

2024 No. 714 (C. 46)

RETAINED EU LAW REFORM

**The Retained EU Law (Revocation and Reform) Act 2023
(Commencement No. 2 and Saving Provisions) Regulations 2024**

Made - - - -

24th May 2024

The Secretary of State makes these Regulations in exercise of the powers conferred by section 22(3) and (4)(a) of the Retained EU Law (Revocation and Reform) Act 2023 (“the Act”)(a).

The Secretary of State is a “relevant national authority” for the purposes of section 22(4) of the Act(b).

Citation and interpretation

1.—(1) These Regulations may be cited as the Retained EU Law (Revocation and Reform) Act 2023 (Commencement No. 2 and Saving Provisions) Regulations 2024.

(2) In these Regulations—

“the Act” means the Retained EU Law (Revocation and Reform) Act 2023;

“EU(W)A” means the European Union (Withdrawal) Act 2018(c);

“higher court” has the same meaning as in section 6(7) of EU(W)A(d).

Provision coming into force on 1st October 2024

2. Section 6 (role of courts) of the Act comes into force on 1st October 2024.

Saving provisions

3.—(1) The following provisions of EU(W)A do not apply to a case falling within paragraph (2)—

(a) section 6(5) and (5ZA)(relating to new test for departure from assimilated case law);

(b) section 6C (interventions on assimilated case law by law officers).

(2) A case falls within this paragraph where, before 1st October 2024, an appeal to the higher court in question—

(a) lay as of right;

(a) 2023 c. 28.

(b) See section 21(1) of the Act for the definition of “relevant national authority”.

(c) 2018 c. 16.

(d) Section 6(7) of EU(W)A was inserted by section 6 of the Act, which is commenced by these Regulations.

- (b) lay or was referred by way of case stated;
- (c) was granted leave or permission;
- (d) was commenced by any other originating process.

24th May 2024

Kevin Hollinrake
Minister of State
Department for Business and Trade

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the second commencement regulations made under the Retained EU Law (Revocation and Reform) Act 2023 (c. 28) (“the Act”). The Regulations commence the remaining provisions of the Act as yet not commenced.

Regulation 2 brings into force section 6 (role of courts) of the Act on 1st October 2024. Section 6 of the Act makes amendments to section 6 (interpretation of assimilated law) of the European Union (Withdrawal) Act 2018 (c.16) (“EU(W)A”)

Section 6(2) of the Act consolidates the provisions of section 6 EU(W)A as modified by the European Union (Withdrawal) Act 2018 (Relevant Court) (Retained EU Case Law) Regulations 2020 (S.I. 2020/1525).

Section 6(3) of the Act substitutes a new section 6(5) of EU(W)A which establishes a new test to be applied by higher courts when considering whether to depart from assimilated EU case law. Section 6(4) of the Act inserts a new subsection (5ZA) into section 6 of EU(W)A, which establishes a new test to be applied by higher courts when considering whether to depart from assimilated domestic case law.

Section 6(8) of the Act inserts new sections 6A, 6B and 6C into EU(W)A. Section 6A EU(W)A establishes a new reference procedure enabling a lower court or tribunal, which is bound by assimilated case law, to refer a point of law concerning assimilated case law to a higher court to decide. Section 6B EU(W)A establishes a new procedure for the law officers of the UK Government and their counterparts in Scotland, Wales and Northern Ireland to refer a point of assimilated case law to a relevant higher court on a case which concluded in the lower courts. Section 6C of EU(W)A confers on law officers of the UK Government or their counterparts a right to intervene in proceedings before a higher court where departure from assimilated case law is being considered.

Regulation 3 sets out saving provisions. The new test in section 6 of EU(W)A to be applied by the higher courts when considering whether to depart from assimilated case law, and the right of the law officers to intervene under section 6C of EU(W)A do not apply to those cases specified in regulation 3(2).

A full impact assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. An impact assessment was published in relation to the Retained EU Law (Revocation and Reform) Bill which can be found at <https://www.gov.uk/government/publications/retained-eu-law-revocation-and-reform-bill-2022-impact-assessment> or a copy can be obtained from the Department for Business and Trade, Old Admiralty Place, London SW1A 2DY.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Retained EU Law (Revocation and Reform) Act 2023 have been brought into force by commencement Regulations made before the date of these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 3	1st January 2024	2023/1363
Section 4	1st January 2024	2023/1363
Section 5(3)	1st January 2024	2023/1363
Section 8	1st January 2024	2023/1363
Schedule 1	Immediately before the end of 2023	2023/1363
Schedule 2	1st January 2024	2023/1363

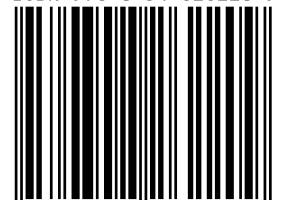
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