1998

Part 2 — REPORTS IN CONNECTION WITH RETAINED EU LAW RESTRICTIONS

- 4 Reports on progress towards removing retained EU law restrictions
- 5 Interpretation

Part 3 — OTHER AMENDMENTS OF DEVOLUTION LEGISLATION

- 6 Scotland Act 1998
- 7 In section 2 (ordinary general elections), in subsection (2A), omit...
- 8 In section 12 (power of the Scottish Ministers to make...
- 9 (1) Section 12A (power of the Secretary of State to...
- 10 In section 32 (submission of Bills for Royal Assent), in...
- 11 Omit section 34 (ECJ references).
- 12 (1) Section 36 (stages of Bills) is amended as follows...
- 13 (1) Section 57 (EU law and Convention rights) is amended...
- 14 (1) Section 80D (Scottish taxpayers) is amended as follows.
- 15 In section 80DA (Scottish taxpayers: Welsh parliamentarians), in subsection (2)(a),...
- 16 (1) Section 82 (limits on salaries of members of the...
- 17 (1) Section 106 (power to adapt functions) is amended as...
- 18 In section 119 (Consolidated Fund etc.), omit subsection (4).
- 19 (1) Section 126 (interpretation) is amended as follows.
- 20 In section 127 (index of defined expressions), omit the entry...
- 21 (1) Schedule 4 (enactments etc. protected from modification) is amended...
- 22 In Part 2 of Schedule 5 (specific reservations), in section...
- 23 (1) Paragraph 1 of Schedule 6 (devolution issues) is amended...
- 24 (1) The table in paragraph 1(2) of Schedule 7 (procedure...
- 25 After paragraph 5 of Schedule 7 (procedure for subordinate legislation:...
- 26 In Schedule 8 (modifications of enactments), omit paragraph 15 and...
- 27 Government of Wales Act 2006
- 28 In section 3 (ordinary general elections), in subsection (1A), omit...
- 29 In section 13(5) (power of the Welsh Ministers to make...
- 30 (1) Section 13A (power of the Secretary of State to...
- 31 In section 16(3) (disqualification from being Assembly member) omit “(other...
- 32 (1) Section 21 (limit on salaries of Assembly members) is...
- 33 In section 58A (executive ministerial functions), in subsection (4)(d), for...
- 34 Omit section 58B (implementation of EU law: general).
- 35 (1) Section 59 (implementation of EU law: designation of Welsh...
- 36 In the heading before section 80 (EU law, human rights...
- 37 (1) Section 80 (EU law) is amended as follows.
- 38 In section 111 (proceedings on Bills)— (a) in subsection (6),...
- 39 Omit section 113 (ECJ references).
- 40 In section 115 (Royal Assent), in subsection (3), omit paragraph...
- 41 (1) Section 116E (Welsh taxpayers) is amended as follows.

- 42 In section 116F (Welsh taxpayers: Scottish parliamentarians), in subsection (2)(a),...
- 43 After section 157 (orders, regulations and directions) insert—
Explanatory statements...
- 44 In section 158(1) (interpretation)— (a) omit the definition of “EU...”
- 45 In section 159 (index of defined expressions), omit the entry...
- 46 In Schedule 3 (transfer etc. of functions: further provisions), omit...
- 47 In Part 2 of Schedule 7A (specific reservations), in section...
- 48 In paragraph 5(1) of Schedule 7B (protected enactments), in the...
- 49 In Schedule 11 (transitional provisions), omit paragraph 35A and the...
Northern Ireland Act 1998
- 50 Northern Ireland Act 1998
- 51 (1) Section 7 (entrenched enactments) is amended as follows.
- 52 Omit section 12 (reconsideration where reference made to ECJ).
- 53 In section 13 (stages of Bills), omit subsection (5)(b).
- 54 In section 14 (submission of Bills by the Secretary of...
- 55 In the heading of section 24 (EU law, Convention rights...
- 56 (1) Section 27 (quotas for purposes of international etc. obligations)...
- 57 After section 96(4) (orders and regulations) insert—
- 58 After section 96 (orders and regulations) insert— Explanatory
statements in...
- 59 In section 98(1) (interpretation)— (a) omit the definition of “EU...”
- 60 (1) Schedule 2 (excepted matters) is amended as follows.
- 61 In Schedule 3 (reserved matters), in paragraph 38, for the...
- 62 In paragraph 1(c) of Schedule 10 (devolution issues) omit the...

SCHEDULE 4 — Powers in connection with fees and charges

Part 1 — CHARGING IN CONNECTION WITH CERTAIN NEW FUNCTIONS

- 1 Power to provide for fees or charges
- 2 Meaning of “appropriate authority”
- 3 Requirements for consent
- 4 Minister of the Crown power in relation to devolved authorities
- 5 Time limit for making certain provision
- 6 Relationship to other powers

Part 2 — MODIFYING PRE-EXIT FEES OR CHARGES

- 7 Power to modify pre-exit fees or charges
- 8 Meaning of “appropriate authority”
- 9 Restriction on exercise of power
- 10 Requirement for consent
- 11 Relationship to other powers

SCHEDULE 5 — Publication and rules of evidence

Part 1 — PUBLICATION OF RETAINED DIRECT EU LEGISLATION ETC.

- 1 Things that must or may be published
- 2 Exceptions from duty to publish

Part 2 — RULES OF EVIDENCE

- 3 Questions as to meaning of EU law
- 4 Power to make provision about judicial notice and admissibility

SCHEDULE 6 — Instruments which are exempt EU instruments

- 1 EU decisions
- 2 EU regulations
- 3 EU tertiary legislation
- 4 Interpretation

SCHEDULE 7 — Regulations

Part 1 — SCRUTINY OF POWERS TO DEAL WITH DEFICIENCIES

- 1 Scrutiny of regulations made by Minister of the Crown or devolved authority acting alone
- 2 Scrutiny of regulations made by Minister of the Crown and devolved authority acting jointly
- 3 Parliamentary committee to sift certain deficiencies regulations of a Minister of the Crown
- 4 Committee of the National Assembly for Wales to sift certain deficiencies regulations of Welsh Ministers
- 5 Scrutiny procedure in certain urgent deficiencies cases: Ministers of the Crown
- 6 Scrutiny procedure in certain urgent deficiencies cases: devolved authorities
- 7 (1) Sub-paragraph (2) applies to— (a) a statutory instrument to...
- 8 (1) This paragraph applies to— (a) regulations to which paragraph...

Part 2 — SCRUTINY OF OTHER POWERS UNDER ACT

- 9 Power to enable challenges to validity of retained EU law
- 10 Power to implement withdrawal agreement
- 11 Power to repeal provisions relating to retained EU law restrictions
- 12 Powers in connection with fees and charges
- 13 Power to make provision about judicial notice and admissibility
- 14 Power to amend the definition of “exit day”
- 15 Power to make consequential provision
- 16 Power to make transitional, transitory or saving provision
- 17 Parliamentary committee to sift certain implementation or consequential regulations of a Minister of the Crown
- 18 Committee of the National Assembly for Wales to sift certain implementation regulations of Welsh Ministers
- 19 Scrutiny procedure for certain powers to which this Part applies in urgent cases

Part 3 — GENERAL PROVISION ABOUT POWERS UNDER ACT

- 20 Scope and nature of powers: general
- 21 Any power to make regulations under this Act—
- 22 The fact that a power to make regulations is conferred...
- 23 Scope of consequential and transitional powers
- 24 Anticipatory exercise of powers in relation to retained EU law
- 25 Scope of appointed day powers
- 26 Effect of certain provisions in Schedule 8 on scope of powers
- 27 Disapplication of certain review provisions
- 28 Explanatory statements for certain powers: appropriateness, equalities etc.
- 29 (1) This paragraph applies where— (a) a Scottish statutory instrument...
- 30 Further explanatory statements in certain sub-delegation cases
- 31 (1) This paragraph applies where— (a) a Scottish statutory instrument...
- 32 Annual reports in certain sub-delegation cases
- 33 (1) Each person by whom a relevant sub-delegated power is...
- 34 Further explanatory statements in urgency cases
- 35 (1) This paragraph applies where regulations are to be made...
- 36 Hybrid instruments
- 37 Procedure on re-exercise of certain powers
- 38 Combinations of instruments

SCHEDULE 8 — Consequential, transitional, transitory and saving provision

Part 1 — GENERAL CONSEQUENTIAL PROVISION

- 1 Existing ambulatory references to retained direct EU legislation
- 2 Other existing ambulatory references
- 3 Existing powers to make subordinate legislation etc.
- 4 (1) Any subordinate legislation which— (a) is, or is to...
- 5 (1) This paragraph applies to any power to make, confirm...
- 6 Any subordinate legislation which is, or is to be, made,...
- 7 Any power to make, confirm or approve subordinate legislation which,...
- 8 (1) Paragraphs 3 to 7 and this paragraph—
- 9 Review provisions in existing subordinate legislation
- 10 Future powers to make subordinate legislation
- 11 (1) Sub-paragraph (2) applies to any power to make, confirm...
- 12 (1) Paragraphs 10 and 11 and this paragraph—
- 13 Affirmative procedure for instruments which amend or revoke subordinate legislation made under section 2(2) of the ECA (including subordinate legislation implementing EU directives)
- 14 Enhanced scrutiny procedure for instruments which amend or revoke subordinate legislation under section 2(2) of the ECA (including subordinate legislation implementing EU directives)
- 15 Explanatory statements for instruments amending or revoking regulations etc. under section 2(2) of the ECA
- 16 (1) This paragraph applies where, on or after exit day—...

Part 2 — SPECIFIC CONSEQUENTIAL PROVISION

- 17 Finance Act 1973
- 18 Interpretation Act 1978
- 19 In section 21(1) (meaning of “subordinate legislation”) after “any Act”...
- 20 After section 23 (application to other instruments) insert— Retained direct...
- 21 In section 24 (application to Northern Ireland), in subsection (4)—...
- 22 In Schedule 1 (words and expressions defined)—
- 23 European Economic Area Act 1993
- 24 Omit section 1 (EEA agreement to be an EU Treaty)...
- 25 (1) Section 2 (consistent application of law to the whole...
- 26 (1) Section 3 (general implementation of the EEA agreement) is...
- 27 Omit section 4 (modification of section 3 of the European...
- 28 In section 6 (interpretation), in subsection (1), in the definition...
- 29 Criminal Procedure (Scotland) Act 1995
- 30 Human Rights Act 1998
- 31 Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)
- 32 (1) Section 1 (application of Part 1 of the Act)...
- 33 In section 30 (other instruments laid before the Scottish Parliament),...
- 34 In section 37 (interpretation of Part 2 of the Act)—...
- 35 In Schedule 1 (definitions of words and expressions)—
- 36 Small Business, Enterprise and Employment Act 2015

Part 3 — GENERAL TRANSITIONAL, TRANSITORY OR SAVING PROVISION

- 37 Continuation of existing acts etc.

Part 4 — SPECIFIC TRANSITIONAL, TRANSITORY AND SAVING PROVISION

- 38 Retention of existing EU law
- 39 (1) Subject as follows and subject to any provision made...
- 40 Main powers in connection with withdrawal

- 41 Devolution
- 42 The amendments made by Part 1 of Schedule 3 do...
- 43 A consent decision of the Scottish Parliament, the National Assembly...
- 44 Other provision
- 45 (1) The amendment made by paragraph 17 does not affect...

SCHEDULE 9 — Additional repeals