Draft Regulations laid before Parliament under paragraph 15(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2020 No. 000

EXITING THE EUROPEAN UNION
EUROPEAN UNION

The European Union Withdrawal (Consequential Modifications) (EU Exit) Regulations 2020

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 23(1) and (2) of, and paragraphs 21(b) and 26 of Schedule 7 to, the European Union (Withdrawal) Act 2018(**1**), and section 41(1) and (2) of the European Union (Withdrawal Agreement) Act 2020(**2**).

In accordance with paragraph 15(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the European Union Withdrawal (Consequential Modifications) (EU Exit) Regulations 2020.

(2) Regulation 1 and regulation 10 come into force immediately before IP completion day.

(3) Otherwise these Regulations come into force on IP completion day.

(4) A provision of these Regulations that amends or repeals an enactment has the same extent as the enactment amended or repealed.

(**1**) 2018 c. 16. Paragraph 21(b) of Schedule 7 was amended by paragraph 53(2)(b) of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).
(**2**) 2020 c. 1.

(5) In these Regulations, "the 2019 Regulations" means the European Union (Withdrawal) Act 2018 (Consequential Modifications and Repeals and Revocations) (EU Exit) Regulations 2019(**3**).

PART 2

Amendment of UK primary legislation

Amendment of Interpretation Act 1978

2.—(1) The Interpretation Act 1978(**4**) is amended as follows.

(2) In section 20 (references to other enactments)—

(a) in the heading after "enactments" insert "etc.",

(b) after subsection (2), insert—

"(2A) Where—

(a) an Act passed on or after IP completion day refers to any treaty relating to the EU or any instrument or other document of an EU entity, and

(b) the treaty, instrument of document has effect by virtue of section 7A or 7B of the European Union (Withdrawal) Act 2018 (general implementation of remainder of EU withdrawal agreement etc.),

the reference, unless the contrary intention appears and so far as required for the purposes of relevant separation agreement law, is a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).",

(c) in subsection (3), for "Where" substitute "Subject to subsection (2A), where",

(d) in subsection (5)—

(i) for "subsection (3) or" substitute "subsections (2A) to", and

(ii) for "that subsection" substitute "the subsection concerned",

(e) after subsection (5), insert—

"(6) In this section—

"treaty" includes any international agreement (and any protocol or annex to a treaty or international agreement).".

(3) In section 20A (references to EU instruments), in the heading, after "to" insert "certain".

(4) In section 22(1) (application to Acts and Measures)—

(a) for "20(3) to (5)" substitute "20(2A) to (6)", and

(b) for "in section 20(3)" substitute "in section 20(2A) or (3)".

(5) After paragraph 7 of Schedule 2, insert—

"**8.** The definition in Schedule 1 of "enactment", in so far as it relates to retained direct EU legislation, applies to subordinate legislation made at any time before the commencement of this Act as it applies to Acts passed at that time.".

(**3**) S.I. 2019/628.
(**4**) 1978 c. 30.

Amendment of European Union (Withdrawal) Act 2018

3.—(1) The European Union (Withdrawal) Act 2018(**5**) is amended as follows.

(2) In Schedule 8 (consequential, transitional, transitory and saving provision)—

(a) in paragraph 1—

(i) in sub-paragraph (1) for "which", where it first appears, substitute "so far as it", and

(ii) in sub-paragraph (2) for "which" substitute "so far as it",

(b) after paragraph 1, insert—

"**Existing ambulatory references to relevant separation agreement law**

1A.—(1) Any reference which, immediately before IP completion day—

(a) exists in—

(i) any enactment,

(ii) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement which is to form part of domestic law by virtue of section 3, or

(iii) any document relating to anything falling within sub-paragraph (i) or (ii), and

(b) is a reference to (as it has effect from time to time) any of the EU Treaties, any EU instrument or any other document of an EU entity,

is, if the treaty, instrument or document has effect on or after IP completion day by virtue of section 7A or 7B and so far as required for the purposes of relevant separation agreement law, to be read on or after that day as, or including, a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).

(2) In sub-paragraph (1) "treaty" includes any international agreement (and any protocol or annex to a treaty or international agreement).

(3) Sub-paragraphs (1) and (2) are subject to any other provision made by or under this Act or any other enactment."

(c) in paragraph 2—

(i) in sub-paragraph (1) for "which", where it first appears, substitute "so far as it", and

(ii) in sub-paragraph (2) for "which" substitute "so far as it".

(d) after paragraph 2, insert—

"**Existing non-ambulatory references**

2A.—(1) Any reference which, immediately before IP completion day—

(a) exists in—

(i) any enactment, or

(ii) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement which is to form part of domestic law by virtue of section 3, and

(**5**) 2018 c. 16.

(b) is a reference to any of the EU Treaties, any EU instrument or any other document of an EU entity as it has effect at a particular time which is earlier than IP completion day,

is to be read, on or after IP completion day, in accordance with one or more of sub-paragraphs (2) to (4).

(2) If the treaty, instrument or document has effect by virtue of section 7A or 7B on or after IP completion day and so far as required for the purposes of relevant separation agreement law, the reference is to be read on or after that day as, or as including, a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).

(3) So far as—

(a) the reference is a reference to—

(i) any EU regulation, EU decision or EU tertiary legislation,

(ii) any provision of the EEA agreement, or

(iii) any part of anything falling within sub-paragraph (i) or (ii),

(b) what has been referred to ("the subject law") is to form part of domestic law by virtue of section 3 or forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, and

(c) there has been no relevant modification of the subject law after the particular time and before IP completion day (or, where the subject law forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, before exit day),

the reference is to be read, on or after IP completion day, as a reference to the subject law as it forms part of domestic law by virtue of section 3 or (as the case may be) section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020.

(4) So far as the reference is not to be read in accordance with sub-paragraphs (2) and (3), the reference is to be read, on or after IP completion day, as a reference to the treaty, instrument or document as it had effect in EU law at the particular time.

(5) Sub-paragraph (3) does not determine whether, where the subject law is modified by domestic law on or after IP completion day, the reference is to be read as a reference to the subject law as modified; but, where the subject law forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020 and is modified by domestic law before IP completion day, the reference is to be read by virtue of sub-paragraph (3) as a reference to the subject law as so modified.

(6) This paragraph is subject to any provision made by or under this Act or any other enactment.

(7) In this paragraph—

"relevant modification" means any modification in EU law which—

(a) is to form part of domestic law by virtue of section 3 or forms part of domestic law by virtue of section 1 of the Direct Payments to Farmers (Legislative Continuity) Act 2020, and

(b) would, if the reference were to the subject law as modified, result in an alteration to the effect of the reference (ignoring any alteration which is irrelevant in the context concerned);

"the subject law" has the meaning given by sub-paragraph (3)(b);

"treaty" includes any international agreement (and any protocol or annex to a treaty or international agreement).".

PART 3

Amendment of the 2019 Regulations

Replacement of references to "exit day" with "IP completion day"

4. In regulation 5(2) of the 2019 Regulations, for "exit day", substitute "IP completion day".

PART 4

Scotland

Amendment of Interpretation and Legislative Reform (Scotland) Act 2010

5.—(1) The Interpretation and Legislative Reform (Scotland) Act 2010(**6**) is amended as follows.

(2) In section 1 (application of Part 1 of the Act), after subsection (1) insert—

"(1A) Subsection (1) is subject to section 14(2A) and (3)."

(3) In section 12 (references to EU instruments), in the heading, after "to" insert "certain".

(4) In section 14 (references to other legislative provisions)—

(a) after subsection (2), insert—

"(2A) Where—

(a) there is a reference in—

(i) an Act of the Scottish Parliament the Bill for which received Royal Assent on or after IP completion day, or

(ii) a Scottish instrument made on or after IP completion day,

to any treaty relating to the EU or any instrument or other document of an EU entity, and

(b) the treaty, instrument or document referred to has effect by virtue of section 7A or 7B of the European Union (Withdrawal) Act 2018 (general implementation of remainder of EU withdrawal agreement etc.),

the reference, so far as required for the purposes of relevant separation agreement law, is a reference to the treaty, instrument or document as it so has effect (including, so far as so required, as it has effect from time to time).",

(b) in subsection (3), at the beginning insert "Subject to subsection (2A),",

(**6**) 2010 asp 10. Section 14 is amended by regulation 4 of S.I. 2019/628 as amended by S.I. 2020/463. Schedule 1 is amended by S.I. 2019/628, paragraph 37 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1) and paragraph 4 of Schedule 1 to the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c. 2). There are other amendments not relevant to this instrument.