

Status: Point in time view as at 31/12/2020.

Changes to legislation: European Union (Withdrawal) Act 2018, Paragraph 41 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 8

CONSEQUENTIAL, TRANSITIONAL, TRANSITORY AND SAVING PROVISION

PART 4

SPECIFIC TRANSITIONAL, TRANSITORY AND SAVING PROVISION

Devolution

- 41 (1) The amendments made by section 12 and Part 1 of Schedule 3 do not affect the validity of—
- (a) any provision of an Act of the Scottish Parliament, Act of the National Assembly for Wales or Act of the Northern Ireland Assembly made before [F¹IP completion day],
 - (b) any subordinate legislation which is subject to confirmation or approval and is made and confirmed or approved before [F¹IP completion day], or
 - (c) any other subordinate legislation made before [F¹IP completion day].
- (2) Accordingly and subject to sub-paragraphs (3) to (10), the validity of anything falling within sub-paragraph (1)(a), (b) or (c) is to be decided by reference to the law before [F¹IP completion day].
- (3) Section 29(2)(d) of the Scotland Act 1998, so far as relating to EU law, does not apply to any provision of an Act of the Scottish Parliament made before [F¹IP completion day] if the provision—
- (a) comes into force on or after [F¹IP completion day] or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and
 - (b) is made when there are no regulations under section 30A of the Scotland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before [F¹IP completion day], on or after [F¹IP completion day]) if the provision were made and the regulations were in force at that time.
- (4) Section 108A(2)(e) of the Government of Wales Act 2006, so far as relating to EU law, does not apply to any provision of an Act of the National Assembly for Wales made before [F¹IP completion day] if the provision—
- (a) comes into force on or after [F¹IP completion day] or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and

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- (b) is made when there are no regulations under section 109A of the Government of Wales Act 2006 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before [F¹IP completion day], on or after [F¹IP completion day]) if the provision were made and the regulations were in force at that time.
- (5) Section 6(2)(d) of the Northern Ireland Act 1998, so far as relating to EU law, does not apply to any provision of an Act of the Northern Ireland Assembly made before [F¹IP completion day] if the provision—
- (a) comes into force on or after [F¹IP completion day] or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and
- (b) is made when there are no regulations under section 6A of the Northern Ireland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before [F¹IP completion day], on or after [F¹IP completion day]) if the provision were made and the regulations were in force at that time.
- (6) Section 57(2) of the Scotland Act 1998, so far as relating to EU law, does not apply to the making, confirming or approving before [F¹IP completion day] of any subordinate legislation if the legislation—
- (a) comes into force on or after [F¹IP completion day], and
- (b) is made, confirmed or approved when there are no regulations under subsection (4) of section 57 of the Scotland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection when the legislation comes into force if—
- (i) the making, confirming or approving had occurred at that time,
- (ii) in the case of legislation confirmed or approved, the legislation was made at that time, and
- (iii) the regulations were in force at that time.
- (7) Section 80(8) of the Government of Wales Act 2006, so far as relating to EU law, does not apply to the making, confirming or approving before [F¹IP completion day] of any subordinate legislation if the legislation—
- (a) comes into force on or after [F¹IP completion day], and
- (b) is made, confirmed or approved when there are no regulations under subsection (8) of section 80 of the Government of Wales Act 2006 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection, so far as relating to retained EU law, when the legislation comes into force if—
- (i) the making, confirming or approving had occurred at that time,
- (ii) in the case of legislation confirmed or approved, the legislation was made at that time, and
- (iii) the regulations were in force at that time.
- (8) Section 24(1)(b) of the Northern Ireland Act 1998, so far as relating to EU law, does not apply to the making, confirming or approving before [F¹IP completion day] of any subordinate legislation if the legislation—

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- (a) comes into force on or after [F1IP completion day], and
 - (b) is made, confirmed or approved when there are no regulations under subsection (3) of section 24 of the Northern Ireland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection when the legislation comes into force if—
 - (i) the making, confirming or approving had occurred at that time,
 - (ii) in the case of legislation confirmed or approved, the legislation was made at that time, and
 - (iii) the regulations were in force at that time.
- (9) For the purposes of sub-paragraphs (3) to (8) assume that the restrictions relating to retained EU law in—
- (a) sections 30A(1) and 57(4) of the Scotland Act 1998,
 - (b) sections 80(8) and 109A(1) of the Government of Wales Act 2006, and
 - (c) sections 6A(1) and 24(3) of the Northern Ireland Act 1998,
- come into force on [F1IP completion day].
- (10) Section 57(2) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 and section 24(1)(b) of the Northern Ireland Act 1998, so far as relating to EU law, do not apply to [F2the making of regulations under Schedule 2 or 4][F2—
- (a) the making of regulations before exit day under Part 1A of Schedule 2, or
 - (b) the making of regulations under—
 - (i) Part 1B or 1C of Schedule 2, or
 - (ii) Schedule 4.]

Textual Amendments

- F1** Words in Sch. 8 para. 41 substituted (31.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), Sch. 5 para. 56(7)(a) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(n)(xxvii); S.I. 2020/1622, reg. 5(j)
- F2** Sch. 8 para. 41(10)(a)(b) substituted for words (23.1.2020 for specified purposes, 19.5.2020 for specified purposes) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(6)(e)(ix), Sch. 5 para. 56(7)(b) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/518, reg. 2(p)(iv)

Commencement Information

- I1** Sch. 8 para. 41(10) in force at Royal Assent, see s. 25(1)(g)
- I2** Sch. 8 para. 41(1)(2) in force at 31.12.2020 by S.I. 2020/1622, reg. 3(n) (with regs. 10, 20, 21)
- I3** Sch. 8 para. 41(3)-(9) in force at 1.3.2019 by S.I. 2019/399, reg. 2(a)

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