

*Changes to legislation:* There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)

## SCHEDULES

### SCHEDULE 1 **U.K.**

Section 1(6)

#### INFORMATION TO BE INCLUDED IN NOTIFICATION OF CONVICTION

##### *Introductory*

- 1 (1) This Schedule sets out the information that is required by section 1 to be included in a notification of an individual's conviction.
- (2) The information mentioned in paragraphs 4, 8 to 12, 15 and 18 is required to be included only if it is recorded in the criminal records database referred to in subsection (1) or (as the case may be) subsection (2) of that section.

##### **Commencement Information**

**I1** Sch. 1 para. 1 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

##### *Information about the individual*

- 2 The individual's name.

##### **Commencement Information**

**I2** Sch. 1 para. 2 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

- 3 Any previous name of the individual.

##### **Commencement Information**

**I3** Sch. 1 para. 3 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

- 4 Any other name used by the individual.

##### **Commencement Information**

**I4** Sch. 1 para. 4 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

- 5 The individual's gender.

##### **Commencement Information**

**I5** Sch. 1 para. 5 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

- 6 The individual's date and place of birth.

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**Commencement Information**

**I6** Sch. 1 para. 6 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

7 The individual's nationality or nationalities.

**Commencement Information**

**I7** Sch. 1 para. 7 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

8 The names of the individual's parents.

**Commencement Information**

**I8** Sch. 1 para. 8 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

9 The number of any passport held by the individual.

**Commencement Information**

**I9** Sch. 1 para. 9 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

10 The issue number (if any) and description of any other identity document (within the meaning of section 7 of the Identity Documents Act 2010) held by the individual.

**Commencement Information**

**I10** Sch. 1 para. 10 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

11 The individual's fingerprints.

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

12 A photograph or other image of the individual's face.

**Commencement Information**

**I12** Sch. 1 para. 12 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

*Information about the conviction*

13 The date of the conviction.

**Commencement Information**

**I13** Sch. 1 para. 13 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

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- 14 (1) In the case of a conviction by or before a court, the court by or before which the individual was convicted.
- (2) In any other case, the person or description of person by or before which the individual was convicted.

**Commencement Information**

**I14** Sch. 1 para. 14 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

- 15 The reference number of the conviction.

**Commencement Information**

**I15** Sch. 1 para. 15 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

- 16 The offence of which the individual was convicted.

**Commencement Information**

**I16** Sch. 1 para. 16 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

- 17 The date on which the offence was committed (or, if the offence was committed over a period of time, that period).

**Commencement Information**

**I17** Sch. 1 para. 17 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

- 18 The place where the offence was committed.

**Commencement Information**

**I18** Sch. 1 para. 18 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

- 19 Any sentence imposed in respect of the offence.

In this paragraph “sentence” includes anything that under section 376(1) and (3) of the Armed Forces Act 2006 (punishments awarded by officers etc) is to be treated as a sentence for the purposes of that Act.

**Commencement Information**

**I19** Sch. 1 para. 19 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

- 20 Any other order made in respect of the offence.

**Commencement Information**

**I20** Sch. 1 para. 20 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(bb)

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SCHEDULE 2 **U.K.**

Section 7

## PASSENGER NAME RECORD DATA

PART 1 **U.K.**

## AMENDMENTS TO THE PNR REGULATIONS

1 The PNR regulations are amended as follows.

**Commencement Information**

- I21** Sch. 2 para. 1 in force at Royal Assent for specified purposes, see s. 40(6)(b)  
**I22** Sch. 2 para. 1 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

2 (1) Regulation 2 (interpretation) is amended as follows.

(2) Insert the following definitions at the appropriate places in paragraph (1)—

““the Agreement” means the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, as it has effect on the relevant day (as amended or supplemented from time to time on or before its coming into force);”;

““air carrier” means the owner or agent of an aircraft operating passenger services to or from the United Kingdom;”;

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”;

““designated independent authority” means the person for the time being designated under regulation 4A by a direction given by the Secretary of State;”;

““EU PIU” means an authority based in a member State which has been notified to the United Kingdom under the Agreement as the passenger information unit for that member State;”;

““EU PNR data” means PNR data—

- (a) relating to an aircraft arriving, or expected to arrive, in the United Kingdom from or by way of a member State,
- (b) relating to an aircraft leaving, or expected to leave, the United Kingdom to travel to or by way of a member State,
- (c) stored in a member State by an air carrier,
- (d) stored by an air carrier incorporated in a member State, or
- (e) received by the PIU from an EU PIU;”;

““EU PNR information” means EU PNR data, the result of processing EU PNR data or analytical information containing EU PNR data;”;

““Eurojust” means the European Union Agency for Criminal Justice Cooperation as established by Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust) and replacing

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and repealing Council Decision 2002/187/JHA (as it has effect in EU law as amended from time to time);”;

““European Commission” means the Commission of the European Union;”;

““Europol” means the European Union Agency for Law Enforcement Cooperation as established by [Regulation \(EU\) 2016/794](#) of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (as it has effect in EU law as amended from time to time);”;

““PNR information” means PNR data, the result of processing PNR data or analytical information containing PNR data;”;

““relevant day”, in relation to the Agreement or any aspect of it, means—

- (a) so far as the Agreement or aspect concerned is provisionally applied before it comes into force, the time and day from which the provisional application applies, and
- (b) so far as the Agreement or aspect concerned is not provisionally applied before it comes into force, the time and day when it comes into force;”;

““third country competent authority” means an authority based in a third country that is competent for—

- (a) the prevention, detection, investigation or prosecution of terrorist offences or serious crime, or
- (b) protecting the vital interests of persons;”.

(3) Omit the following definitions—

“data subject”;  
“non-UK competent authority”;  
“the Passenger Name Record Directive”.

(4) In the definition of “processing”—

- (a) for “PNR data” substitute “ PNR information ”;
- (b) for “that data” substitute “ that information ”.

(5) For the definition of “serious crime” substitute—

““serious crime” means conduct which constitutes an offence in any part of the United Kingdom for which the maximum term of imprisonment (in the case of a person aged 21 or over) is at least 3 years (or would constitute such an offence in any part of the United Kingdom if committed there);”.

(6) In the definition of “third country”—

- (a) before “the United Kingdom” insert “—  
(a)”;  
(b) at the end insert “, or  
(b) a member State;”.

(7) For the definition of “terrorist offences” substitute—

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““terrorist offences” means the offences listed in Annex LAW-7 to the Agreement;”.

(8) In the definition of “UK competent authority”—

(a) after “competent for” insert “—

(a)”;

(b) at the end insert “, or

(b) protecting the vital interests of persons.”

(9) After paragraph (1) insert—

“(1A) References in these Regulations to protecting the vital interests of persons include protecting persons—

(a) who are, or may be, at risk of death or serious injury, or

(b) from significant threats to public health.”

#### **Commencement Information**

**I23** Sch. 2 para. 2 in force at Royal Assent for specified purposes, see s. 40(6)(b)

**I24** Sch. 2 para. 2 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

- 3 (1) Regulation 3 (designation of passenger information unit) is amended as follows.
- (2) In paragraph (2)(c)—
- (a) for “PNR data or the result of processing that data” substitute “ PNR information ”;
- (b) at the end insert “, Europol or Eurojust ”.
- (3) After paragraph (2)(c) insert—
- “(ca) where appropriate, exchanging PNR information with an EU PIU;”.
- (4) In paragraph (2)(d)—
- (a) for “PNR data and the result of processing that data” substitute “ PNR information ”;
- (b) for “non-UK” substitute “ third country ”.
- (5) After paragraph (2) insert—
- “(3) The Secretary of State may by regulations amend paragraph (1) so as to designate a different authority as the PIU.
- (4) The power in paragraph (3) is exercisable by statutory instrument and includes power—
- (a) to designate different authorities for different purposes or in relation to different areas;
- (b) to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (5) Where regulations under paragraph (3) designate more than one authority as the PIU, the provision that may be made by virtue of paragraph (4) (b) includes, in particular, provision amending these Regulations to make

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provision for the transfer of PNR information from one authority so designated to another.

- (6) A statutory instrument containing regulations under paragraph (3) is subject to annulment in pursuance of a resolution of either House of Parliament.”

#### Commencement Information

**I25** Sch. 2 para. 3 in force at Royal Assent for specified purposes, see s. 40(6)(b)

**I26** Sch. 2 para. 3 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

4 After regulation 4 insert—

#### *“Designated independent authority*

- 4A (1) The Secretary of State must by direction designate a person as the designated independent authority in relation to the PIU.
- (2) The person for the time being designated must be a person in relation to whom the Secretary of State is satisfied that the requirements of paragraph (3) are met.
- (3) Those requirements are that the person—
- (a) does not carry out relevant PNR data processing,
  - (b) acts independently of any person carrying out relevant PNR data processing, and
  - (c) has sufficient expertise and knowledge and has had appropriate training to exercise the functions of the designated independent authority under these Regulations.
- (4) In paragraph (3), relevant PNR data processing is processing of PNR data otherwise than in exercise of the functions of the designated independent authority under these Regulations.
- (5) The PIU must make EU PNR data available to the designated independent authority for the purposes of the authority's functions under these Regulations.
- (6) The designated independent authority may process EU PNR data for the purposes of exercising the authority's functions under these Regulations.”

#### Commencement Information

**I27** Sch. 2 para. 4 in force at Royal Assent for specified purposes, see s. 40(6)(b)

**I28** Sch. 2 para. 4 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

5 (1) Regulation 5 (scope) is amended as follows.

(2) The existing text becomes paragraph (1).

(3) After that paragraph insert—

“(2) This Part also applies in respect of PNR information provided to the PIU by an EU PIU or a third country competent authority.”

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### Commencement Information

**I29** Sch. 2 para. 5 in force at Royal Assent for specified purposes, see s. 40(6)(b)

**I30** Sch. 2 para. 5 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

- 6 (1) Regulation 6 (processing of PNR data by the PIU) is amended as follows.
- (2) In paragraph (1)—
- (a) for “5” substitute “ 5(1) ”;
  - (b) omit “personal”;
  - (c) omit “immediately”.
- (3) In paragraph (2), at the end insert “ , subject to regulation 4A (6) ”.
- (4) For paragraphs (3) and (4) substitute—
- “(3) The purposes are—
- (a) preventing, detecting, investigating and prosecuting terrorist offences or serious crime, and
  - (b) protecting the vital interests of persons.
- (4) Where the PIU compares PNR data against a database, the PIU must ensure that the database is—
- (a) reliable and up to date, and
  - (b) used for a purpose described in paragraph (3).”

(5) In paragraph (5)—

    - (a) at the beginning insert “ Where the PIU processes PNR data against pre-determined criteria, ”;
    - (b) omit “referred to in paragraph (4)(b)”;
    - (c) in sub-paragraph (a), at the beginning insert “ reliable, ”.

(6) After paragraph (5) insert—

“(5A) The PIU must not take any decision which produces an adverse legal effect on a person or otherwise significantly affects a person—

    - (a) only by reason of the automated processing of PNR data, or
    - (b) on the basis of any of the matters described in paragraph (5)(c) in relation to that person.”

(7) Omit paragraphs (6) to (8).

(8) In paragraph (9)—

      - (a) for “PNR data or the result of processing that data” substitute “ PNR information ”;
      - (b) for the words from “otherwise” to the end substitute “except where it does so on a case by case basis where it is satisfied that—
      - “(a) it is necessary to transfer that PNR information for a purpose described in paragraph (3); and
      - (b) the UK competent authority has arrangements in place for the protection of personal data that are equivalent to the arrangements for the protection of personal data required of the PIU under these Regulations.”



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#### Commencement Information

- I31** Sch. 2 para. 6 in force at Royal Assent for specified purposes, see s. 40(6)(b)  
**I32** Sch. 2 para. 6 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

- 7 (1) Regulation 7 (processing of PNR data by a UK competent authority) is amended as follows.
- (2) In paragraph (1)(a)—
- (a) for “PNR data or the result of processing that data” substitute “ PNR information ”;
  - (b) for the words from “the prevention” to “crime” substitute “ a purpose described in regulation 6(3) ”.
- (3) In paragraph (2)—
- (a) after “functions” insert “—  
(a)”;
  - (b) at the end insert “, or  
(b) in relation to public health.”
- (4) After paragraph (2) insert—
- “(3) Where the PIU transfers PNR information under regulation 6(9), the UK competent authority must not transfer the PNR information to another person without the consent of the PIU.”

#### Commencement Information

- I33** Sch. 2 para. 7 in force at Royal Assent for specified purposes, see s. 40(6)(b)  
**I34** Sch. 2 para. 7 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

- 8 Before regulation 11 insert—

*“Requests for PNR data made by the PIU*

- 10 (1) Any request made by the PIU to an EU PIU for PNR information must be—
- (a) made only for the purpose described in regulation 6(3)(a),
  - (b) made in respect of a specific case, and
  - (c) duly reasoned.
- (2) Any request made by the PIU to a third country competent authority for PNR information must be—
- (a) made only for a purpose described in regulation 6(3),
  - (b) made in respect of a specific case, and
  - (c) duly reasoned.”

#### Commencement Information

- I35** Sch. 2 para. 8 in force at Royal Assent for specified purposes, see s. 40(6)(b)  
**I36** Sch. 2 para. 8 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

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- 9 (1) Regulation 11 (requests for PNR data made by a UK competent authority) is amended as follows.
- (2) In the heading omit “to a non-UK competent authority”.
- (3) In paragraph (1)—
- (a) for “PNR data” substitute “ PNR information ”;
  - (b) for “a non-UK competent authority” substitute “ an EU PIU or a third country competent authority ”;
  - (c) omit “UK's”.
- (4) In paragraph (2)—
- (a) for “PNR data” substitute “ PNR information ”;
  - (b) for “non-UK” substitute “ third country ”.

#### **Commencement Information**

**I37** Sch. 2 para. 9 in force at Royal Assent for specified purposes, see s. 40(6)(b)

**I38** Sch. 2 para. 9 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

- 10 After regulation 11 insert—

#### *“Transfers of PNR data to an EU PIU*

- 11A (1) The PIU must transfer PNR information to an EU PIU in a specific case, as soon as possible, where—
- (a) the EU PIU has made a duly reasoned request for the PNR information, and
  - (b) the PIU is satisfied that it is necessary to transfer that PNR information for the purpose described in regulation 6(3)(a).
- (2) The PIU must transfer analytical information containing PNR data to an EU PIU in a specific case, as soon as possible, where the PIU considers that it is necessary to transfer that analytical information for the purpose described in regulation 6(3)(a).

#### *Transfers of PNR data to Europol and Eurojust*

- 11B (1) The PIU must transfer PNR information to Europol or Eurojust in a specific case, as soon as possible, where—
- (a) Europol or Eurojust has made a duly reasoned request for the PNR information, and
  - (b) the PIU is satisfied that it is necessary to transfer that PNR information for the purpose described in regulation 6(3)(a).
- (2) The PIU must transfer analytical information containing PNR data to Europol or Eurojust in a specific case, as soon as possible, where the PIU considers that it is necessary to transfer that analytical information for the purpose described in regulation 6(3)(a).”

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### Commencement Information

**I39** Sch. 2 para. 10 in force at Royal Assent for specified purposes, see s. 40(6)(b)

**I40** Sch. 2 para. 10 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

- 11 (1) Regulation 12 (transfers of PNR data to third country competent authorities) is amended as follows.
- (2) In the heading—
- (a) after “PNR” insert “ data ”;
- (b) for “non-UK” substitute “ third country ”.
- (3) For paragraph (1) substitute—
- “(1) Paragraphs (1A) to (2A) apply to PNR information that is not EU PNR information.
- (1A) The PIU must not transfer that PNR information to a third country competent authority except where it does so on a case by case basis where paragraph (2) or (2A) applies.”
- (4) In paragraph (2)—
- (a) for “The first condition is that” substitute “ This paragraph applies where ”;
- (b) in sub-paragraph (b) for the words from “the prevention” to “crime” substitute “ a purpose described in regulation 6(3) ”;
- (c) for “the data” substitute “ the information ”;
- (d) in sub-paragraph (c) for “non-UK”, in both places it occurs, substitute “ third country ”.
- (5) In paragraph (2A)—
- (a) for “The second condition is that” substitute “ This paragraph applies where ”;
- (b) omit sub-paragraph (a);
- (c) for the words from “the prevention” to the end substitute “ a purpose described in regulation 6(3) ”.
- (6) After paragraph (2A) insert—
- “(2B) The PIU must not transfer EU PNR information to a third country competent authority except where it does so on a case by case basis where—
- (a) paragraph (2C) applies and the PIU is satisfied that it is necessary to transfer the EU PNR information for a purpose described in regulation 6(3), or
- (b) paragraph (2D) applies.
- (2C) This paragraph applies where—
- (a) there is an agreement in force between the third country and the EU that provides for a level of protection of personal data that is equivalent to the level of protection required under the Agreement, or
- (b) the European Commission has decided that the third country ensures an adequate level of protection of personal data, and that decision has not been repealed or suspended, or amended in a way that

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demonstrates that the Commission no longer considers there to be an adequate level of protection of personal data.

(2D) This paragraph applies where—

- (a) the PIU considers that it is necessary to transfer the EU PNR information—
  - (i) for the prevention or investigation of an immediate and serious threat to public security, or
  - (ii) to protect the vital interests of persons, and
- (b) the third country competent authority provides a written confirmation to the PIU that the EU PNR information will be subject to a level of protection that is equivalent to the level of protection under these Regulations and the data protection legislation.

(2E) Where the PIU transfers EU PNR information that it received from an EU PIU to a third country competent authority under this regulation, the PIU must notify that EU PIU as soon as possible.

(2F) Where, under this regulation, the PIU transfers to a third country competent authority EU PNR data that originated in a member State, and was provided by an air carrier, the PIU must notify the EU PIU for that member State as soon as possible.”

(7) In paragraph (3)(a) for the words from “the purposes” to “case” substitute “ a purpose described in regulation 6(3) ”.

(8) In paragraph (4)—

- (a) for “PNR data” substitute “ PNR information ”;
- (b) for “non-UK” substitute “ third country ”.

#### **Commencement Information**

**I41** Sch. 2 para. 11 in force at Royal Assent for specified purposes, see s. 40(6)(b)

**I42** Sch. 2 para. 11 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

12 (1) Regulation 13 (period of data retention and depersonalisation) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Paragraphs (1A) and (1B) apply to PNR data transferred to the PIU—

- (a) by air carriers pursuant to a requirement imposed under—
  - (i) paragraph 27B(2) of Schedule 2 to the Immigration Act 1971, or
  - (ii) section 32(2) of the Immigration, Asylum and Nationality Act 2006, or
- (b) by an EU PIU.”

(3) After paragraph (1) insert—

“(1A) In the case of EU PNR data, the PIU must permanently delete the data before the end of the period of five years beginning with the date of the transfer, subject to regulation 13B if the data is restricted EU PNR data within the meaning of that regulation.

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- (1B) In any other case, the PIU must—
- (a) retain the PNR data for a period of five years beginning with the date of the transfer, and
  - (b) permanently delete that data upon expiry of that period.
- (1C) Paragraphs (1A) and (1B) do not affect the power of the PIU to retain PNR data where it is used in the context of specific cases for a purpose described in regulation 6(3).”
- (4) In paragraph (2)—
- (a) after “air carrier” insert “ or an EU PIU ”;
  - (b) in sub-paragraph (e) omit “and”;
  - (c) after sub-paragraph (f) insert—
    - “(g) Other Service Information (OSI), and
    - (h) System Service Information (SSI) and System Service Request information (SSR).”
- (5) In paragraph (3) for “passenger” substitute “ person ”.
- (6) After paragraph (3) insert—
- “(3A) The PIU must ensure that unmasked PNR data is only accessible by persons specifically authorised by the PIU to access such data and must limit the number of persons authorised to the minimum number practicable.”
- (7) In paragraph (4)(a) for “the purpose referred to in regulation 6(3)(b)” substitute “ a purpose described in regulation 6(3) ”.
- (8) In paragraph (6) for “upon expiry of the period referred to in paragraph (1)” substitute “ when that data is no longer required in the context of the specific case for which it was transferred to the UK competent authority ”.
- (9) Omit paragraphs (7) to (10).

**Commencement Information**

**I43** Sch. 2 para. 12 in force at Royal Assent for specified purposes, see s. 40(6)(b)

**I44** Sch. 2 para. 12 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

13 After regulation 13 insert—

*“Use and transfer of EU PNR data by the PIU: further provision*

- 13A(1) The PIU may not use or transfer EU PNR data unless paragraph (2), (3), (4) or (5) applies.
- (2) This paragraph applies where the PIU processes the EU PNR data for the purposes of security and border control checks.
  - (3) This paragraph applies if the designated independent authority has given consent for the use or transfer of the EU PNR data.
  - (4) This paragraph applies if the PIU considers that the use or transfer of the EU PNR data is necessary in an urgent case.

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- (5) This paragraph applies if the PIU considers that the use of the EU PNR data is necessary for the purpose of developing, or verifying the accuracy of, the pre-determined criteria referred to in regulation 6(5).
- (6) Where the PIU—
- (a) uses EU PNR data as mentioned in paragraph (3) or (4), or
  - (b) transfers EU PNR data to an EU PIU, Europol, Eurojust or a third country competent authority,
- the PIU must notify the person to whom the data relates, so far as it is reasonably practicable to do so.
- (7) Where the PIU transfers EU PNR data to a UK competent authority, the UK competent authority must notify the person to whom the data relates, so far as it is reasonably practicable to do so.
- (8) A notification under paragraph (6) or (7) must—
- (a) be in writing,
  - (b) be made within a reasonable period, and
  - (c) provide information about the procedures available for seeking redress of any grievance relating to the use or transfer.
- (9) A notification need not be made under paragraph (6) or (7) during any period when the PIU or the UK competent authority (as the case may be) considers that notifying the person would, or would be likely to, prejudice any ongoing investigations.
- (10) Nothing in paragraphs (2) to (5) affects the operation of regulation 6(2).”

#### Commencement Information

**I45** Sch. 2 para. 13 in force at Royal Assent for specified purposes, see s. 40(6)(b)

**I46** Sch. 2 para. 13 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

14 Before regulation 14 insert—

*“Restricted EU PNR data: further provision*

- 13B (1) For the purposes of this regulation, EU PNR data is “restricted EU PNR data” if it relates to a person arriving in the United Kingdom who—
- (a) is not a UK national, and
  - (b) resides outside the United Kingdom.
- (2) For the purposes of this regulation, restricted EU PNR data relating to a person is subject to deletion if—
- (a) the PIU, acting as such, knows that the person has left the United Kingdom, or
  - (b) the period for which the person is permitted to stay in the United Kingdom has expired.
- (3) But restricted EU PNR data is not subject to deletion—

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- (a) if, on the basis of a risk assessment based on objectively established criteria, the PIU considers that retention of the restricted EU PNR data is necessary for the purpose described in regulation 6(3)(a), or
  - (b) where the restricted EU PNR data is used in the context of specific cases for a purpose described in regulation 6(3).
- (4) The PIU must permanently delete restricted EU PNR data that is subject to deletion as soon as possible.
- (5) The PIU must ensure that the operation of paragraph (3)(a) is reviewed annually by the designated independent authority.
- (6) In this regulation, “UK national” means—
- (a) a British citizen,
  - (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has a right of abode in the United Kingdom, or
  - (c) a person who is a British overseas territories citizen by virtue of a connection to Gibraltar.”

#### Commencement Information

**I47** Sch. 2 para. 14 not in force at Royal Assent, see s. 40(7)

**I48** Sch. 2 para. 14 in force at 31.12.2023 by S.I. 2023/1174, reg. 2

- 15 (1) Regulation 14 (protection of personal data) is amended as follows.
- (2) After paragraph (1) insert—
- “(1A) The PIU must permanently delete any PNR data referred to in paragraph (1).”
- (3) In paragraph (3)(c) for “non-UK competent authorities” substitute “ EU PIUs, Europol or Eurojust ”.

#### Commencement Information

**I49** Sch. 2 para. 15 in force at Royal Assent for specified purposes, see s. 40(6)(b)

**I50** Sch. 2 para. 15 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

- 16 (1) Regulation 16 (application of other data protection enactments) is amended as follows.
- (2) In paragraph (2)—
- (a) after “purposes of” insert “—  
(a)”;
  - (b) at the end insert “, or  
(b) the protection of the public against threats to public health.”

#### Commencement Information

**I51** Sch. 2 para. 16 in force at Royal Assent for specified purposes, see s. 40(6)(b)

**I52** Sch. 2 para. 16 in force at 31.12.2020 in so far as not already in force by S.I. 2020/1662, reg. 2(cc)

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## PART 2 U.K.

### INTERIM PERIOD: MODIFICATIONS FOR RESTRICTED EU PNR DATA THAT IS SUBJECT TO DELETION

- 17 (1) Until the commencement of paragraph 14, the PNR regulations have effect—
- (a) as if the regulation 13AA set out in sub-paragraph (2) were inserted before regulation 14, and
  - (b) with the modifications set out in sub-paragraphs (3) to (5).

- (2) The regulation is—

*“Retention and deletion of EU PNR data by the PIU: interim period*

13A(1) For the purposes of this regulation, EU PNR data is “restricted EU PNR data” if it relates to a person arriving in the United Kingdom who—

- (a) is not a UK national, and
  - (b) resides outside the United Kingdom.
- (2) For the purposes of this regulation, restricted EU PNR data relating to a person is subject to deletion if—
- (a) the PIU, acting as such, knows that the person has left the United Kingdom, or
  - (b) the period for which the person is permitted to stay in the United Kingdom has expired.
- (3) But restricted EU PNR data is not subject to deletion—
- (a) if, on the basis of a risk assessment based on objectively established criteria, the PIU considers that retention of the restricted EU PNR data is necessary for the purpose described in regulation 6(3)(a), or
  - (b) where the restricted EU PNR data is used in the context of specific cases for a purpose described in regulation 6(3).
- (4) The PIU must secure that restricted EU PNR data that is subject to deletion—
- (a) is accessible only by authorised persons, and
  - (b) is accessed by them only for the purpose of determining whether it is subject to deletion.
- (5) Where restricted EU PNR data is subject to deletion—
- (a) the PIU must permanently delete it as soon as possible, using best efforts, taking into account the special circumstances referred to in [F1Article 552(10)] of the Agreement, and
  - (b) an authorised person must record the date and time of deletion.
- (6) Paragraphs (7) to (9) apply where the PIU receives a request for restricted EU PNR data.
- (7) If the record mentioned in paragraph (9)(b)(iii) indicates that a previous request relating to that data has been refused under paragraph (9)(a), the PIU must refuse the request as a result of that record (and without further accessing the data).
- (8) In any other case, the PIU must refuse the request unless an authorised person has—



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- (a) made a determination as to whether the data is subject to deletion, and
    - (b) as a result has determined that it is not subject to deletion.
  - (9) If the authorised person determines under paragraph (8)(a) that the restricted EU PNR data is subject to deletion, the PIU must—
    - (a) refuse the request, and
    - (b) record—
      - (i) the request;
      - (ii) the date and time that the restricted EU PNR data was accessed under paragraph (8)(a);
      - (iii) that the request was refused on the ground that the restricted EU PNR data was subject to deletion;
      - (iv) the date and time of the refusal.
  - (10) In this regulation, “authorised person” means a person specifically authorised by the PIU to access restricted EU PNR data.
  - (11) The PIU must limit the number of authorised persons to the minimum number practicable.
  - (12) In this regulation, “UK national” means—
    - (a) a British citizen,
    - (b) a person who is a British subject by virtue of Part 4 of the British Nationality Act 1981 and who has a right of abode in the United Kingdom, or
    - (c) a person who is a British overseas territories citizen by virtue of a connection to Gibraltar.
  - (13) Nothing in this regulation is to be taken to affect the generality of regulation 14.”
  - (3) Regulation 4A has effect as if—
    - (a) in paragraphs (5) and (6) the references to the functions of the designated independent authority under the PNR regulations included references to that authority's functions under [F<sup>2</sup>Article 552(12)] of the Agreement, and
    - (b) paragraph (5) also required the PIU to make the records mentioned in regulation 13AA(5)(b) and (9)(b) available to the designated independent authority for the purposes of the authority's functions under that provision of the Agreement.
- For this purpose, “the Agreement”, “designated independent authority” and “the PIU” have the same meanings as in the PNR regulations.
- (4) Regulations 11A and 11B each have effect as if the following were inserted at the end—
    - “(3) This regulation does not apply to restricted EU PNR data that is subject to deletion (within the meaning of regulation 13AA), or to the results of processing that data or analytical information containing that data.”
  - (5) Regulation 13(1A) has effect as if the reference to regulation 13B were a reference to regulation 13AA.

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### Textual Amendments

- F1** Words in Sch. 2 para. 17(2) substituted (23.7.2021) by [The European Union \(Future Relationship\) Act 2020 \(References to the Trade and Cooperation Agreement\) Regulations 2021 \(S.I. 2021/884\)](#), reg. 1(2), [Sch.](#) (with reg. 1(3)(a))
- F2** Words in Sch. 2 para. 17(3)(a) substituted (23.7.2021) by [The European Union \(Future Relationship\) Act 2020 \(References to the Trade and Cooperation Agreement\) Regulations 2021 \(S.I. 2021/884\)](#), reg. 1(2), [Sch.](#) (with reg. 1(3)(a))

### Commencement Information

- I53** Sch. 2 para. 17 in force at Royal Assent for specified purposes, see s. 40(6)(b)
- I54** Sch. 2 para. 17 in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1662](#), [reg. 2\(cc\)](#)

## PART 3 **U.K.**

### SEA AND RAIL TRAVEL: POWER TO MODIFY PNR REGULATIONS ETC.

- 18 (1) This paragraph applies if an agreement (a “new agreement”) is made between the United Kingdom and the EU or one or more member States which (whether with or without variation)—
- applies the provisions of Title III of Part 3 of the Trade and Cooperation Agreement to sea or rail travel as they apply to air travel, or
  - makes provision about sea or rail travel corresponding to those provisions of that Agreement.
- (2) The Secretary of State may by regulations make such provision as the Secretary of State considers appropriate—
- to implement the new agreement, or
  - otherwise for the purposes of dealing with matters arising out of, or related to, the new agreement.
- (3) Regulations under sub-paragraph (2) may modify the PNR regulations (as they have effect for the time being).
- (4) Paragraph 15 of Schedule 8 to the European Union (Withdrawal) Act 2018 (explanatory statements for instruments amending or revoking regulations etc. under section 2(2) of the European Communities Act 1972) does not apply in relation to any modification by virtue of sub-paragraph (3).

### Commencement Information

- I55** [Sch. 2 para. 18](#) in force at Royal Assent for specified purposes, see s. 40(6)(b)
- I56** [Sch. 2 para. 18](#) in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1662](#), [reg. 2\(cc\)](#)

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## SCHEDULE 3 **U.K.**

Section 9

### MUTUAL ASSISTANCE IN CRIMINAL MATTERS

#### *Introductory*

- 1 In this Schedule “the 2003 Act” means the Crime (International Co-operation) Act 2003.

#### **Commencement Information**

**I57** Sch. 3 para. 1 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(dd)

#### *Application of the 2003 Act to member States*

- 2 (1) The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742) are amended as follows.
- (2) In regulation 87 (which amends the 2003 Act)—
- (a) omit paragraphs (2) and (4) to (11);
  - (b) in paragraph (13)(a), omit paragraphs (ii) to (iv).
- (3) In consequence of the provision made by sub-paragraph (2)—
- (a) in regulation 79, omit paragraph (2);
  - (b) in regulation 89, omit paragraph (2)(b);
  - (c) in regulation 91(2), omit sub-paragraphs (b) to (f);
  - (d) omit regulation 96.
- (4) In regulation 88(2), in the inserted article 3, omit the words from “for the purposes of” to the end.
- (5) In regulation 90(2), in the inserted article 2, omit the words from “for the purposes of” to the end.
- (6) In regulation 97—
- (a) in paragraph (1)—
    - (i) for “regulation 87(11) (amendment of the 2003 Act)” substitute “regulations 89, 91, 94 and 95 ”,
    - (ii) after “received” insert “ from a relevant country ”, and
    - (iii) at the end insert “ as if the relevant country continued to be a participating country within the meaning of the 2003 Act. ”;
  - (b) in paragraphs (2) to (4)—
    - (i) for “regulation 87(11)” substitute “ regulations 89, 91, 94 and 95 ”,
    - (ii) after “received” insert “ from a relevant country ”, and
    - (iii) at the end insert “ as if the relevant country continued to be a participating country within the meaning of the 2003 Act. ”;
  - (c) for paragraph (5) substitute—

“(5) In this regulation “relevant country” means Iceland, Switzerland or Japan.”

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### Commencement Information

**I58** Sch. 3 para. 2(1)-(5) in force at Royal Assent, see s. 40(6)(c)

**I59** Sch. 3 para. 2(6) in force at 31.12.2020 by S.I. 2020/1662, reg. 2(dd)

### *Customer information orders in relation to safe deposit boxes*

3 (1) In Part 1 of the 2003 Act, Chapter 4 (information about banking transactions) is amended as follows.

(2) In section 32 (customer information: England and Wales and Northern Ireland), for subsection (6) substitute—

“(6) Section 364 of the Proceeds of Crime Act 2002 (meaning of customer information) has effect for the purposes of this section as if—

- (a) this section were included in Chapter 2 of Part 8 of that Act,
- (b) subsections (2)(f) and (3)(i) of that section were omitted, and
- (c) the amendments of that section made in relation to Northern Ireland by Article 14 of the Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965 (N.I. 15)) (which provide that “customer information” includes information in relation to safe deposit boxes) also extended to England and Wales.”

(3) In section 37 (customer information: Scotland), for subsection (6) substitute—

“(6) Section 398 of the Proceeds of Crime Act 2002 (meaning of customer information) has effect for the purposes of this section as if—

- (a) this section were included in Chapter 3 of Part 8 of that Act;
- (b) in subsection (1), after “accounts” there were inserted “ or any safe deposit box ”;
- (c) in subsection (2)—
  - (i) in paragraph (a), after “numbers” there were inserted “ or the number of any safe deposit box ”;
  - (ii) in paragraph (e), at the beginning there were inserted “in the case of an account or accounts,”;
  - (iii) after that paragraph there were inserted—

“(ee) in the case of any safe deposit box, the date on which the box was made available to him and if the box has ceased to be available to him the date on which it so ceased;”;

(iv) paragraph (f) were omitted;

(d) in subsection (3)—

- (i) in paragraph (a), after “numbers” there were inserted “ or the number of any safe deposit box ”;
- (ii) in paragraph (h), at the beginning there were inserted “in the case of an account or accounts,”;
- (iii) after that paragraph there were inserted—

“(hh) in the case of any safe deposit box, the date on which the box was made available to it

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and if the box has ceased to be available to it the date on which it so ceased;”;

(iv) paragraph (i) were omitted;

(e) after subsection (5) there were inserted—

“(6) A “safe deposit box” includes any procedure under which a financial institution provides a facility to hold items for safe keeping on behalf of another person.””

(4) The amendments made by this paragraph apply in relation to requests received by the Secretary of State or (as the case may be) the Lord Advocate after the coming into force of this paragraph.

#### **Commencement Information**

**I60** Sch. 3 para. 3 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(dd)

4 (1) In Part 2 of the Proceeds of Crime Act 2002 (External Investigations) Order 2013 (S.I. 2013/2605), article 57 (meaning of customer information) is amended as follows.

(2) In paragraph (1), after “accounts” insert “ or any safe deposit box ”.

(3) In paragraph (2)—

(a) in sub-paragraph (a), after “numbers” insert “ or the number of any safe deposit box ”;

(b) in sub-paragraph (e), at the beginning insert “ in the case of an account or accounts, ”;

(c) after that sub-paragraph insert—

“(ea) in the case of any safe deposit box, the date on which the box was made available to them and if the box has ceased to be available to them the date on which it so ceased,”.

(4) In paragraph (3)—

(a) in sub-paragraph (a), after “numbers” insert “ or the number of any safe deposit box ”;

(b) in sub-paragraph (h), at the beginning insert “ in the case of an account or accounts, ”;

(c) after that sub-paragraph insert—

“(ha) in the case of any safe deposit box, the date on which the box was made available to it and if the box has ceased to be available to it the date on which it so ceased,”.

(5) After paragraph (4) insert—

“(5) A “safe deposit box” includes any procedure under which a financial institution provides a facility to hold items for safe keeping on behalf of another person.”

(6) The amendments made by this paragraph apply in relation to requests received by the Secretary of State after the coming into force of this paragraph.

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**Commencement Information**

**I61** Sch. 3 para. 4 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(dd)

- 5 (1) In Part 4 of the Proceeds of Crime Act 2002 (External Investigations) (Scotland) Order 2015 (S.I. 2015/206) (customer information orders), article 23 (meaning of customer information) is amended as follows.
- (2) In paragraph (1), after “accounts” insert “ or any safe deposit box ”.
- (3) In paragraph (2)—
- (a) in sub-paragraph (a), after “numbers” insert “ or the number of any safe deposit box ”;
- (b) in sub-paragraph (e), at the beginning insert “ in the case of an account or accounts, ”;
- (c) after that sub-paragraph insert—
- “(ea) in the case of any safe deposit box, the date on which the box was made available to them and if the box has ceased to be available to them the date on which it so ceased;”.
- (4) In paragraph (3)—
- (a) in sub-paragraph (a), after “numbers” insert “ or the number of any safe deposit box ”;
- (b) in sub-paragraph (h), at the beginning insert “ in the case of an account or accounts, ”;
- (c) after that sub-paragraph insert—
- “(ha) in the case of any safe deposit box, the date on which the box was made available to it and if the box has ceased to be available to it the date on which it so ceased;”.
- (5) After paragraph (4) insert—
- “(5) A “safe deposit box” includes any procedure under which a financial institution provides a facility to hold items for safe keeping on behalf of another person.”
- (6) The amendments made by this paragraph apply in relation to requests received by the Secretary of State after the coming into force of this paragraph.

**Commencement Information**

**I62** Sch. 3 para. 5 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(dd)

*Miscellaneous*

- 6 In section 42 of the 2003 Act (information about banking transactions: offence of disclosure), in subsection (1)(b), omit the words from “in reliance on” to the end.

**Commencement Information**

**I63** Sch. 3 para. 6 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(dd)

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- 7 In section 51(1) of the 2003 Act (general interpretation), in the definition of “administrative proceedings”, for “the Mutual Legal Assistance Convention” substitute “the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959”.

**Commencement Information**

**I64** Sch. 3 para. 7 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(dd)

SCHEDULE 4 **U.K.**

Section 19

TECHNICAL BARRIERS TO TRADE: USE OF RELEVANT INTERNATIONAL STANDARDS

*Amendments of subordinate legislation*

- 1 In the Medical Devices Regulations 2002 (S.I. 2002/618), in regulation 3A (designated standard) (inserted by regulation 3(6) of the Medical Devices (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/791))—
- (a) in paragraph (1)(a)(i), after “body” insert “or an international standardising body”;
  - (b) after paragraph (3) insert—

“(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph (5)—
    - (i) after “with” insert “such”;
    - (ii) at the end insert “or by international standardising bodies as the Secretary of State considers to be relevant.”

**Commencement Information**

**I65** Sch. 4 para. 1 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 2 In the General Product Safety Regulations 2005 (S.I. 2005/1803), in regulation 6 (presumption of conformity)—
- (a) in paragraph (2), for the words from “voluntary” to “the product” substitute “standard (“S”) which—
    - (a) is a voluntary national standard of the United Kingdom or a standard adopted by an international standardising body, and
    - (b) meets the conditions in paragraph (2A),the product”;
  - (b) after paragraph (4) insert—

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“(5) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”

**Commencement Information**

**I66** Sch. 4 para. 2 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

3 In the Supply of Machinery (Safety) Regulations 2008 (S.I. 2008/1597), in regulation 2A (designated standard) (inserted by paragraph 3 of Schedule 12 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))—

- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
- (b) after paragraph (3) insert—

“(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;

- (c) in paragraph (5)—
  - (i) after “with” insert “ such ”;
  - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I67** Sch. 4 para. 3 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

4 In the Ecodesign for Energy-Related Products Regulations 2010 (S.I. 2010/2617), in regulation 2A (designated standards) (inserted by paragraph 3 of Schedule 1 to the Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/539))—

- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
- (b) after paragraph (3) insert—

“(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;

- (c) in paragraph (5)—
  - (i) after “with” insert “ such ”;
  - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”



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**Commencement Information**

**I68** Sch. 4 para. 4 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 5 In the Toys (Safety) Regulations 2011 (S.I. 2011/1881), in regulation 3A (designated standard) (inserted by paragraph 5 of Schedule 15 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
- (b) after paragraph (3) insert—
- “(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
- (c) in paragraph (5)—
- (i) after “with” insert “ such ”;
- (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I69** Sch. 4 para. 5 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 6 In the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2012 (S.I. 2012/3032), in regulation 2A (interpretation: designated standard) (inserted by regulation 18(3) of the Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188))
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
- (b) in paragraph (3)—
- (i) after “with” insert “ such ”;
- (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”;
- (c) for paragraph (7) substitute—
- “(7) In this regulation—
- (a) “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time);
- (b) a “recognised standardisation body” means any one of the following—
- (i) the European Committee for Standardisation (CEN);

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- (ii) the European Committee for Electrotechnical Standardisation (Cenelec);
- (iii) the European Telecommunications Standards Institute (ETSI);
- (iv) the British Standards Institution (BSI).”

**Commencement Information**

**I70** Sch. 4 para. 6 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 7 In the Explosives Regulations 2014 (S.I. 2014/1638), in regulation 2A (interpretation: designated standard) (inserted by paragraph 3 of Schedule 16 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))—
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph (3) insert—
    - “(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph (5)—
    - (i) after “with” insert “ such ”;
    - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I71** Sch. 4 para. 7 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 8 In the Pyrotechnic Articles (Safety) Regulations 2015 (S.I. 2015/1553), in regulation 2A (interpretation: designated standard) (inserted by paragraph 3 of Schedule 19 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))—
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph (3) insert—
    - “(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph (5)—
    - (i) after “with” insert “ such ”;
    - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

*Changes to legislation: There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)*

**Commencement Information**

**I72** Sch. 4 para. 8 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 9 In the Electromagnetic Compatibility Regulations 2016 (S.I. 2016/1091), in regulation 2A (designated standard) (inserted by paragraph 3 of Schedule 20 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))—
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph (3) insert—

“(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph (5)—
    - (i) after “with” insert “ such ”;
    - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I73** Sch. 4 para. 9 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 10 In the Simple Pressure Vessels (Safety) Regulations 2016 (S.I. 2016/1092), in regulation 2A (designated standard) (inserted by paragraph 3 of Schedule 21 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))—
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph (3) insert—

“(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph (5)—
    - (i) after “with” insert “ such ”;
    - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I74** Sch. 4 para. 10 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

*Changes to legislation: There are currently no known outstanding effects for the  
 European Union (Future Relationship) Act 2020. (See end of Document for details)*

- 11 In the Lifts Regulations 2016 (S.I. 2016/1093), in regulation 2A (designated standard) (inserted by paragraph 3 of Schedule 22 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))—
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph (3) insert—
    - “(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph (5)—
    - (i) after “with” insert “ such ”;
    - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I75** Sch. 4 para. 11 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 12 In the Electrical Equipment (Safety) Regulations 2016 (S.I. 2016/1101), in regulation 2A (designated standard) (inserted by paragraph 3 of Schedule 23 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))—
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph (3) insert—
    - “(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph (5)—
    - (i) after “with” insert “ such ”;
    - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I76** Sch. 4 para. 12 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 13 In the Pressure Equipment (Safety) Regulations 2016 (S.I. 2016/1105), in regulation 2A (designated standard) (inserted by paragraph 3 of Schedule 24 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))—
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph (3) insert—

*Changes to legislation:* There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)

- “(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
- (c) in paragraph (5)—
- (i) after “with” insert “ such ”;
  - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

#### Commencement Information

**I77** Sch. 4 para. 13 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 14 In the Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 2016 (S.I. 2016/1107), in regulation 2A (designated standard) (inserted by paragraph 3 of Schedule 25 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))—
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph (3) insert—

“(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph (5)—
    - (i) after “with” insert “ such ”;
    - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

#### Commencement Information

**I78** Sch. 4 para. 14 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 15 In the Non-automatic Weighing Instruments Regulations 2016 (S.I. 2016/1152), in regulation 2A (designated standard) (inserted by paragraph 3 of Schedule 26 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))—
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph (3) insert—

“(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph (5)—

*Changes to legislation: There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)*

- (i) after “with” insert “ such ”;
- (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I79** Sch. 4 para. 15 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 16 In the Measuring Instruments Regulations 2016 (S.I. 2016/1153), in regulation 2A (designated standard) (inserted by paragraph 3 of Schedule 27 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph (3) insert—
    - “(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph (5)—
    - (i) after “with” insert “ such ”;
    - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I80** Sch. 4 para. 16 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 17 In the Recreational Craft Regulations 2017 (S.I. 2017/737), in regulation 2A (designated standard) (inserted by paragraph 3 of Schedule 28 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))
- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph (3) insert—
    - “(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph (5)—
    - (i) after “with” insert “ such ”;
    - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

*Changes to legislation:* There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)

**Commencement Information**

**I81** Sch. 4 para. 17 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

18 In the Radio Equipment Regulations 2017 (S.I. 2017/1206), in regulation 2A (designated standard) (inserted by paragraph 3 of Schedule 29 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))

- (a) in paragraph (1)(a), after “body” insert “ or an international standardising body ”;
- (b) after paragraph (3) insert—

“(3A) In this regulation “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
- (c) in paragraph (5)—
  - (i) after “with” insert “ such ”;
  - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I82** Sch. 4 para. 18 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

*Amendments of retained direct EU legislation*

19 In Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (recast), in Article 2(3) (designated standard) (substituted by paragraph 3(i) of Schedule 34 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696))—

- (a) in subparagraph (1)(a), after “body” insert “ or an international standardising body ”;
- (b) after subparagraph (3) insert—

“(3A) In this paragraph “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
- (c) in subparagraph (5)—
  - (i) after “with” insert “ such ”;
  - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I83** Sch. 4 para. 19 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)



*Changes to legislation: There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)*

- 20 In [Regulation \(EU\) No 305/2011](#) of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive [89/106/EEC](#), in Article 18B (designated standards) (inserted by paragraph 19 of Schedule 1 to the Construction Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/465))—
- (a) in paragraph 1(a), after “body” insert “ or adopted by an international standardising body ”;
  - (b) in paragraph 3, for “international standards” substitute “ , or any other, standards adopted by international standardising bodies ”;
  - (c) after paragraph 9 insert—
 

“10 In this Article “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”

**Commencement Information**

**I84** Sch. 4 para. 20 in force at 31.12.2020 by [S.I. 2020/1662](#), [reg. 2\(ee\)](#)

- 21 In the Commission Implementing [Regulation \(EU\) No 402/2013](#) of 30 April 2013 on the common safety method for risk evaluation and assessment and repealing Regulation (EC) No [352/2009](#), in Article 3A (designated standards) (inserted by regulation 16(5) of the Rail Safety (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/837))—
- (a) in paragraph 1(a), after “body” insert “ or an international standardising body ”;
  - (b) after paragraph 3 insert—
 

“3A In this Article “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
  - (c) in paragraph 5—
    - (i) after “with” insert “ such ”;
    - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I85** Sch. 4 para. 21 in force at 31.12.2020 by [S.I. 2020/1662](#), [reg. 2\(ee\)](#)

- 22 In [Regulation \(EU\) 2016/424](#) of the European Parliament and of the Council of 9 March 2016 on cableway installations and repealing Directive [2000/9/EC](#), in Article 3A (designated standards) (inserted by regulation 15 of the Cableway Installations (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1347))—
- (a) in paragraph 1(a), after “Institution” insert “ or an international standardising body ”;
  - (b) after paragraph 2 insert—



*Changes to legislation: There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)*

- “2A Before publishing the reference number of a technical standard adopted by the British Standards Institution, the Secretary of State must have regard to whether the technical standard is consistent with any standards adopted by international standardising bodies which the Secretary of State considers to be relevant.”;
- (c) after paragraph 5 insert—
- “6 In this Article “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”

#### Commencement Information

**186** Sch. 4 para. 22 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 23 In [Regulation \(EU\) 2016/425](#) of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive [89/686/EEC](#), in Article 7A (designated standard) (inserted by paragraph 3(7) of Schedule 35 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696)—
- (a) in paragraph 1(a), after “body” insert “ or an international standardising body ”;
- (b) after paragraph 3 insert—
- “3A In this Article “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
- (c) in paragraph 5—
- (i) after “with” insert “ such ”;
- (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

#### Commencement Information

**187** Sch. 4 para. 23 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

- 24 In [Regulation \(EU\) 2016/426](#) of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive [2009/142/EC](#), in Article 6A (designated standard) (inserted by paragraph 2(7) of Schedule 36 to the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696)—
- (a) in paragraph 1(a), after “body” insert “ or an international standardising body ”;
- (b) after paragraph 3 insert—
- “3A In this Article “international standardising body” has the same meaning as it has for the purposes of the Agreement on Technical Barriers to Trade, part of Annex 1A to the agreement establishing

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*Changes to legislation:* There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)

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- the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time).”;
- (c) in paragraph 5—
- (i) after “with” insert “ such ”;
  - (ii) at the end insert “ or by international standardising bodies as the Secretary of State considers to be relevant. ”

**Commencement Information**

**I88** Sch. 4 para. 24 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ee)

SCHEDULE 5 **U.K.**

Section 38

REGULATIONS UNDER THIS ACT

**PART 1 U.K.**

PROCEDURE

*Criminal records*

- 1 (1) A statutory instrument containing regulations under section 6(3) of the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Regulations under section 6(3) of the Scottish Ministers are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (3) Regulations under section 6(3) of the Department of Justice in Northern Ireland are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.

*Passenger name record data*

- 2 A statutory instrument containing regulations under paragraph 18 of Schedule 2 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

*Administrative co-operation on VAT and mutual assistance on tax debts*

- 3 A statutory instrument containing regulations under section 22(7) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

*Implementation power: before IP completion day*

- 4 (1) A statutory instrument which—

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*Changes to legislation: There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)*

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- (a) contains regulations under section 31 of a Minister of the Crown acting alone, and
  - (b) is to be made before IP completion day,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Regulations which are to be made—
  - (a) under section 31 by the Scottish Ministers acting alone, and
  - (b) before IP completion day,are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (3) A statutory instrument which—
  - (a) contains regulations under section 31 of the Welsh Ministers acting alone, and
  - (b) is to be made before IP completion day,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (4) Regulations which are to be made—
  - (a) under section 31 by a Northern Ireland department acting alone, and
  - (b) before IP completion day,may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (5) This paragraph is subject to paragraphs 14 to 17 (urgency procedures for regulations to which this paragraph applies).
- 5 (1) This paragraph applies to regulations under section 31 of a Minister of the Crown acting jointly with a devolved authority which are to be made before IP completion day.
- (2) The procedure provided for by sub-paragraph (3) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
- (3) A statutory instrument containing regulations to which this paragraph applies may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the affirmative procedure.
- (5) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (4) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (6) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (4) applies as it applies in

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*Changes to legislation: There are currently no known outstanding effects for the  
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relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).

- (7) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (8) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

*Implementation power: on or after IP completion day*

- 6 (1) A statutory instrument which—
  - (a) contains regulations under section 31 of a Minister of the Crown acting alone which contain provision falling within sub-paragraph (2), and
  - (b) is to be made on or after IP completion day,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Provision falls within this sub-paragraph if it—
  - (a) amends, repeals or revokes primary legislation <sup>F3</sup> ..., or
  - (b) creates a power to legislate.
- (3) Any other statutory instrument which—
  - (a) contains regulations under section 31 of a Minister of the Crown acting alone, and
  - (b) is made on or after IP completion day,

is (if a draft of the instrument has not been laid before, and approved by a resolution of, each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) See paragraph 8 for certain restrictions on the choice of procedure under sub-paragraph (3).
- (5) Regulations under section 31 of the Scottish Ministers acting alone which—
  - (a) contain provision falling within sub-paragraph (2), and
  - (b) are to be made on or after IP completion day,

are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (6) Any other regulations under section 31 of the Scottish Ministers acting alone which are made on or after IP completion day are (if they have not been subject to the affirmative procedure) subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (7) A statutory instrument which—
  - (a) contains regulations under section 31 of the Welsh Ministers acting alone which contain provision falling within sub-paragraph (2), and
  - (b) is to be made on or after IP completion day,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.

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*Changes to legislation:* There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)

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- (8) Any other statutory instrument which—
- (a) contains regulations under section 31 of the Welsh Ministers acting alone, and
  - (b) is made on or after IP completion day,
- is (if a draft of the instrument has not been laid before, and approved by a resolution of, Senedd Cymru) subject to annulment in pursuance of a resolution of Senedd Cymru.
- (9) See paragraph 9 for certain restrictions on the choice of procedure under sub-paragraph (8).
- (10) Regulations under section 31 of a Northern Ireland department acting alone which—
- (a) contain provision falling within sub-paragraph (2), and
  - (b) are to be made on or after IP completion day,
- may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (11) Any other regulations under section 31 of a Northern Ireland department acting alone which are made on or after IP completion day are (if a draft of the regulations has not been laid before, and approved by a resolution of, the Northern Ireland Assembly) subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (12) This paragraph is subject to paragraphs 14 to 17 (urgency procedures for regulations to which this paragraph applies).

#### Textual Amendments

**F3** Words in [Sch. 5 para. 6\(2\)\(a\)](#) omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(1)(d), [Sch. 3 para. 5\(2\)](#)

- 7
- (1) This paragraph applies to regulations under section 31 of a Minister of the Crown acting jointly with a devolved authority which are made, or (as the case may be) are to be made, on or after IP completion day.
  - (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
  - (3) A statutory instrument containing regulations to which this paragraph applies which contain provision falling within paragraph 6(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
  - (4) Any other statutory instrument containing regulations to which this paragraph applies is (if a draft of the instrument has not been laid before, and approved by a resolution of, each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
  - (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and contain provision falling within paragraph 6(2) are subject to the affirmative procedure.

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- (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are (if they have not been subject to the affirmative procedure) subject to the negative procedure.
- (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) or (6) applies and which are subject to the affirmative procedure as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (6) applies and which are subject to the negative procedure as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and contain provision falling within paragraph 6(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is (if a draft of the instrument has not been laid before, and approved by a resolution of, Senedd Cymru) subject to annulment in pursuance of a resolution of Senedd Cymru.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and contain provision falling within paragraph 6(2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are (if a draft of the regulations has not been laid before, and approved by a resolution of, the Northern Ireland Assembly) subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (14) If in accordance with sub-paragraph (4),(6), (11) or (13)—
  - (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
  - (b) a relevant devolved legislature resolves that an instrument be annulled,
nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.
- (15) In sub-paragraph (14) “relevant devolved legislature” means—

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- (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
  - (b) in the case of regulations made jointly with the Welsh Ministers, Senedd Cymru, and
  - (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.
- 8 (1) Sub-paragraph (2) applies if a Minister of the Crown, who is to make within the period of two years beginning with IP completion day a statutory instrument to which paragraph 6(3) applies, is of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) The Minister may not make the instrument so that it is subject to that procedure unless—
  - (a) condition 1 is met, and
  - (b) either condition 2 or 3 is met.
- (3) Condition 1 is that a Minister of the Crown—
  - (a) has made a statement in writing to the effect that in the Minister's opinion the instrument should be subject to annulment in pursuance of a resolution of either House of Parliament, and
  - (b) has laid before each House of Parliament—
    - (i) a draft of the instrument, and
    - (ii) a memorandum setting out the statement and the reasons for the Minister's opinion.
- (4) Condition 2 is that a committee of the House of Commons charged with doing so and a committee of the House of Lords charged with doing so have, within the relevant period, each made a recommendation as to the appropriate procedure for the instrument.
- (5) Condition 3 is that the relevant period has ended without condition 2 being met.
- (6) Sub-paragraph (7) applies if—
  - (a) a committee makes a recommendation as mentioned in sub-paragraph (4) within the relevant period,
  - (b) the recommendation is that the appropriate procedure for the instrument is for a draft of it to be laid before, and approved by a resolution of, each House of Parliament before it is made, and
  - (c) the Minister who is to make the instrument is nevertheless of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Before the instrument is made, the Minister must make a statement explaining why the Minister does not agree with the recommendation of the committee.

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- (8) If the Minister fails to make a statement required by sub-paragraph (7) before the instrument is made, a Minister of the Crown must make a statement explaining why the Minister has failed to do so.
- (9) A statement under sub-paragraph (7) or (8) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (10) In this paragraph “the relevant period” means the period—
- (a) beginning with the first day on which both Houses of Parliament are sitting after the day on which the draft instrument was laid before each House as mentioned in sub-paragraph (3)(b)(i), and
  - (b) ending with whichever of the following is the later—
    - (i) the end of the period of 10 Commons sitting days beginning with that first day, and
    - (ii) the end of the period of 10 Lords sitting days beginning with that first day.
- (11) For the purposes of sub-paragraph (10)—
- (a) where a draft of an instrument is laid before each House of Parliament on different days, the later day is to be taken as the day on which it is laid before both Houses,
  - (b) “Commons sitting day” means a day on which the House of Commons is sitting, and
  - (c) “Lords sitting day” means a day on which the House of Lords is sitting,
- and, for the purposes of sub-paragraph (10) and this sub-paragraph, a day is only a day on which the House of Commons or the House of Lords is sitting if the House concerned begins to sit on that day.
- (12) Nothing in this paragraph prevents a Minister of the Crown from deciding at any time before a statutory instrument to which paragraph 6(3) applies is made that another procedure should apply in relation to the instrument (whether under paragraph 6(3) or 14).
- (13) Section 6(1) of the Statutory Instruments Act 1946 (alternative procedure for certain instruments laid in draft before Parliament) does not apply in relation to any statutory instrument to which this paragraph applies.
- 9 (1) Sub-paragraph (2) applies if the Welsh Ministers are to make within the period of two years beginning with IP completion day a statutory instrument to which paragraph 6(8) applies and are of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of Senedd Cymru.
- (2) The Welsh Ministers may not make the instrument so that it is subject to that procedure unless—
- (a) condition 1 is met, and
  - (b) either condition 2 or 3 is met.
- (3) Condition 1 is that the Welsh Ministers—
- (a) have made a statement in writing to the effect that in their opinion the instrument should be subject to annulment in pursuance of a resolution of Senedd Cymru, and
  - (b) have laid before Senedd Cymru—
    - (i) a draft of the instrument, and



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- (ii) a memorandum setting out the statement and the reasons for the Welsh Ministers' opinion.
- (4) Condition 2 is that a committee of Senedd Cymru charged with doing so has made a recommendation as to the appropriate procedure for the instrument.
- (5) Condition 3 is that the period of 14 days beginning with the first day after the day on which the draft instrument was laid before Senedd Cymru as mentioned in sub-paragraph (3)(b)(i) has ended without any recommendation being made as mentioned in sub-paragraph (4).
- (6) In calculating the period of 14 days, no account is to be taken of any time during which Senedd Cymru is—
  - (a) dissolved, or
  - (b) in recess for more than four days.
- (7) Nothing in this paragraph prevents the Welsh Ministers from deciding at any time before a statutory instrument to which paragraph 6(8) applies is made that another procedure should apply to the instrument (whether under paragraph 6(8) or 16).
- (8) Section 6(1) of the Statutory Instruments Act 1946 as applied by section 11A of that Act (alternative procedure for certain instruments laid in draft before Senedd Cymru) does not apply in relation to any statutory instrument to which this paragraph applies.

*Powers relating to the start of agreements*

- 10 (1) A statutory instrument containing regulations under section 32 of a Minister of the Crown acting alone may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Regulations under section 32 of the Scottish Ministers acting alone are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (3) A statutory instrument containing regulations under section 32 of the Welsh Ministers acting alone may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (4) Regulations under section 32 of a Northern Ireland department acting alone may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (5) This paragraph is subject to paragraphs 14 to 17 (urgency procedures for regulations to which this paragraph applies).
- 11 (1) This paragraph applies to regulations under section 32 of a Minister of the Crown acting jointly with a devolved authority.
- (2) The procedure provided for by sub-paragraph (3) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
- (3) A statutory instrument containing regulations to which this paragraph applies may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

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- (4) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the affirmative procedure.
- (5) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (4) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (6) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (4) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (7) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (8) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

*Powers relating to the functioning of agreements*

- 12 (1) A statutory instrument containing regulations under section 33 of a Minister of the Crown acting alone which contain provision falling within sub-paragraph (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Provision falls within this sub-paragraph if it amends, repeals or revokes—
- (a) primary legislation, <sup>F4</sup> ...
  - <sup>F4</sup>(b) .....
- (3) Any other statutory instrument containing regulations under section 33 of a Minister of the Crown acting alone is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations under section 33 of the Scottish Ministers acting alone which contain provision falling within sub-paragraph (2) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (5) Any other regulations under section 33 of the Scottish Ministers acting alone are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- (6) A statutory instrument containing regulations under section 33 of the Welsh Ministers acting alone which contain provision falling within sub-paragraph (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.

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- (7) Any other statutory instrument containing regulations under section 33 of the Welsh Ministers acting alone is subject to annulment in pursuance of a resolution of Senedd Cymru.
- (8) Regulations under section 33 of a Northern Ireland department acting alone which contain provision falling within sub-paragraph (2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (9) Any other regulations under section 33 of a Northern Ireland department acting alone are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (10) This paragraph is subject to paragraphs 14 to 17 (urgency procedures for regulations to which this paragraph applies).

#### Textual Amendments

**F4** Sch. 5 para. 12(2)(b) and word omitted (29.6.2023) by virtue of [Retained EU Law \(Revocation and Reform\) Act 2023 \(c. 28\)](#), s. 22(1)(d), [Sch. 3 para. 5\(3\)](#)

- 13 (1) This paragraph applies to regulations under section 33 of a Minister of the Crown acting jointly with a devolved authority.
- (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
- (3) A statutory instrument containing regulations to which this paragraph applies which contain provision falling within paragraph 12(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any other statutory instrument containing regulations to which this paragraph applies is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and contain provision falling within paragraph 12(2) are subject to the affirmative procedure.
- (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are subject to the negative procedure.
- (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) applies as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (6) applies as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative

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procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).

- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and contain provision falling within paragraph 12(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of Senedd Cymru.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and contain provision falling within paragraph 12(2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (14) If in accordance with sub-paragraph (4),(6), (11) or (13)—
  - (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
  - (b) a relevant devolved legislature resolves that an instrument be annulled,
nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.
- (15) In sub-paragraph (14) “relevant devolved legislature” means—
  - (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
  - (b) in the case of regulations made jointly with the Welsh Ministers, Senedd Cymru, and
  - (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) to (16) apply in place of provision made by any other enactment about the effect of such a resolution.

*Implementation and other powers: certain urgent cases*

- 14 (1) Sub-paragraph (2) applies to—
  - (a) a statutory instrument to which paragraph 4(1) or 6(1) applies,

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- (b) a statutory instrument to which paragraph 6(3) applies which would not otherwise be made without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament, or
    - (c) a statutory instrument to which paragraph 10(1) or 12(1) applies.
  - (2) The instrument may be made without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament if it contains a declaration that the Minister of the Crown concerned is of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.
  - (3) After an instrument is made in accordance with sub-paragraph (2), it must be laid before each House of Parliament.
  - (4) Regulations contained in an instrument made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
  - (5) In calculating the period of 28 days, no account is to be taken of any time during which—
    - (a) Parliament is dissolved or prorogued, or
    - (b) either House of Parliament is adjourned for more than four days.
  - (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not—
    - (a) affect the validity of anything previously done under the regulations, or
    - (b) prevent the making of new regulations.
  - (7) Sub-paragraph (8) applies to a statutory instrument to which paragraph 6(3) applies where the Minister of the Crown who is to make the instrument is of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (8) Paragraph 8 does not apply in relation to the instrument if the instrument contains a declaration that the Minister is of the opinion that, by reason of urgency, it is necessary to make the regulations without meeting the requirements of that paragraph.
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- (1) Sub-paragraph (2) applies to—
    - (a) regulations to which paragraph 4(2) or 6(5) applies,
    - (b) regulations to which paragraph 6(6) applies which would not otherwise be made without being subject to the affirmative procedure, or
    - (c) regulations to which paragraph 10(2) or 12(4) applies.
  - (2) The regulations may be made without being subject to the affirmative procedure if the regulations contain a declaration that the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without them being subject to that procedure.
  - (3) After regulations are made in accordance with sub-paragraph (2), they must be laid before the Scottish Parliament.
  - (4) Regulations made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by resolution of the Scottish Parliament.

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- (5) In calculating the period of 28 days, no account is to be taken of any time during which the Scottish Parliament is—
- (a) dissolved, or
  - (b) in recess for more than four days.
- (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not—
- (a) affect the validity of anything previously done under the regulations, or
  - (b) prevent the making of new regulations.
- 16 (1) Sub-paragraph (2) applies to—
- (a) a statutory instrument to which paragraph 4(3) or 6(7) applies,
  - (b) a statutory instrument to which paragraph 6(8) applies which would not otherwise be made without a draft of the instrument being laid before, and approved by a resolution of, Senedd Cymru, or
  - (c) a statutory instrument to which paragraph 10(3) or 12(6) applies.
- (2) The instrument may be made without a draft of the instrument being laid before, and approved by a resolution of, Senedd Cymru if it contains a declaration that the Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.
- (3) After an instrument is made in accordance with sub-paragraph (2), it must be laid before Senedd Cymru.
- (4) Regulations contained in an instrument made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of Senedd Cymru.
- (5) In calculating the period of 28 days, no account is to be taken of any time during which Senedd Cymru is—
- (a) dissolved, or
  - (b) in recess for more than four days.
- (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not—
- (a) affect the validity of anything previously done under the regulations, or
  - (b) prevent the making of new regulations.
- (7) Sub-paragraph (8) applies to a statutory instrument to which paragraph 6(8) applies where the Welsh Ministers are of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of Senedd Cymru.
- (8) Paragraph 9 does not apply in relation to the instrument if the instrument contains a declaration that the Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without meeting the requirements of that paragraph.
- 17 (1) Sub-paragraph (2) applies to—
- (a) regulations to which paragraph 4(4) or 6(10) applies,
  - (b) regulations to which paragraph 6(11) applies which would not otherwise be made without a draft of the regulations being laid before, and approved by a resolution of, the Northern Ireland Assembly, or

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- (c) regulations to which paragraph 10(4) or 12(8) applies.
- (2) The regulations may be made without a draft of the regulations being laid before, and approved by a resolution of, the Northern Ireland Assembly if they contain a declaration that the Northern Ireland department concerned is of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.
- (3) After regulations are made in accordance with sub-paragraph (2), they must be laid before the Northern Ireland Assembly.
- (4) Regulations made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by a resolution of the Northern Ireland Assembly.
- (5) In calculating the period of 28 days, no account is to be taken of any time during which the Northern Ireland Assembly is—
- (a) dissolved,
  - (b) in recess for more than four days, or
  - (c) adjourned for more than six days.
- (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not—
- (a) affect the validity of anything previously done under the regulations, or
  - (b) prevent the making of new regulations.

#### *Consequential provision*

- 18 A statutory instrument containing regulations under section 39(1) is subject to annulment in pursuance of a resolution of either House of Parliament.

## **PART 2** U.K.

### GENERAL RESTRICTIONS ON CERTAIN POWERS OF DEVOLVED AUTHORITIES

#### *No power to make provision outside devolved competence*

- 19 (1) No provision may be made by a devolved authority acting alone in regulations under section 31, 32 or 33 unless the provision is within the devolved competence of the devolved authority.
- (2) See paragraphs 23 to 25 for the meaning of “devolved competence” for the purposes of this Part.

#### *Requirement for consent where it would otherwise be required*

- 20 (1) The consent of a Minister of the Crown is required before any provision is made by the Welsh Ministers acting alone in regulations under section 31, 32 or 33 so far as that provision, if contained in an Act of Senedd Cymru, would require the consent of a Minister of the Crown.
- (2) The consent of the Secretary of State is required before any provision is made by a Northern Ireland department acting alone in regulations under section 31, 32 or 33 so

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far as that provision, if contained in an Act of the Northern Ireland Assembly, would require the consent of the Secretary of State.

- (3) Sub-paragraph (1) or (2) does not apply if—
- (a) the provision could be contained in subordinate legislation made otherwise than under this Act by the Welsh Ministers acting alone or (as the case may be) a Northern Ireland devolved authority acting alone, and
  - (b) no such consent would be required in that case.
- (4) The consent of a Minister of the Crown is required before any provision is made by a devolved authority acting alone in regulations under section 31, 32 or 33 so far as that provision, if contained in—
- (a) subordinate legislation made otherwise than under this Act by the devolved authority, or
  - (b) subordinate legislation not falling within paragraph (a) and made otherwise than under this Act by (in the case of Scotland) the First Minister or Lord Advocate acting alone or (in the case of Northern Ireland) a Northern Ireland devolved authority acting alone,
- would require the consent of a Minister of the Crown.
- (5) Sub-paragraph (4) does not apply if—
- (a) the provision could be contained in—
    - (i) an Act of the Scottish Parliament, an Act of Senedd Cymru or (as the case may be) an Act of the Northern Ireland Assembly, or
    - (ii) different subordinate legislation of the kind mentioned in sub-paragraph (4)(a) or (b) and of a devolved authority acting alone or (as the case may be) other person acting alone, and
  - (b) no such consent would be required in that case.

*Requirement for joint exercise where it would otherwise be required*

- 21 (1) No regulations may be made under section 31, 32 or 33 by the Scottish Ministers, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by—
- (a) the Scottish Ministers acting jointly with a Minister of the Crown, or
  - (b) the First Minister or Lord Advocate acting jointly with a Minister of the Crown,
- unless the regulations are, to that extent, made jointly with the Minister of the Crown.
- (2) No regulations may be made under section 31, 32 or 33 by the Welsh Ministers, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers acting jointly with a Minister of the Crown, unless the regulations are, to that extent, made jointly with the Minister of the Crown.
- (3) No regulations may be made under section 31, 32 or 33 by a Northern Ireland department, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by—
- (a) a Northern Ireland department acting jointly with a Minister of the Crown, or
  - (b) another Northern Ireland devolved authority acting jointly with a Minister of the Crown,



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unless the regulations are, to that extent, made jointly with the Minister of the Crown.

- (4) Sub-paragraph (1), (2) or (3) does not apply if the provision could be contained in—
- (a) an Act of the Scottish Parliament, an Act of Senedd Cymru or (as the case may be) an Act of the Northern Ireland Assembly without the need for the consent of a Minister of the Crown, or
  - (b) different subordinate legislation made otherwise than under this Act by—
    - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
    - (ii) the Welsh Ministers acting alone, or
    - (iii) (as the case may be), a Northern Ireland devolved authority acting alone.

*Requirement for consultation where it would otherwise be required*

- 22 (1) No regulations may be made under section 31, 32 or 33 by the Welsh Ministers acting alone, so far as they contain provision which, if contained in an Act of Senedd Cymru, would require consultation with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (2) No regulations may be made under section 31, 32 or 33 by the Scottish Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Scottish Ministers, the First Minister or the Lord Advocate after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (3) No regulations may be made under section 31, 32 or 33 by the Welsh Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (4) No regulations may be made under section 31, 32 or 33 by a Northern Ireland department acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by a Northern Ireland department after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (5) Sub-paragraph (2), (3) or (4) does not apply if—
- (a) the provision could be contained in an Act of the Scottish Parliament, an Act of Senedd Cymru or (as the case may be) an Act of the Northern Ireland Assembly, and
  - (b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.
- (6) Sub-paragraph (2), (3) or (4) does not apply if—
- (a) the provision could be contained in different subordinate legislation made otherwise than under this Act by—
    - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
    - (ii) the Welsh Ministers acting alone, or

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*Changes to legislation: There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)*

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- (iii) (as the case may be), a Northern Ireland devolved authority acting alone, and
- (b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.

*Meaning of devolved competence*

- 23 A provision is within the devolved competence of the Scottish Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament (ignoring section 29(2)(d) of the Scotland Act 1998 so far as relating to EU law and retained EU law), or
  - (b) it is provision which could be made in other subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone (ignoring section 57(2) of the Scotland Act 1998 so far as relating to EU law and section 57(4) of that Act).
- 24 A provision is within the devolved competence of the Welsh Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of Senedd Cymru if it were contained in an Act of Senedd Cymru (ignoring section 108A(2)(e) of the Government of Wales Act 2006 so far as relating to EU law and retained EU law but including any provision that could be made only with the consent of a Minister of the Crown), or
  - (b) it is provision which could be made in other subordinate legislation by the Welsh Ministers acting alone (ignoring section 80(8) of the Government of Wales Act 2006).
- 25 A provision is within the devolved competence of a Northern Ireland department for the purposes of this Part if—
- (a) the provision, if it were contained in an Act of the Northern Ireland Assembly—
    - (i) would be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998), and
    - (ii) would not require the consent of the Secretary of State,
  - (b) the provision—
    - (i) amends or repeals Northern Ireland legislation, and
    - (ii) would, if it were contained in an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998) and require the consent of the Secretary of State, or
  - (c) the provision is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority acting alone (ignoring section 24(1)(b) and (3) of the Northern Ireland Act 1998).

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*Changes to legislation:* There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)

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### PART 3 **U.K.**

#### GENERAL PROVISION ABOUT POWERS UNDER ACT

##### *Scope and nature of powers: general*

- 26 (1) Any power to make regulations under this Act—
- (a) so far as exercisable by a Minister of the Crown or by a Minister of the Crown acting jointly with a devolved authority, is exercisable by statutory instrument,
  - (b) so far as exercisable by the Welsh Ministers or by the Welsh Ministers acting jointly with a Minister of the Crown, is exercisable by statutory instrument, and
  - (c) so far as exercisable by a Northern Ireland department (other than when acting jointly with a Minister of the Crown), is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)) (and not by statutory instrument).
- (2) For regulations made under this Act by the Scottish Ministers, see also section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (Scottish statutory instruments).

- 27 Any power to make regulations under this Act—
- (a) may be exercised so as to make different provision for different cases or descriptions of case, different circumstances, different purposes or different areas, and
  - (b) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.

- 28 The fact that a power to make regulations is conferred by this Act does not affect the extent of any other power to make subordinate legislation under this Act or any other enactment.

##### *Anticipatory exercise of powers in relation to future relationship agreements etc.*

- 29 Any power to make regulations under this Act in relation to a future relationship agreement or an agreement falling within section 31(7)(b) is also capable of being exercised before the agreement concerned is signed, provisionally applied or ratified or before it comes into force.

##### *Scope of appointed day power*

- 30 The power of a Minister of the Crown under section 40(7) to appoint a day includes a power to appoint a time on that day if the Minister considers it appropriate to do so.

##### *Disapplication of certain review provisions*

- 31 Section 28 of the Small Business, Enterprise and Employment Act 2015 (duty to review regulatory provisions in secondary legislation) does not apply in relation to any power to make regulations under this Act.

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*Changes to legislation: There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)*

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### *Hybrid instruments*

- 32 If an instrument, or a draft of an instrument, containing regulations under this Act would, apart from this paragraph, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument.

### *Procedure on re-exercise of certain powers*

- 33 A power to make regulations which, under this Schedule, is capable of being exercised subject to different procedures may (in spite of section 14 of the Interpretation Act 1978) be exercised, when revoking, amending or re-enacting an instrument made under the power, subject to a different procedure from the procedure to which the instrument was subject.

### *Combinations of instruments*

- 34 (1) Sub-paragraph (2) applies to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament for the approval of the instrument in draft before it is made or its approval after it is made.
- (2) The statutory instrument may also include regulations under this Act or another enactment which are made by statutory instrument which is subject to a procedure before Parliament that provides for the annulment of the instrument after it has been made.
- (3) Where regulations are included as mentioned in sub-paragraph (2), the procedure applicable to the statutory instrument is the procedure mentioned in sub-paragraph (1) and not the procedure mentioned in sub-paragraph (2).
- (4) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Senedd Cymru as they apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament but as if the references to Parliament were references to Senedd Cymru.
- (5) Sub-paragraphs (1) to (3) apply in relation to a statutory rule as they apply in relation to a statutory instrument but as if the references to Parliament were references to the Northern Ireland Assembly.
- (6) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly as well as a procedure before Parliament as they apply to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament but as if the references to Parliament were references to Parliament and the Scottish Parliament, Senedd Cymru or (as the case may be) the Northern Ireland Assembly.
- (7) This paragraph does not prevent the inclusion of other regulations in a statutory instrument or statutory rule which contains regulations under this Act (and, accordingly, references in this Schedule to an instrument containing regulations are to be read as references to an instrument containing (whether alone or with other provision) regulations).

*Changes to legislation:* There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)

SCHEDULE 6 **U.K.**

Section 39(3) and (5)

CONSEQUENTIAL AND TRANSITIONAL PROVISION ETC.

PART 1 **U.K.**

CONSEQUENTIAL PROVISION

F5 ...

**Textual Amendments**

**F5** Sch. 6 paras. 1-3 and headings omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), **8**

F5<sub>1</sub> .....

F5 ...

F5<sub>2</sub> .....

F5 ...

F5<sub>3</sub> .....

*Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)*

4 In section 30(7) of the Interpretation and Legislative Reform (Scotland) Act 2010 (exception to the requirement for certain instruments to be laid before the Scottish Parliament) after “2018” insert “ or paragraph 15 of Schedule 5 to the European Union (Future Relationship) Act 2020 ”.

*European Union (Withdrawal) Act 2018*

5 The European Union (Withdrawal) Act 2018 is amended as follows.

**Commencement Information**

**I89** Sch. 6 para. 5 in force at 31.12.2020 by [S.I. 2020/1662](#), reg. **2(ff)**

6 In section 20 (interpretation), in subsection (1), after the definition of “exit day” insert—

““future relationship agreement” has the same meaning as in the European Union (Future Relationship) Act 2020 (see section 37 of that Act);”.

*Changes to legislation: There are currently no known outstanding effects for the  
 European Union (Future Relationship) Act 2020. (See end of Document for details)*

**Commencement Information**

**I90** Sch. 6 para. 6 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ff)

- 7 In section 21 (index of defined expressions), in the table in subsection (1), after the entry for “Former Article 34(2)(c) of Treaty on European Union” insert—

“Future relationship agreement	Section 20(1)”.
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**Commencement Information**

**I91** Sch. 6 para. 7 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ff)

- 8 In Part 1 of Schedule 8 (general consequential provision), in each of paragraphs 13(8A), 14(11A), 15(11) and 16(9)—
- (a) omit the “or” at the end of paragraph (b), and
  - (b) after paragraph (c) insert “, or
  - (d) a future relationship agreement”.

**Commencement Information**

**I92** Sch. 6 para. 8 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ff)

**PART 2** U.K.

TRANSITIONAL, TRANSITORY AND SAVING PROVISION

*Passenger name record data*

- 9 The amendments made by Schedule 2 do not have effect in relation to—
- (a) any request to which regulation 106A of the Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742) applies, or
  - (b) any PNR data, or the result of processing such data, in relation to which regulation 106B(2) of those regulations has effect.

**Commencement Information**

**I93** Sch. 6 para. 9 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ff)

*Extradition*

- 10 The amendments made by section 12 do not apply for the purpose of deciding whether the offence specified in a Part 1 warrant is an extradition offence if the person in respect of whom the warrant is issued is arrested under the warrant, or under section 5 of the Extradition Act 2003 on the basis of a belief related to the warrant, before IP completion day.

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**Changes to legislation:** There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020. (See end of Document for details)

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**Commencement Information**

**194** Sch. 6 para. 10 in force at 31.12.2020 by S.I. 2020/1662, reg. 2(ff)

*“relevant criminal offence”*

- 11 (1) The definition of “relevant criminal offence” in section 37(1) is to be read, until the appointed day, as if for the words “the age of 18 (or, in relation to Scotland or Northern Ireland, 21)” there were substituted “ the age of 21 ”.
- (2) In sub-paragraph (1), “the appointed day” means the day on which the amendment made to section 81(3)(a) of the Regulation of Investigatory Powers Act 2000 by paragraph 211 of Schedule 7 to the Criminal Justice and Court Services Act 2000 comes into force.

*Powers of devolved authorities in relation to EU law*

- 12 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 the making of regulations under section 31, 32 or 33.

*Modifications of subordinate legislation*

- 13 The fact that a modification of subordinate legislation has been made by this Act does not of itself prevent the subordinate legislation as modified from being further modified under the power under which it was made or by other subordinate legislation.

**Changes to legislation:**

There are currently no known outstanding effects for the **European Union (Future Relationship) Act 2020**.