



Retained EU Law (Revocation and Reform) Act 2023

2023 CHAPTER 28

Interpretation and effect of retained EU law

8 Incompatibility orders

After section 6C of the European Union (Withdrawal) Act 2018 (inserted by [section 6](#) of this Act) insert—

“6D Incompatibility orders

- (1) This section applies if a court or tribunal decides, in the course of any proceedings—
 - (a) that a provision of retained direct EU legislation is incompatible with, and by virtue of section 5(A2)(b) subject to, any domestic enactment, or
 - (b) that a domestic enactment is incompatible with, and by virtue of section 7(1) of the Retained EU Law (Revocation and Reform) Act 2023 subject to, a provision of retained direct EU legislation.
- (2) The court or tribunal must make an order (an “incompatibility order”) to that effect (in addition to any exercise of other powers that it may have in relation to the proceedings).
- (3) An incompatibility order may (among other things)—
 - (a) set out the effect of the relevant provision in its operation in relation to that particular case;
 - (b) delay the coming into force of the order;
 - (c) remove or limit any effect of the operation of the relevant provision before the coming into force of the order.
- (4) Provision included in an incompatibility order may be made subject to conditions.

Status: This is the original version (as it was originally enacted).

(5) In this section—

“domestic enactment” has the same meaning as in section 5 of this Act;

“the relevant provision” means section 5(A2)(b) of this Act or section 7(1) of the Retained EU Law (Revocation and Reform) Act 2023 (as the case may be).”