European Union (Withdrawal) Act 2018

CHAPTER 16

Explanatory Notes have been produced to assist in the understanding of this Act and are available separately

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CHAPTER 16

CONTENTS

Repeal of the ECA

1 Repeal of the European Communities Act 1972

Retention of existing EU law

2 Saving for EU-derived domestic legislation
3 Incorporation of direct EU legislation
4 Saving for rights etc. under section 2(1) of the ECA
5 Exceptions to savings and incorporation
6 Interpretation of retained EU law
7 Status of retained EU law

Main powers in connection with withdrawal

8 Dealing with deficiencies arising from withdrawal
9 Implementing the withdrawal agreement

Devolution

10 Continuation of North-South co-operation and the prevention of new border arrangements
11 Powers involving devolved authorities corresponding to sections 8 and 9
12 Retaining EU restrictions in devolution legislation etc.

Parliamentary approval of outcome of EU negotiations

13 Parliamentary approval of the outcome of negotiations with the EU

Financial and other matters

14 Financial provision
15 Publication and rules of evidence
16 Maintenance of environmental principles etc.
17 Family unity for those seeking asylum or other protection in Europe
18 Customs arrangement as part of the framework for the future relationship
19 Future interaction with the law and agencies of the EU

General and final provision

20 Interpretation
21 Index of defined expressions
22 Regulations
23 Consequential and transitional provision
24 Extent
25 Commencement and short title

Schedule 1 — Further provision about exceptions to savings and incorporation
Schedule 2 — Corresponding powers involving devolved authorities
Part 1 — Dealing with deficiencies arising from withdrawal
Part 2 — Implementing the withdrawal agreement
Schedule 3 — Further amendments of devolution legislation and reporting requirement
Part 1 — Corresponding provision in relation to executive competence
Part 2 — Reports in connection with retained EU law restrictions
Part 3 — Other amendments of devolution legislation
Schedule 4 — Powers in connection with fees and charges
Part 1 — Charging in connection with certain new functions
Part 2 — Modifying pre-exit fees or charges
Schedule 5 — Publication and rules of evidence
Part 1 — Publication of retained direct EU legislation etc.
Part 2 — Rules of evidence
Schedule 6 — Instruments which are exempt EU instruments
Schedule 7 — Regulations
Part 1 — Scrutiny of powers to deal with deficiencies
Part 2 — Scrutiny of other powers under Act
Part 3 — General provision about powers under Act
Schedule 8 — Consequential, transitional, transitory and saving provision
Part 1 — General consequential provision
Part 2 — Specific consequential provision
Part 3 — General transitional, transitory or saving provision
Part 4 — Specific transitional, transitory and saving provision
Schedule 9 — Additional repeals

European Union (Withdrawal) Act 2018

2018 CHAPTER 16

An Act to repeal the European Communities Act 1972 and make other provision in connection with the withdrawal of the United Kingdom from the EU. [26th June 2018]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Repeal of the ECA

1 Repeal of the European Communities Act 1972

The European Communities Act 1972 is repealed on exit day.

Retention of existing EU law

2 Saving for EU-derived domestic legislation

(1) EU-derived domestic legislation, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law on and after exit day.

(2) In this section "EU-derived domestic legislation" means any enactment so far as—

(a) made under section 2(2) of, or paragraph 1A of Schedule 2 to, the European Communities Act 1972,

(b) passed or made, or operating, for a purpose mentioned in section 2(2)(a) or (b) of that Act,

(c) relating to anything—

(i) which falls within paragraph (a) or (b), or

(ii) to which section 3(1) or 4(1) applies, or

(d) relating otherwise to the EU or the EEA,

but does not include any enactment contained in the European Communities Act 1972.

(3) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation).

3 Incorporation of direct EU legislation

(1) Direct EU legislation, so far as operative immediately before exit day, forms part of domestic law on and after exit day.

(2) In this Act "direct EU legislation" means—

(a) any EU regulation, EU decision or EU tertiary legislation, as it has effect in EU law immediately before exit day and so far as—

(i) it is not an exempt EU instrument (for which see section 20(1) and Schedule 6),

(ii) it is not an EU decision addressed only to a member State other than the United Kingdom, and

(iii) its effect is not reproduced in an enactment to which section 2(1) applies,

(b) any Annex to the EEA agreement, as it has effect in EU law immediately before exit day and so far as—

(i) it refers to, or contains adaptations of, anything falling within paragraph (a), and

(ii) its effect is not reproduced in an enactment to which section 2(1) applies, or

(c) Protocol 1 to the EEA agreement (which contains horizontal adaptations that apply in relation to EU instruments referred to in the Annexes to that agreement), as it has effect in EU law immediately before exit day.

(3) For the purposes of this Act, any direct EU legislation is operative immediately before exit day if—

(a) in the case of anything which comes into force at a particular time and is stated to apply from a later time, it is in force and applies immediately before exit day,

(b) in the case of a decision which specifies to whom it is addressed, it has been notified to that person before exit day, and

(c) in any other case, it is in force immediately before exit day.

(4) This section—

(a) brings into domestic law any direct EU legislation only in the form of the English language version of that legislation, and

(b) does not apply to any such legislation for which there is no such version,

but paragraph (a) does not affect the use of the other language versions of that legislation for the purposes of interpreting it.

(5) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation).

4 Saving for rights etc. under section 2(1) of the ECA

(1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which, immediately before exit day—
   (a) are recognised and available in domestic law by virtue of section 2(1) of the European Communities Act 1972, and
   (b) are enforced, allowed and followed accordingly,

   continue on and after exit day to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly).

(2) Subsection (1) does not apply to any rights, powers, liabilities, obligations, restrictions, remedies or procedures so far as they—
   (a) form part of domestic law by virtue of section 3, or
   (b) arise under an EU directive (including as applied by the EEA agreement) and are not of a kind recognised by the European Court or any court or tribunal in the United Kingdom in a case decided before exit day (whether or not as an essential part of the decision in the case).

(3) This section is subject to section 5 and Schedule 1 (exceptions to savings and incorporation).

5 Exceptions to savings and incorporation

(1) The principle of the supremacy of EU law does not apply to any enactment or rule of law passed or made on or after exit day.

(2) Accordingly, the principle of the supremacy of EU law continues to apply on or after exit day so far as relevant to the interpretation, disapplication or quashing of any enactment or rule of law passed or made before exit day.

(3) Subsection (1) does not prevent the principle of the supremacy of EU law from applying to a modification made on or after exit day of any enactment or rule of law passed or made before exit day if the application of the principle is consistent with the intention of the modification.

(4) The Charter of Fundamental Rights is not part of domestic law on or after exit day.

(5) Subsection (4) does not affect the retention in domestic law on or after exit day in accordance with this Act of any fundamental rights or principles which exist irrespective of the Charter (and references to the Charter in any case law are, so far as necessary for this purpose, to be read as if they were references to any corresponding retained fundamental rights or principles).

(6) Schedule 1 (which makes further provision about exceptions to savings and incorporation) has effect.

6 Interpretation of retained EU law

(1) A court or tribunal—
   (a) is not bound by any principles laid down, or any decisions made, on or after exit day by the European Court, and
   (b) cannot refer any matter to the European Court on or after exit day.

(2) Subject to this and subsections (3) to (6), a court or tribunal may have regard to anything done on or after exit day by the European Court, another EU entity or the EU so far as it is relevant to any matter before the court or tribunal.

(3) Any question as to the validity, meaning or effect of any retained EU law is to be decided, so far as that law is unmodified on or after exit day and so far as they are relevant to it—

(a) in accordance with any retained case law and any retained general principles of EU law, and

(b) having regard (among other things) to the limits, immediately before exit day, of EU competences.

(4) But—

(a) the Supreme Court is not bound by any retained EU case law,

(b) the High Court of Justiciary is not bound by any retained EU case law when—

(i) sitting as a court of appeal otherwise than in relation to a compatibility issue (within the meaning given by section 288ZA(2) of the Criminal Procedure (Scotland) Act 1995) or a devolution issue (within the meaning given by paragraph 1 of Schedule 6 to the Scotland Act 1998), or

(ii) sitting on a reference under section 123(1) of the Criminal Procedure (Scotland) Act 1995, and

(c) no court or tribunal is bound by any retained domestic case law that it would not otherwise be bound by.

(5) In deciding whether to depart from any retained EU case law, the Supreme Court or the High Court of Justiciary must apply the same test as it would apply in deciding whether to depart from its own case law.

(6) Subsection (3) does not prevent the validity, meaning or effect of any retained EU law which has been modified on or after exit day from being decided as provided for in that subsection if doing so is consistent with the intention of the modifications.

(7) In this Act—

"retained case law" means—

(a) retained domestic case law, and

(b) retained EU case law;

"retained domestic case law" means any principles laid down by, and any decisions of, a court or tribunal in the United Kingdom, as they have effect immediately before exit day and so far as they—

(a) relate to anything to which section 2, 3 or 4 applies, and

(b) are not excluded by section 5 or Schedule 1,

(as those principles and decisions are modified by or under this Act or by other domestic law from time to time);

"retained EU case law" means any principles laid down by, and any decisions of, the European Court, as they have effect in EU law immediately before exit day and so far as they—

(a) relate to anything to which section 2, 3 or 4 applies, and

(b) are not excluded by section 5 or Schedule 1,

(as those principles and decisions are modified by or under this Act or by other domestic law from time to time);

"retained EU law" means anything which, on or after exit day, continues to be, or forms part of, domestic law by virtue of section 2, 3 or 4 or subsection (3) or (6) above (as that body of law is added to or otherwise

modified by or under this Act or by other domestic law from time to time);

"retained general principles of EU law" means the general principles of EU law, as they have effect in EU law immediately before exit day and so far as they—

(a) relate to anything to which section 2, 3 or 4 applies, and

(b) are not excluded by section 5 or Schedule 1,

(as those principles are modified by or under this Act or by other domestic law from time to time).

7 Status of retained EU law

(1) Anything which—

(a) was, immediately before exit day, primary legislation of a particular kind, subordinate legislation of a particular kind or another enactment of a particular kind, and

(b) continues to be domestic law on and after exit day by virtue of section 2,

continues to be domestic law as an enactment of the same kind.

(2) Retained direct principal EU legislation cannot be modified by any primary or subordinate legislation other than—

(a) an Act of Parliament,

(b) any other primary legislation (so far as it has the power to make such a modification), or

(c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—

(i) paragraph 3, 5(3)(a) or (4)(a), 8(3), 10(3)(a) or (4)(a), 11(2)(a) or 12(3) of Schedule 8,

(ii) any other provision made by or under this Act,

(iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or

(iv) any provision made on or after the passing of this Act by or under primary legislation.

(3) Retained direct minor EU legislation cannot be modified by any primary or subordinate legislation other than—

(a) an Act of Parliament,

(b) any other primary legislation (so far as it has the power to make such a modification), or

(c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—

(i) paragraph 3, 5(2) or (4)(a), 8(3), 10(2) or (4)(a) or 12(3) of Schedule 8,

(ii) any other provision made by or under this Act,

(iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or

(iv) any provision made on or after the passing of this Act by or under primary legislation.

(4) Anything which is retained EU law by virtue of section 4 cannot be modified by any primary or subordinate legislation other than—

(a) an Act of Parliament,

(b) any other primary legislation (so far as it has the power to make such a modification), or

(c) any subordinate legislation so far as it is made under a power which permits such a modification by virtue of—

(i) paragraph 3, 5(3)(b) or (4)(b), 8(3), 10(3)(b) or (4)(b), 11(2)(b) or 12(3) of Schedule 8,

(ii) any other provision made by or under this Act,

(iii) any provision made by or under an Act of Parliament passed before, and in the same Session as, this Act, or

(iv) any provision made on or after the passing of this Act by or under primary legislation.

(5) For other provisions about the status of retained EU law, see—

(a) section 5(1) to (3) (status of retained EU law in relation to other enactments or rules of law),

(b) section 6 (status of retained case law and retained general principles of EU law),

(c) section 15(2) and Part 2 of Schedule 5 (status of retained EU law for the purposes of the rules of evidence),

(d) paragraphs 13 to 16 of Schedule 8 (affirmative and enhanced scrutiny procedure for, and information about, instruments which amend or revoke subordinate legislation under section 2(2) of the European Communities Act 1972 including subordinate legislation implementing EU directives),

(e) paragraphs 19 and 20 of that Schedule (status of certain retained direct EU legislation for the purposes of the Interpretation Act 1978), and

(f) paragraph 30 of that Schedule (status of retained direct EU legislation for the purposes of the Human Rights Act 1998).

(6) In this Act—

"retained direct minor EU legislation" means any retained direct EU legislation which is not retained direct principal EU legislation;

"retained direct principal EU legislation" means—

(a) any EU regulation so far as it—

(i) forms part of domestic law on and after exit day by virtue of section 3, and

(ii) was not EU tertiary legislation immediately before exit day, or

(b) any Annex to the EEA agreement so far as it—

(i) forms part of domestic law on and after exit day by virtue of section 3, and

(ii) refers to, or contains adaptations of, any EU regulation so far as it falls within paragraph (a),

(as modified by or under this Act or by other domestic law from time to time).

Main powers in connection with withdrawal

8 Dealing with deficiencies arising from withdrawal

(1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate to prevent, remedy or mitigate—

(a) any failure of retained EU law to operate effectively, or

(b) any other deficiency in retained EU law,

arising from the withdrawal of the United Kingdom from the EU.

(2) Deficiencies in retained EU law are where the Minister considers that retained EU law—

(a) contains anything which has no practical application in relation to the United Kingdom or any part of it or is otherwise redundant or substantially redundant,

(b) confers functions on, or in relation to, EU entities which no longer have functions in that respect under EU law in relation to the United Kingdom or any part of it,

(c) makes provision for, or in connection with, reciprocal arrangements between—

(i) the United Kingdom or any part of it or a public authority in the United Kingdom, and

(ii) the EU, an EU entity, a member State or a public authority in a member State,

which no longer exist or are no longer appropriate,

(d) makes provision for, or in connection with, other arrangements which—

(i) involve the EU, an EU entity, a member State or a public authority in a member State, or

(ii) are otherwise dependent upon the United Kingdom's membership of the EU,

and which no longer exist or are no longer appropriate,

(e) makes provision for, or in connection with, any reciprocal or other arrangements not falling within paragraph (c) or (d) which no longer exist, or are no longer appropriate, as a result of the United Kingdom ceasing to be a party to any of the EU Treaties,

(f) does not contain any functions or restrictions which—

(i) were in an EU directive and in force immediately before exit day (including any power to make EU tertiary legislation), and

(ii) it is appropriate to retain, or

(g) contains EU references which are no longer appropriate.

(3) There is also a deficiency in retained EU law where the Minister considers that there is—

(a) anything in retained EU law which is of a similar kind to any deficiency which falls within subsection (2), or

(b) a deficiency in retained EU law of a kind described, or provided for, in regulations made by a Minister of the Crown.

(4) But retained EU law is not deficient merely because it does not contain any modification of EU law which is adopted or notified, comes into force or only applies on or after exit day.

(5) Regulations under subsection (1) may make any provision that could be made by an Act of Parliament.

(6) Regulations under subsection (1) may (among other things) provide for functions of EU entities or public authorities in member States (including making an instrument of a legislative character or providing funding) to be—

(a) exercisable instead by a public authority (whether or not established for the purpose) in the United Kingdom, or
(b) replaced, abolished or otherwise modified.

(7) But regulations under subsection (1) may not—
(a) impose or increase taxation or fees,
(b) make retrospective provision,
(c) create a relevant criminal offence,
(d) establish a public authority,
(e) be made to implement the withdrawal agreement,
(f) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it, or
(g) amend or repeal the Scotland Act 1998, the Government of Wales Act 2006 or the Northern Ireland Act 1998 (unless the regulations are made by virtue of paragraph 21(b) of Schedule 7 to this Act or are amending or repealing any provision of those Acts which modifies another enactment).

(8) No regulations may be made under this section after the end of the period of two years beginning with exit day.

(9) The reference in subsection (1) to a failure or other deficiency arising from the withdrawal of the United Kingdom from the EU includes a reference to any failure or other deficiency arising from that withdrawal taken together with the operation of any provision, or the interaction between any provisions, made by or under this Act.

9 Implementing the withdrawal agreement

(1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate for the purposes of implementing the withdrawal agreement if the Minister considers that such provision should be in force on or before exit day, subject to the prior enactment of a statute by Parliament approving the final terms of withdrawal of the United Kingdom from the EU.

(2) Regulations under this section may make any provision that could be made by an Act of Parliament.

(3) But regulations under this section may not—
(a) impose or increase taxation or fees,
(b) make retrospective provision,
(c) create a relevant criminal offence,
(d) establish a public authority, or
(e) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it.

(4) No regulations may be made under this section after exit day.

Devolution

10 Continuation of North-South co-operation and the prevention of new border arrangements

(1) In exercising any of the powers under this Act, a Minister of the Crown or devolved authority must—

(a) act in a way that is compatible with the terms of the Northern Ireland Act 1998, and

(b) have due regard to the joint report from the negotiators of the EU and the United Kingdom Government on progress during phase 1 of negotiations under Article 50 of the Treaty on European Union.

(2) Nothing in section 8, 9 or 23(1) or (6) of this Act authorises regulations which—

(a) diminish any form of North-South cooperation provided for by the Belfast Agreement (as defined by section 98 of the Northern Ireland Act 1998), or

(b) create or facilitate border arrangements between Northern Ireland and the Republic of Ireland after exit day which feature physical infrastructure, including border posts, or checks and controls, that did not exist before exit day and are not in accordance with an agreement between the United Kingdom and the EU.

11 Powers involving devolved authorities corresponding to sections 8 and 9

Schedule 2 (which confers powers to make regulations involving devolved authorities which correspond to the powers conferred by sections 8 and 9) has effect.

12 Retaining EU restrictions in devolution legislation etc.

(1) In section 29(2)(d) of the Scotland Act 1998 (no competence for the Scottish Parliament to legislate incompatibly with EU law) for "with EU law" substitute "in breach of the restriction in section 30A(1)".

(2) After section 30 of that Act (legislative competence: supplementary) insert—

"30A Legislative competence: restriction relating to retained EU law

(1) An Act of the Scottish Parliament cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.

(2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the legislative competence of the Parliament.

(3) A Minister of the Crown must not lay for approval before each House of the Parliament of the United Kingdom a draft of a statutory instrument containing regulations under this section unless—

(a) the Scottish Parliament has made a consent decision in relation to the laying of the draft, or

(b) the 40 day period has ended without the Parliament having made such a decision.

(4) For the purposes of subsection (3) a consent decision is—

(a) a decision to agree a motion consenting to the laying of the draft,

(b) a decision not to agree a motion consenting to the laying of the draft, or

(c) a decision to agree a motion refusing to consent to the laying of the draft;

and a consent decision is made when the Parliament first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).

(5) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must—

(a) provide a copy of the draft to the Scottish Ministers, and

(b) inform the Presiding Officer that a copy has been so provided.

(6) See also paragraph 6 of Schedule 7 (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Parliament).

(7) No regulations may be made under this section after the end of the period of two years beginning with exit day.

(8) Subsection (7) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.

(9) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Scottish Parliament which receives Royal Assent after the end of that period.

(10) Subsections (3) to (8) do not apply in relation to regulations which only relate to a revocation of a specification.

(11) In this section—

"the 40 day period" means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Scottish Ministers,

and, in calculating that period, no account is to be taken of any time during which the Parliament is dissolved or during which it is in recess for more than four days."

(3) In section 108A(2)(e) of the Government of Wales Act 2006 (no competence for the National Assembly for Wales to legislate incompatibly with EU law) for "with EU law" substitute "in breach of the restriction in section 109A(1)".

(4) After section 109 of that Act (legislative competence: supplementary) insert—

"109A Legislative competence: restriction relating to retained EU law

(1) An Act of the Assembly cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.

(2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the Assembly's legislative competence.

(3) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

(4) A Minister of the Crown must not lay a draft as mentioned in subsection (3) unless—

(a) the Assembly has made a consent decision in relation to the laying of the draft, or

(b) the 40 day period has ended without the Assembly having made such a decision.

(5) For the purposes of subsection (4) a consent decision is—

(a) a decision to agree a motion consenting to the laying of the draft,

(b) a decision not to agree a motion consenting to the laying of the draft, or

(c) a decision to agree a motion refusing to consent to the laying of the draft;

and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).

(6) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must—

(a) provide a copy of the draft to the Welsh Ministers, and

(b) inform the Presiding Officer that a copy has been so provided.

(7) See also section 157ZA (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Assembly).

(8) No regulations may be made under this section after the end of the period of two years beginning with exit day.

(9) Subsection (8) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.

(10) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Assembly which receives Royal Assent after the end of that period.

(11) Subsections (4) to (9) do not apply in relation to regulations which only relate to a revocation of a specification.

(12) In this section—

"the 40 day period" means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Welsh Ministers,

and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days."

(5) In section 6(2)(d) of the Northern Ireland Act 1998 (no competence for the Northern Ireland Assembly to legislate incompatibly with EU law) for "incompatible with EU law" substitute "in breach of the restriction in section 6A(1)".

(6) After section 6 of that Act (legislative competence) insert—

"6A Restriction relating to retained EU law

(1) An Act of the Assembly cannot modify, or confer power by subordinate legislation to modify, retained EU law so far as the modification is of a description specified in regulations made by a Minister of the Crown.

(2) But subsection (1) does not apply to any modification so far as it would, immediately before exit day, have been within the legislative competence of the Assembly.

(3) A Minister of the Crown must not lay for approval before each House of Parliament a draft of a statutory instrument containing regulations under this section unless—

(a) the Assembly has made a consent decision in relation to the laying of the draft, or

(b) the 40 day period has ended without the Assembly having made such a decision.

(4) For the purposes of subsection (3) a consent decision is—

(a) a decision to agree a motion consenting to the laying of the draft,

(b) a decision not to agree a motion consenting to the laying of the draft, or

(c) a decision to agree a motion refusing to consent to the laying of the draft;

and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).

(5) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (3) must—

(a) provide a copy of the draft to the relevant Northern Ireland department, and

(b) inform the Presiding Officer that a copy has been so provided.

(6) See also section 96A (duty to make explanatory statement about regulations under this section including a duty to explain any decision to lay a draft without the consent of the Assembly).

(7) No regulations may be made under this section after the end of the period of two years beginning with exit day.

(8) Subsection (7) does not affect the continuation in force of regulations made under this section at or before the end of the period mentioned in that subsection.

(9) Any regulations under this section which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to any Act of the Assembly which receives Royal Assent after the end of that period.

(10) Subsections (3) to (8) do not apply in relation to regulations which only relate to a revocation of a specification.

(11) Regulations under this section may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Minister of the Crown making them considers appropriate.

(12) In this section—

"the relevant Northern Ireland department" means such Northern Ireland department as the Minister of the Crown concerned considers appropriate;

"the 40 day period" means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the relevant Northern Ireland department,

and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days."

(7) Part 1 of Schedule 3 (which makes corresponding provision in relation to executive competence to that made by subsections (1) to (6) in relation to legislative competence) has effect.

(8) Part 2 of Schedule 3 (which imposes reporting obligations on a Minister of the Crown in recognition of the fact that the powers to make regulations conferred by subsections (1) to (6) and Part 1 of Schedule 3, and any restrictions arising by virtue of them, are intended to be temporary) has effect.

(9) A Minister of the Crown may by regulations—

(a) repeal any of the following provisions—

(i) section 30A or 57(4) to (15) of the Scotland Act 1998,

(ii) section 80(8) to (8L) or 109A of the Government of Wales Act 2006, or

(iii) section 6A or 24(3) to (15) of the Northern Ireland Act 1998, or

(b) modify any enactment in consequence of any such repeal.

(10) Until all of the provisions mentioned in subsection (9)(a) have been repealed, a Minister of the Crown must, after the end of each review period, consider whether it is appropriate—

(a) to repeal each of those provisions so far as it has not been repealed, or

(b) to revoke any regulations made under any of those provisions so far as they have not been revoked.

(11) In considering whether to exercise the power to make regulations under subsection (9), a Minister of the Crown must have regard (among other things) to—

(a) the fact that the powers to make regulations conferred by the provisions mentioned in subsection (9)(a), and any restrictions arising by virtue of them, are intended to be temporary and, where appropriate, replaced with other arrangements, and

(b) any progress which has been made in implementing those other arrangements.

(12) Part 3 of Schedule 3 (which contains amendments of devolution legislation not dealt with elsewhere) has effect.

(13) In this section—

"arrangement" means any enactment or other arrangement (whether or not legally enforceable);

"review period" means—

(a) the period of three months beginning with the day on which subsection (10) comes into force, and

(b) after that, each successive period of three months.

Parliamentary approval of outcome of EU negotiations

13 Parliamentary approval of the outcome of negotiations with the EU

(1) The withdrawal agreement may be ratified only if—

(a) a Minister of the Crown has laid before each House of Parliament—

(i) a statement that political agreement has been reached,

(ii) a copy of the negotiated withdrawal agreement, and

(iii) a copy of the framework for the future relationship,

(b) the negotiated withdrawal agreement and the framework for the future relationship have been approved by a resolution of the House of Commons on a motion moved by a Minister of the Crown,

(c) a motion for the House of Lords to take note of the negotiated withdrawal agreement and the framework for the future relationship has been tabled in the House of Lords by a Minister of the Crown and—

(i) the House of Lords has debated the motion, or

(ii) the House of Lords has not concluded a debate on the motion before the end of the period of five Lords sitting days beginning with the first Lords sitting day after the day on which the House of Commons passes the resolution mentioned in paragraph (b), and

(d) an Act of Parliament has been passed which contains provision for the implementation of the withdrawal agreement.

(2) So far as practicable, a Minister of the Crown must make arrangements for the motion mentioned in subsection (1)(b) to be debated and voted on by the House of Commons before the European Parliament decides whether it consents to the withdrawal agreement being concluded on behalf of the EU in accordance with Article 50(2) of the Treaty on European Union.

(3) Subsection (4) applies if the House of Commons decides not to pass the resolution mentioned in subsection (1)(b).

(4) A Minister of the Crown must, within the period of 21 days beginning with the day on which the House of Commons decides not to pass the resolution, make a statement setting out how Her Majesty's Government proposes to proceed in relation to negotiations for the United Kingdom's withdrawal from the EU under Article 50(2) of the Treaty on European Union.

(5) A statement under subsection (4) must be made in writing and be published in such manner as the Minister making it considers appropriate.

(6) A Minister of the Crown must make arrangements for—

(a) a motion in neutral terms, to the effect that the House of Commons has considered the matter of the statement mentioned in subsection (4), to be moved in that House by a Minister of the Crown within the period

of seven Commons sitting days beginning with the day on which the statement is made, and

(b) a motion for the House of Lords to take note of the statement to be moved in that House by a Minister of the Crown within the period of seven Lords sitting days beginning with the day on which the statement is made.

(7) Subsection (8) applies if the Prime Minister makes a statement before the end of 21 January 2019 that no agreement in principle can be reached in negotiations under Article 50(2) of the Treaty on European Union on the substance of—

(a) the arrangements for the United Kingdom's withdrawal from the EU, and

(b) the framework for the future relationship between the EU and the United Kingdom after withdrawal.

(8) A Minister of the Crown must, within the period of 14 days beginning with the day on which the statement mentioned in subsection (7) is made—

(a) make a statement setting out how Her Majesty's Government proposes to proceed, and

(b) make arrangements for—

(i) a motion in neutral terms, to the effect that the House of Commons has considered the matter of the statement mentioned in paragraph (a), to be moved in that House by a Minister of the Crown within the period of seven Commons sitting days beginning with the day on which the statement mentioned in paragraph (a) is made, and

(ii) a motion for the House of Lords to take note of the statement mentioned in paragraph (a) to be moved in that House by a Minister of the Crown within the period of seven Lords sitting days beginning with the day on which the statement mentioned in paragraph (a) is made.

(9) A statement under subsection (7) or (8)(a) must be made in writing and be published in such manner as the Minister making it considers appropriate.

(10) Subsection (11) applies if, at the end of 21 January 2019, there is no agreement in principle in negotiations under Article 50(2) of the Treaty on European Union on the substance of—

(a) the arrangements for the United Kingdom's withdrawal from the EU, and

(b) the framework for the future relationship between the EU and the United Kingdom after withdrawal.

(11) A Minister of the Crown must, within the period of five days beginning with the end of 21 January 2019—

(a) make a statement setting out how Her Majesty's Government proposes to proceed, and

(b) make arrangements for—

(i) a motion in neutral terms, to the effect that the House of Commons has considered the matter of the statement mentioned in paragraph (a), to be moved in that House by a Minister of the Crown within the period of five Commons sitting days beginning with the end of 21 January 2019, and

(ii) a motion for the House of Lords to take note of the statement mentioned in paragraph (a) to be moved in that House by a Minister of the Crown within the period of five Lords sitting days beginning with the end of 21 January 2019.

(12) A statement under subsection (11)(a) must be made in writing and be published in such manner as the Minister making it considers appropriate

(13) For the purposes of this section—

(a) a statement made under subsection (4), (8)(a) or (11)(a) may be combined with a statement made under another of those provisions,

(b) a motion falling within subsection (6)(a), (8)(b)(i) or (11)(b)(i) may be combined into a single motion with another motion falling within another of those provisions, and

(c) a motion falling within subsection (6)(b), (8)(b)(ii) or (11)(b)(ii) may be combined into a single motion with another motion falling within another of those provisions.

(14) This section does not affect the operation of Part 2 of the Constitutional Reform and Governance Act 2010 (ratification of treaties) in relation to the withdrawal agreement.

(15) In subsection (1) "framework for the future relationship" means the document or documents identified, by the statement that political agreement has been reached, as reflecting the agreement in principle on the substance of the framework for the future relationship between the EU and the United Kingdom after withdrawal.

(16) In this section—

"Commons sitting day" means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day);

"Lords sitting day" means a day on which the House of Lords is sitting (and a day is only a day on which the House of Lords is sitting if the House begins to sit on that day);

"negotiated withdrawal agreement" means the draft of the withdrawal agreement identified by the statement that political agreement has been reached;

"ratified", in relation to the withdrawal agreement, has the same meaning as it does for the purposes of Part 2 of the Constitutional Reform and Governance Act 2010 in relation to a treaty (see section 25 of that Act);

"statement that political agreement has been reached" means a statement made in writing by a Minister of the Crown which—

(a) states that, in the Minister's opinion, an agreement in principle has been reached in negotiations under Article 50(2) of the Treaty on European Union on the substance of—

(i) the arrangements for the United Kingdom's withdrawal from the EU, and

(ii) the framework for the future relationship between the EU and the United Kingdom after withdrawal,

(b) identifies a draft of the withdrawal agreement which, in the Minister's opinion, reflects the agreement in principle so far as relating to the arrangements for withdrawal, and

(c) identifies one or more documents which, in the Minister's opinion, reflect the agreement in principle so far as relating to the framework.

Financial and other matters

14 Financial provision

(1) Schedule 4 (which contains powers in connection with fees and charges) has effect.

(2) A Minister of the Crown, government department or devolved authority may incur expenditure, for the purpose of, or in connection with, preparing for anything about which provision may be made under a power to make subordinate legislation conferred or modified by or under this Act, before any such provision is made.

(3) There is to be paid out of money provided by Parliament—
   (a) any expenditure incurred by a Minister of the Crown, government department or other public authority by virtue of this Act, and
   (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.

(4) Subsection (3) is subject to any other provision made by or under this Act or any other enactment.

15 Publication and rules of evidence

(1) Part 1 of Schedule 5 (which makes provision for the publication by the Queen's Printer of copies of retained direct EU legislation and related information) has effect.

(2) Part 2 of Schedule 5 (which makes provision about rules of evidence) has effect.

16 Maintenance of environmental principles etc.

(1) The Secretary of State must, within the period of six months beginning with the day on which this Act is passed, publish a draft Bill consisting of—
   (a) a set of environmental principles,
   (b) a duty on the Secretary of State to publish a statement of policy in relation to the application and interpretation of those principles in connection with the making and development of policies by Ministers of the Crown,
   (c) a duty which ensures that Ministers of the Crown must have regard, in circumstances provided for by or under the Bill, to the statement mentioned in paragraph (b),
   (d) provisions for the establishment of a public authority with functions for taking, in circumstances provided for by or under the Bill, proportionate enforcement action (including legal proceedings if necessary) where the authority considers that a Minister of the Crown is not complying with environmental law (as it is defined in the Bill), and
   (e) such other provisions as the Secretary of State considers appropriate.

(2) The set of environmental principles mentioned in subsection (1)(a) must (however worded) consist of—
  (a) the precautionary principle so far as relating to the environment,
  (b) the principle of preventative action to avert environmental damage,
  (c) the principle that environmental damage should as a priority be rectified at source,
  (d) the polluter pays principle,
  (e) the principle of sustainable development,
  (f) the principle that environmental protection requirements must be integrated into the definition and implementation of policies and activities,
  (g) public access to environmental information,
  (h) public participation in environmental decision-making, and
  (i) access to justice in relation to environmental matters.

17 Family unity for those seeking asylum or other protection in Europe

(1) A Minister of the Crown must seek to negotiate, on behalf of the United Kingdom, an agreement with the EU under which, after the United Kingdom's withdrawal from the EU, in accordance with the agreement—
  (a) an unaccompanied child who has made an application for international protection to a member State may, if it is in the child's best interests, come to the United Kingdom to join a relative who—
    (i) is a lawful resident of the United Kingdom, or
    (ii) has made a protection claim which has not been decided, and
  (b) an unaccompanied child in the United Kingdom, who has made a protection claim, may go to a member State to join a relative there, in equivalent circumstances.

(2) For the purposes of subsection (1)(a)(i) a person is not a lawful resident of the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.

(3) For the purposes of subsection (1)(a)(ii), a protection claim is decided—
  (a) when the Secretary of State notifies the claimant of the Secretary of State's decision on the claim, unless the claimant appeals against the decision, or
  (b) if the claimant appeals against the Secretary of State's decision on the claim, when the appeal is disposed of.

(4) In this section—
  "application for international protection" has the meaning given by Article 2(h) of Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted;
  "protection claim" has the same meaning as in Part 5 of the Nationality, Immigration and Asylum Act 2002 (see section 82(2) of that Act);
  "relative", in relation to an unaccompanied child, means—
    (a) a spouse or civil partner of the child or any person with whom the child has a durable relationship that is similar to marriage or civil partnership, or

(b) a parent, grandparent, uncle, aunt, brother or sister of the child;

"unaccompanied child" means a person under the age of 18 ("the child") who is not in the care of a person who—

(a) is aged 18 or over, and

(b) by law or custom of the country or territory in which the child is present, has responsibility for caring for the child.

18 Customs arrangement as part of the framework for the future relationship

(1) A Minister of the Crown must lay before each House of Parliament a statement in writing outlining the steps taken by Her Majesty's Government, in negotiations under Article 50(2) of the Treaty on European Union, to seek to negotiate an agreement, as part of the framework for the United Kingdom's future relationship with the EU, for the United Kingdom to participate in a customs arrangement with the EU.

(2) The statement under subsection (1) must be laid before both Houses of Parliament before the end of 31 October 2018.

19 Future interaction with the law and agencies of the EU

Nothing in this Act shall prevent the United Kingdom from—

(a) replicating in domestic law any EU law made on or after exit day, or

(b) continuing to participate in, or have a formal relationship with, the agencies of the EU after exit day.

General and final provision

20 Interpretation

(1) In this Act—

"Charter of Fundamental Rights" means the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg on 12 December 2007;

"devolved authority" means—

(a) the Scottish Ministers,

(b) the Welsh Ministers, or

(c) a Northern Ireland department;

"domestic law" means—

(a) in section 3, the law of England and Wales, Scotland and Northern Ireland, and

(b) in any other case, the law of England and Wales, Scotland or Northern Ireland;

"the EEA" means the European Economic Area;

"enactment" means an enactment whenever passed or made and includes—

(a) an enactment contained in any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made under an Act,

(b) an enactment contained in any Order in Council made in exercise of Her Majesty's Prerogative,

(c) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,

(d) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales,

(e) an enactment contained in, or in an instrument made under, Northern Ireland legislation,

(f) an enactment contained in any instrument made by a member of the Scottish Government, the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government, a Northern Ireland Minister, the First Minister in Northern Ireland, the deputy First Minister in Northern Ireland or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty,

(g) an enactment contained in, or in an instrument made under, a Measure of the Church Assembly or of the General Synod of the Church of England, and

(h) except in sections 2 and 7 or where there is otherwise a contrary intention, any retained direct EU legislation;

"EU decision" means—

(a) a decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union, or

(b) a decision under former Article 34(2)(c) of the Treaty on European Union;

"EU directive" means a directive within the meaning of Article 288 of the Treaty on the Functioning of the European Union;

"EU entity" means an EU institution or any office, body or agency of the EU;

"EU reference" means—

(a) any reference to the EU, an EU entity or a member State,

(b) any reference to an EU directive or any other EU law, or

(c) any other reference which relates to the EU;

"EU regulation" means a regulation within the meaning of Article 288 of the Treaty on the Functioning of the European Union;

"EU tertiary legislation" means—

(a) any provision made under—

(i) an EU regulation,

(ii) a decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union, or

(iii) an EU directive,

by virtue of Article 290 or 291(2) of the Treaty on the Functioning of the European Union or former Article 202 of the Treaty establishing the European Community, or

(b) any measure adopted in accordance with former Article 34(2)(c) of the Treaty on European Union to implement decisions under former Article 34(2)(c),

but does not include any such provision or measure which is an EU directive;

"exempt EU instrument" means anything which is an exempt EU instrument by virtue of Schedule 6;

"exit day" means 29 March 2019 at 11.00 p.m. (and see subsections (2) to (5));

"member State" (except in the definitions of "direct EU legislation" and "EU reference") does not include the United Kingdom;

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975 and also includes the Commissioners for Her Majesty's Revenue and Customs;

"modify" includes amend, repeal or revoke (and related expressions are to be read accordingly);

"Northern Ireland devolved authority" means the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department;

"primary legislation" means—

(a) an Act of Parliament,

(b) an Act of the Scottish Parliament,

(c) a Measure or Act of the National Assembly for Wales, or

(d) Northern Ireland legislation;

"public authority" means a public authority within the meaning of section 6 of the Human Rights Act 1998;

"relevant criminal offence" means an offence for which an individual who has reached the age of 18 (or, in relation to Scotland or Northern Ireland, 21) is capable of being sentenced to imprisonment for a term of more than 2 years (ignoring any enactment prohibiting or restricting the imprisonment of individuals who have no previous convictions);

"retained direct EU legislation" means any direct EU legislation which forms part of domestic law by virtue of section 3 (as modified by or under this Act or by other domestic law from time to time, and including any instruments made under it on or after exit day);

"retrospective provision", in relation to provision made by regulations, means provision taking effect from a date earlier than the date on which the regulations are made;

"subordinate legislation" means—

(a) any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made under any Act, or

(b) any instrument made under an Act of the Scottish Parliament, Northern Ireland legislation or a Measure or Act of the National Assembly for Wales,

and (except in section 7 or Schedule 2 or where there is a contrary intention) includes any Order in Council, order, rules, regulations, scheme, warrant, byelaw or other instrument made on or after exit day under any retained direct EU legislation;

"tribunal" means any tribunal in which legal proceedings may be brought;

"Wales" and "Welsh zone" have the same meaning as in the Government of Wales Act 2006 (see section 158 of that Act);

"withdrawal agreement" means an agreement (whether or not ratified) between the United Kingdom and the EU under Article 50(2) of the Treaty on European Union which sets out the arrangements for the United Kingdom's withdrawal from the EU.

(2) In this Act references to before, after or on exit day, or to beginning with exit day, are to be read as references to before, after or at 11.00 p.m. on 29 March 2019 or (as the case may be) to beginning with 11.00 p.m. on that day.

(3) Subsection (4) applies if the day or time on or at which the Treaties are to cease to apply to the United Kingdom in accordance with Article 50(3) of the Treaty on European Union is different from that specified in the definition of "exit day" in subsection (1).

(4) A Minister of the Crown may by regulations—

(a) amend the definition of "exit day" in subsection (1) to ensure that the day and time specified in the definition are the day and time that the Treaties are to cease to apply to the United Kingdom, and

(b) amend subsection (2) in consequence of any such amendment.

(5) In subsections (3) and (4) "the Treaties" means the Treaty on European Union and the Treaty on the Functioning of the European Union.

(6) In this Act references to anything which continues to be domestic law by virtue of section 2 include references to anything to which subsection (1) of that section applies which continues to be domestic law on or after exit day (whether or not it would have done so irrespective of that section).

(7) In this Act references to anything which is retained EU law by virtue of section 4 include references to any modifications, made by or under this Act or by other domestic law from time to time, of the rights, powers, liabilities, obligations, restrictions, remedies or procedures concerned.

(8) References in this Act (however expressed) to a public authority in the United Kingdom include references to a public authority in any part of the United Kingdom.

(9) References in this Act to former Article 34(2)(c) of the Treaty on European Union are references to that Article as it had effect at any time before the coming into force of the Treaty of Lisbon.

(10) Any other reference in this Act to—

(a) an Article of the Treaty on European Union or the Treaty on the Functioning of the European Union, or

(b) Article 10 of Title VII of Protocol 36 to those treaties,

includes a reference to that Article as applied by Article 106a of the Euratom Treaty.

21 Index of defined expressions

(1) In this Act, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

Expression	*Provision*
Anything which continues to be domestic law by virtue of section 2	Section 20(6)
Anything which is retained EU law by virtue of section 4	Section 20(7)

Expression	*Provision*
Article (in relation to the Treaty on European Union or the Treaty on the Functioning of the European Union)	Section 20(10)
Charter of Fundamental Rights	Section 20(1)
Devolved authority	Section 20(1)
Direct EU legislation	Section 3(2)
Domestic law	Section 20(1)
The EEA	Section 20(1)
EEA agreement	Schedule 1 to the Interpretation Act 1978
Enactment	Section 20(1)
The EU	Schedule 1 to the Interpretation Act 1978
EU decision	Section 20(1)
EU directive	Section 20(1)
EU entity	Section 20(1)
EU institution	Schedule 1 to the Interpretation Act 1978
EU instrument	Schedule 1 to the Interpretation Act 1978
Euratom Treaty	Schedule 1 to the Interpretation Act 1978
EU reference	Section 20(1)
EU regulation	Section 20(1)
European Court	Schedule 1 to the Interpretation Act 1978
EU tertiary legislation	Section 20(1)
EU Treaties	Schedule 1 to the Interpretation Act 1978
Exempt EU instrument	Section 20(1)
Exit day (and related expressions)	Section 20(1) to (5)
Former Article 34(2)(c) of Treaty on European Union	Section 20(9)
Member State	Section 20(1) and Schedule 1 to the Interpretation Act 1978
Minister of the Crown	Section 20(1)
Modify (and related expressions)	Section 20(1)
Northern Ireland devolved authority	Section 20(1)
Operative (in relation to direct EU legislation)	Section 3(3)

Expression	*Provision*
Primary legislation	Section 20(1)
Public authority	Section 20(1)
Public authority in the United Kingdom (however expressed)	Section 20(8)
Relevant criminal offence	Section 20(1) (and paragraph 44 of Schedule 8)
Retained case law	Section 6(7)
Retained direct EU legislation	Section 20(1)
Retained direct minor EU legislation	Section 7(6)
Retained direct principal EU legislation	Section 7(6)
Retained domestic case law	Section 6(7)
Retained EU case law	Section 6(7)
Retained EU law	Section 6(7)
Retained general principles of EU law	Section 6(7)
Retrospective provision	Section 20(1)
Subordinate legislation	Section 20(1)
Tribunal	Section 20(1)
Wales	Section 20(1)
Welsh zone	Section 20(1)
Withdrawal agreement	Section 20(1)

(2) See paragraph 22 of Schedule 8 for amendments made by this Act to Schedule 1 to the Interpretation Act 1978.

22 Regulations

Schedule 7 (which makes provision about the scrutiny by Parliament and the devolved legislatures of regulations under this Act and contains other general provision about such regulations) has effect.

23 Consequential and transitional provision

(1) A Minister of the Crown may by regulations make such provision as the Minister considers appropriate in consequence of this Act.

(2) The power to make regulations under subsection (1) may (among other things) be exercised by modifying any provision made by or under an enactment.

(3) In subsection (2) "enactment" does not include primary legislation passed or made after the end of the Session in which this Act is passed.

(4) No regulations may be made under subsection (1) after the end of the period of 10 years beginning with exit day.

(5) Parts 1 and 2 of Schedule 8 (which contain consequential provision) have effect.

(6) A Minister of the Crown may by regulations make such transitional, transitory or saving provision as the Minister considers appropriate in connection with the coming into force of any provision of this Act (including its operation in connection with exit day).

(7) Parts 3 and 4 of Schedule 8 (which contain transitional, transitory and saving provision) have effect.

(8) The enactments mentioned in Schedule 9 (which contains repeals not made elsewhere in this Act) are repealed to the extent specified.

24 Extent

(1) Subject to subsections (2) and (3), this Act extends to England and Wales, Scotland and Northern Ireland.

(2) Any provision of this Act which amends or repeals an enactment has the same extent as the enactment amended or repealed.

(3) Regulations under section 8(1) or 23 may make provision which extends to Gibraltar—

(a) modifying any enactment which—

(i) extends to Gibraltar and relates to European Parliamentary elections, or

(ii) extends to Gibraltar for any purpose which is connected with Gibraltar forming part of an electoral region, under the European Parliamentary Elections Act 2002, for the purposes of such elections, or

(b) which is supplementary, incidental, consequential, transitional, transitory or saving provision in connection with a modification within paragraph (a).

25 Commencement and short title

(1) The following provisions—

(a) sections 8 to 11 (including Schedule 2),

(b) paragraphs 4, 5, 21(2)(b), 48(b), 51(2)(c) and (d) and (4) of Schedule 3 (and section 12(8) and (12) so far as relating to those paragraphs),

(c) sections 13 and 14 (including Schedule 4),

(d) sections 16 to 18,

(e) sections 20 to 22 (including Schedules 6 and 7),

(f) section 23(1) to (4) and (6),

(g) paragraph 41(10), 43 and 44 of Schedule 8 (and section 23(7) so far as relating to those paragraphs),

(h) section 24, and

(i) this section,

come into force on the day on which this Act is passed.

(2) In section 12—

(a) subsection (2) comes into force on the day on which this Act is passed for the purposes of making regulations under section 30A of the Scotland Act 1998,

(b) subsection (4) comes into force on that day for the purposes of making regulations under section 109A of the Government of Wales Act 2006, and

(c) subsection (6) comes into force on that day for the purposes of making regulations under section 6A of the Northern Ireland Act 1998.

(3) In Schedule 3—

(a) paragraph 1(b) comes into force on the day on which this Act is passed for the purposes of making regulations under section 57(4) of the Scotland Act 1998,

(b) paragraph 2 comes into force on that day for the purposes of making regulations under section 80(8) of the Government of Wales Act 2006,

(c) paragraph 3(b) comes into force on that day for the purposes of making regulations under section 24(3) of the Northern Ireland Act 1998,

(d) paragraph 24(2) comes into force on that day for the purposes of making regulations under section 30A of the Scotland Act 1998,

(e) paragraph 24(3) comes into force on that day for the purposes of making regulations under section 57(4) of the Scotland Act 1998,

(f) paragraph 25 comes into force on that day for the purposes of making regulations under section 30A or 57(4) of the Scotland Act 1998,

(g) paragraph 43 comes into force on that day for the purposes of making regulations under section 80(8) or 109A of the Government of Wales Act 2006, and

(h) paragraphs 57 and 58 come into force on that day for the purposes of making regulations under section 6A or 24(3) of the Northern Ireland Act 1998;

and section 12(7) and (12), so far as relating to each of those paragraphs, comes into force on that day for the purposes of making the regulations mentioned above in relation to that paragraph.

(4) The provisions of this Act, so far as they are not brought into force by subsections (1) to (3), come into force on such day as a Minister of the Crown may by regulations appoint; and different days may be appointed for different purposes.

(5) This Act may be cited as the European Union (Withdrawal) Act 2018.

SCHEDULES

SCHEDULE 1

Section 5(6)

FURTHER PROVISION ABOUT EXCEPTIONS TO SAVINGS AND INCORPORATION

Challenges to validity of retained EU law

1 (1) There is no right in domestic law on or after exit day to challenge any retained EU law on the basis that, immediately before exit day, an EU instrument was invalid.

(2) Sub-paragraph (1) does not apply so far as—
(a) the European Court has decided before exit day that the instrument is invalid, or
(b) the challenge is of a kind described, or provided for, in regulations made by a Minister of the Crown.

(3) Regulations under sub-paragraph (2)(b) may (among other things) provide for a challenge which would otherwise have been against an EU institution to be against a public authority in the United Kingdom.

General principles of EU law

2 No general principle of EU law is part of domestic law on or after exit day if it was not recognised as a general principle of EU law by the European Court in a case decided before exit day (whether or not as an essential part of the decision in the case).

3 (1) There is no right of action in domestic law on or after exit day based on a failure to comply with any of the general principles of EU law.

(2) No court or tribunal or other public authority may, on or after exit day—
(a) disapply or quash any enactment or other rule of law, or
(b) quash any conduct or otherwise decide that it is unlawful,
because it is incompatible with any of the general principles of EU law.

Rule in Francovich

4 There is no right in domestic law on or after exit day to damages in accordance with the rule in *Francovich*.

Interpretation

5 (1) References in section 5 and this Schedule to the principle of the supremacy of EU law, the Charter of Fundamental Rights, any general principle of EU law or the rule in *Francovich* are to be read as references to that principle,

Charter or rule so far as it would otherwise continue to be, or form part of, domestic law on or after exit day in accordance with this Act.

(2) Accordingly (among other things) the references to the principle of the supremacy of EU law in section 5(2) and (3) do not include anything which would bring into domestic law any modification of EU law which is adopted or notified, comes into force or only applies on or after exit day.

SCHEDULE 2

Section 11

CORRESPONDING POWERS INVOLVING DEVOLVED AUTHORITIES

PART 1

DEALING WITH DEFICIENCIES ARISING FROM WITHDRAWAL

Power to deal with deficiencies

1 (1) A devolved authority may by regulations make such provision as the devolved authority considers appropriate to prevent, remedy or mitigate—
(a) any failure of retained EU law to operate effectively, or
(b) any other deficiency in retained EU law,
arising from the withdrawal of the United Kingdom from the EU.

(2) A Minister of the Crown acting jointly with a devolved authority may by regulations make such provision as they consider appropriate to prevent, remedy or mitigate—
(a) any failure of retained EU law to operate effectively, or
(b) any other deficiency in retained EU law,
arising from the withdrawal of the United Kingdom from the EU.

(3) Section 8(2) to (9) apply for the purposes of this Part as they apply for the purposes of section 8 (including the references to the Minister in section 8(2) and (3) (but not the reference to a Minister of the Crown in section 8(3)(b)) being read as references to the devolved authority or (as the case may be) the Minister acting jointly with the devolved authority and the references to section 8(1) being read as references to sub-paragraph (1) or (2) above).

(4) Regulations under sub-paragraph (1) above are subject to paragraphs 2 to 7.

No power to make provision outside devolved competence

2 (1) No provision may be made by a devolved authority acting alone in regulations under this Part unless the provision is within the devolved competence of the devolved authority.

(2) See paragraphs 8 to 11 for the meaning of "devolved competence" for the purposes of this Part.

No power to modify retained direct EU legislation or confer certain functions

3 (1) No provision may be made by the Scottish Ministers acting alone in regulations under this Part so far as the provision—

(a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and

(b) would, when made, be in breach of—

(i) the restriction in section 30A(1) of the Scotland Act 1998 if the provision were made in an Act of the Scottish Parliament, or

(ii) the restriction in section 57(4) of the Act of 1998 if section 57(5)(b) of that Act so far as relating to this Schedule were ignored.

(2) No provision may be made by the Welsh Ministers acting alone in regulations under this Part so far as the provision—

(a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and

(b) would, when made, be in breach of—

(i) the restriction in section 80(8) of the Government of Wales Act 2006 if section 80(8A)(b) of that Act so far as relating to this Schedule were ignored, or

(ii) the restriction in section 109A(1) of that Act if the provision were made in an Act of the National Assembly for Wales.

(3) No provision may be made by a Northern Ireland department acting alone in regulations under this Part so far as the provision—

(a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and

(b) would, when made, be in breach of—

(i) the restriction in section 6A(1) of the Northern Ireland Act 1998 if the provision were made in an Act of the Northern Ireland Assembly, or

(ii) the restriction in section 24(3) of the Act of 1998 if section 24(4)(b) of that Act so far as relating to this Schedule were ignored.

(4) No provision may be made by a devolved authority acting alone in regulations under this Part so far as, when made, the provision is inconsistent with any modification (whether or not in force) which—

(a) is a modification of any retained direct EU legislation or anything which is retained EU law by virtue of section 4,

(b) is made by this Act or a Minister of the Crown under this Act, and

(c) could not be made by the devolved authority by virtue of sub-paragraph (1), (2) or (as the case may be) (3).

(5) For the purposes of sub-paragraphs (1)(b), (2)(b) and (3)(b), sections 30A and 57(4) to (15) of the Scotland Act 1998, sections 80(8) to (8L) and 109A of the Government of Wales Act 2006 and sections 6A and 24(3) to (15) of the Northern Ireland Act 1998, and any regulations made under them and any related provision, are to be assumed to be wholly in force so far as that is not otherwise the case.

(6) References in this paragraph to section 80(8) of the Government of Wales Act 2006 are to be read as references to the new section 80(8) of that Act provided for by paragraph 2 of Schedule 3 to this Act.

Requirement for consultation in certain circumstances

4 No regulations may be made under this Part by a devolved authority acting alone so far as the regulations—

(a) are to come into force before exit day, or

(b) remove (whether wholly or partly) reciprocal arrangements of the kind mentioned in section 8(2)(c) or (e),

unless the regulations are, to that extent, made after consulting with the Secretary of State.

Requirement for consent where it would otherwise be required

5 (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 this Part so far as that provision, if contained in an Act of the National Assembly for Wales, 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 this Part so 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 this Part 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 the National Assembly for Wales 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

6 (1) No regulations may be made under this Part 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 this Part 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 this Part 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,

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 the National Assembly for Wales 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

7 (1) No regulations may be made under this Part by the Welsh Ministers acting alone, so far as they contain provision which, if contained in an Act of the National Assembly for Wales, 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 this Part 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 this Part 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 this Part 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 the National Assembly for Wales 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
  - (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: Part 1

8 (1) 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 meets the conditions in sub-paragraph (2).

(2) The conditions are—
- (a) the provision—
  - (i) amends or revokes subordinate legislation made before exit day by the Scottish Ministers, the First Minister or the Lord Advocate acting alone, or

(ii) makes supplementary, incidental, consequential, transitional, transitory or saving provision in connection with any such amendment or revocation,

(b) the subject-matter of the provision does not go beyond the subject-matter of the subordinate legislation concerned,

(c) the provision only forms part of the law of Scotland,

(d) the provision does not confer or remove functions exercisable otherwise than in or as regards Scotland, and

(e) the provision does not modify any enactment so far as the enactment cannot, by virtue of paragraph 1, 4 or 5 of Schedule 4 to the Scotland Act 1998, be modified by an Act of the Scottish Parliament.

9 (1) 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 the National Assembly for Wales if it were contained in an Act of the Assembly (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 meets the conditions in sub-paragraph (2).

(2) The conditions are—

(a) the provision—

(i) amends or revokes subordinate legislation made before exit day by the Welsh Ministers acting alone or the National Assembly for Wales constituted by the Government of Wales Act 1998, or

(ii) makes supplementary, incidental, consequential, transitional, transitory or saving provision in connection with any such amendment or revocation,

(b) the subject-matter of the provision does not go beyond the subject-matter of the subordinate legislation concerned,

(c) the provision only forms part of the law of England and Wales,

(d) the provision does not confer or remove functions exercisable otherwise than in relation to Wales or the Welsh zone, and

(e) the provision does not modify any enactment so far as the enactment cannot, by virtue of paragraph 5, 6 or 7 of Schedule 7B to the Government of Wales Act 2006, be modified by an Act of the National Assembly for Wales.

10 (1) 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 meets the conditions in sub-paragraph (2).

(2) The conditions are—

(a) the provision—

(i) amends or revokes subordinate legislation made before exit day by a Northern Ireland devolved authority acting alone, or

(ii) makes supplementary, incidental, consequential, transitional, transitory or saving provision in connection with any such amendment or revocation,

(b) the subject-matter of the provision does not go beyond the subject-matter of the subordinate legislation concerned,

(c) the provision only forms part of the law of Northern Ireland,

(d) the provision does not confer or remove functions exercisable otherwise than in or as regards Northern Ireland,

(e) the provision does not modify any enactment so far as the enactment cannot, by virtue of section 7 of the Northern Ireland Act 1998, be modified by an Act of the Northern Ireland Assembly, and

(f) the provision does not deal with, or otherwise relate to, a matter to which paragraph 22 of Schedule 2, or paragraph 42 of Schedule 3, to the Northern Ireland Act 1998 applies.

11 References in paragraphs 8 to 10, in connection with the making of regulations under this Part, to the subject-matter of any provision or subordinate legislation are to be read as references to the subject-matter of the provision or subordinate legislation when the regulations concerned are made.

PART 2

IMPLEMENTING THE WITHDRAWAL AGREEMENT

Power to implement withdrawal agreement

12 (1) A devolved authority may by regulations make such provision as the devolved authority considers appropriate for the purposes of implementing the withdrawal agreement if the devolved authority considers that such provision should be in force on or before exit day.

(2) A Minister of the Crown acting jointly with a devolved authority may by regulations make such provision as they consider appropriate for the purposes of implementing the withdrawal agreement if they consider that such provision should be in force on or before exit day.

(3) Regulations under this Part may make any provision that could be made by an Act of Parliament.

(4) But regulations under this Part may not—

(a) impose or increase taxation or fees,

(b) make retrospective provision,

(c) create a relevant criminal offence,

(d) establish a public authority,

(e) modify this Act,

(f) modify any subordinate legislation made under this Act unless the regulations—

(i) are modifying any subordinate legislation made by the devolved authority concerned, or

(ii) are made by a Minister of the Crown acting jointly with a devolved authority, or

(g) amend, repeal or revoke the Human Rights Act 1998 or any subordinate legislation made under it.

(5) No regulations may be made under this Part after exit day.

(6) Regulations under sub-paragraph (1) are also subject to paragraphs 13 to 16.

No power to make provision outside devolved competence

13 (1) No provision may be made by a devolved authority acting alone in regulations under this Part unless the provision is within the devolved competence of the devolved authority.

(2) See paragraphs 17 to 19 for the meaning of "devolved competence" for the purposes of this Part.

No power to modify retained direct EU legislation etc.

14 (1) No provision may be made by the Scottish Ministers acting alone in regulations under this Part so far as the provision—

(a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and

(b) would, when made, be in breach of—

(i) the restriction in section 30A(1) of the Scotland Act 1998 if the provision were made in an Act of the Scottish Parliament, or

(ii) the restriction in section 57(4) of the Act of 1998 if section 57(5)(b) of that Act so far as relating to this Schedule were ignored.

(2) No provision may be made by the Welsh Ministers acting alone in regulations under this Part so far as the provision—

(a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and

(b) would, when made, be in breach of—

(i) the restriction in section 80(8) of the Government of Wales Act 2006 if section 80(8A)(b) of that Act so far as relating to this Schedule were ignored, or

(ii) the restriction in section 109A(1) of that Act if the provision were made in an Act of the National Assembly for Wales.

(3) No provision may be made by a Northern Ireland department acting alone in regulations under this Part so far as the provision—

(a) modifies any retained direct EU legislation or anything which is retained EU law by virtue of section 4 or confers functions which correspond to functions to make EU tertiary legislation, and

(b) would, when made, be in breach of—

(i) the restriction in section 6A(1) of the Northern Ireland Act 1998 if the provision were made in an Act of the Northern Ireland Assembly, or

(ii) the restriction in section 24(3) of the Act of 1998 if section 24(4)(b) of that Act so far as relating to this Schedule were ignored.

(4) No provision may be made by a devolved authority acting alone in regulations under this Part so far as, when made, the provision is inconsistent with any modification (whether or not in force) which—

(a) is a modification of any retained direct EU legislation or anything which is retained EU law by virtue of section 4,

(b) is made by this Act or a Minister of the Crown under this Act, and

(c) could not be made by the devolved authority by virtue of sub-paragraph (1), (2) or (as the case may be) (3).

(5) For the purposes of sub-paragraphs (1)(b), (2)(b) and (3)(b), sections 30A and 57(4) to (15) of the Scotland Act 1998, sections 80(8) to (8L) and 109A of the Government of Wales Act 2006 and sections 6A and 24(3) to (15) of the Northern Ireland Act 1998, and any regulations made under them and any related provision, are to be assumed to be wholly in force so far as that is not otherwise the case.

(6) References in this paragraph to section 80(8) of the Government of Wales Act 2006 are to be read as references to the new section 80(8) of that Act provided for by paragraph 2 of Schedule 3 to this Act.

Requirement for consultation in certain circumstances

15 (1) No regulations may be made under this Part by a devolved authority acting alone, so far as the regulations make provision about any quota arrangements or are incompatible with any such arrangements, unless the regulations are, to that extent, made after consulting with the Secretary of State.

(2) In sub-paragraph (1) "quota arrangements" means any arrangements for, or in connection with, the division of responsibility within the United Kingdom or an area including the United Kingdom for—

(a) an international obligation, or

(b) any right or other benefit arising from such an obligation,

where the obligation is to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise) or (as the case may be) the benefit is so defined.

Certain requirements for consent, joint exercise or consultation

16 Paragraphs 5 to 7 apply for the purposes of this Part as they apply for the purposes of Part 1.

Meaning of devolved competence: Part 2

17 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).

18 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 the National Assembly for Wales if it were contained in an Act of the Assembly (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).

19 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).

SCHEDULE 3

Section 12(7), (8) and (12)

FURTHER AMENDMENTS OF DEVOLUTION LEGISLATION AND REPORTING REQUIREMENT

PART 1

CORRESPONDING PROVISION IN RELATION TO EXECUTIVE COMPETENCE

Scotland Act 1998

1 In section 57 of the Scotland Act 1998 (EU law and Convention rights)—

(a) in subsection (2) (no power for members of the Scottish Government to make subordinate legislation, or otherwise act, incompatibly with EU law) omit "or with EU law", and

(b) after subsection (3) insert—

"(4) A member of the Scottish Government has no power to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law and the modification is of a description specified in regulations made by a Minister of the Crown.

(5) But subsection (4) does not apply—

(a) so far as the modification would be within the legislative competence of the Parliament if it were included in an Act of the Scottish Parliament, or

(b) to the making of regulations under Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.

(6) A Minister of the Crown must not lay for approval before each House of the Parliament of the United Kingdom a draft of a statutory instrument containing regulations under subsection (4) unless—

(a) the Scottish Parliament has made a consent decision in relation to the laying of the draft, or

(b) the 40 day period has ended without the Parliament having made such a decision.

(7) For the purposes of subsection (6) a consent decision is—

(a) a decision to agree a motion consenting to the laying of the draft,

(b) a decision not to agree a motion consenting to the laying of the draft, or

(c) a decision to agree a motion refusing to consent to the laying of the draft;

and a consent decision is made when the Parliament first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).

(8) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (6) must—

(a) provide a copy of the draft to the Scottish Ministers, and

(b) inform the Presiding Officer that a copy has been so provided.

(9) See also paragraph 6 of Schedule 7 (duty to make explanatory statement about regulations under subsection (4) including a duty to explain any decision to lay a draft without the consent of the Parliament).

(10) No regulations may be made under subsection (4) after the end of the period of two years beginning with exit day.

(11) Subsection (10) does not affect the continuation in force of regulations made under subsection (4) at or before the end of the period mentioned in subsection (10).

(12) Any regulations under subsection (4) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.

(13) Subsections (6) to (11) do not apply in relation to regulations which only relate to a revocation of a specification.

(14) The restriction in subsection (4) is in addition to any restriction in section 7 of the European Union (Withdrawal) Act 2018 or elsewhere on the power of a member of the Scottish Government to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law.

(15) In this section—

"the 40 day period" means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Scottish Ministers,

and, in calculating that period, no account is to be taken of any time during which the Parliament is dissolved or during which it is in recess for more than four days."

Government of Wales Act 2006

2 In section 80 of the Government of Wales Act 2006 (EU law) for subsection (8) (no power for the First Minister, the Counsel General or the Welsh Ministers to make, confirm or approve subordinate legislation, or otherwise act, incompatibly with EU law etc.) substitute—

"(8) The Welsh Ministers have no power to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law and the modification is of a description specified in regulations made by a Minister of the Crown.

(8A) But subsection (8) does not apply—

(a) so far as the modification would be within the Assembly's legislative competence if it were included in an Act of the Assembly, or

(b) to the making of regulations under Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.

(8B) No regulations are to be made under subsection (8) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

(8C) A Minister of the Crown must not lay a draft as mentioned in subsection (8B) unless—

(a) the Assembly has made a consent decision in relation to the laying of the draft, or

(b) the 40 day period has ended without the Assembly having made such a decision.

(8D) For the purposes of subsection (8C) a consent decision is—

(a) a decision to agree a motion consenting to the laying of the draft,

(b) a decision not to agree a motion consenting to the laying of the draft, or

(c) a decision to agree a motion refusing to consent to the laying of the draft;

and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).

(8E) In subsection (8C)—

"the 40 day period" means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Welsh Ministers,

and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.

(8F) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (8B) must—

(a) provide a copy of the draft to the Welsh Ministers, and

(b) inform the Presiding Officer that a copy has been so provided.

(8G) See also section 157ZA (duty to make explanatory statement about regulations under subsection (8) including a duty to explain any decision to lay a draft without the consent of the Assembly).

(8H) No regulations may be made under subsection (8) after the end of the period of two years beginning with exit day.

(8I) Subsection (8H) does not affect the continuation in force of regulations made under subsection (8) at or before the end of the period mentioned in subsection (8H).

(8J) Any regulations under subsection (8) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.

(8K) Subsections (8C) to (8I) do not apply in relation to regulations which only relate to a revocation of a specification.

(8L) The restriction in subsection (8) is in addition to any restriction in section 7 of the European Union (Withdrawal) Act 2018 or elsewhere on the power of the Welsh Ministers to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law."

Northern Ireland Act 1998

3 In section 24 of the Northern Ireland Act 1998 (EU law, Convention rights etc.)—

(a) omit subsection (1)(b) (no power for the First Minister, the deputy First Minister, a Northern Ireland Minister or a Northern Ireland

department to make, confirm or approve subordinate legislation, or otherwise act, incompatibly with EU law), and

(b) after subsection (2) insert—

"(3) A Minister or Northern Ireland department has no power to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law and the modification is of a description specified in regulations made by a Minister of the Crown.

(4) But subsection (3) does not apply—

(a) so far as the modification would be within the legislative competence of the Assembly if it were included in an Act of the Assembly, or

(b) to the making of regulations under Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.

(5) A Minister of the Crown must not lay for approval before each House of the Parliament a draft of a statutory instrument containing regulations under subsection (3) unless—

(a) the Assembly has made a consent decision in relation to the laying of the draft, or

(b) the 40 day period has ended without the Assembly having made such a decision.

(6) For the purposes of subsection (5) a consent decision is—

(a) a decision to agree a motion consenting to the laying of the draft,

(b) a decision not to agree a motion consenting to the laying of the draft, or

(c) a decision to agree a motion refusing to consent to the laying of the draft;

and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).

(7) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (5) must—

(a) provide a copy of the draft to the relevant Northern Ireland department, and

(b) inform the Presiding Officer that a copy has been so provided.

(8) See also section 96A (duty to make explanatory statement about regulations under subsection (3) including a duty to explain any decision to lay a draft without the consent of the Assembly).

(9) No regulations may be made under subsection (3) after the end of the period of two years beginning with exit day.

(10) Subsection (9) does not affect the continuation in force of regulations made under subsection (3) at or before the end of the period mentioned in subsection (9).

(11) Any regulations under subsection (3) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.

(12) Subsections (5) to (10) do not apply in relation to regulations which only relate to a revocation of a specification.

(13) Regulations under subsection (3) may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Minister of the Crown making them considers appropriate.

(14) The restriction in subsection (3) is in addition to any restriction in section 7 of the European Union (Withdrawal) Act 2018 or elsewhere on the power of a Minister or Northern Ireland department to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law.

(15) In this section—

"the relevant Northern Ireland department" means such Northern Ireland department as the Minister of the Crown concerned considers appropriate;

"the 40 day period" means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the relevant Northern Ireland department,

and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days."

PART 2

REPORTS IN CONNECTION WITH RETAINED EU LAW RESTRICTIONS

Reports on progress towards removing retained EU law restrictions

4 (1) After the end of each reporting period, a Minister of the Crown must lay before each House of Parliament a report which—

(a) contains details of any steps which have been taken in the reporting period by Her Majesty's Government (whether or not in conjunction with any of the appropriate authorities) towards implementing any arrangements which are to replace any relevant powers or retained EU law restrictions,

(b) explains how principles—

(i) agreed between Her Majesty's Government and any of the appropriate authorities, and

(ii) relating to implementing any arrangements which are to replace any relevant powers or retained EU law restrictions,

have been taken into account during the reporting period,

(c) specifies any relevant regulations, or regulations under section 12(9), which have been made in the reporting period,

(d) in relation to any retained EU law restriction which has effect at the end of the reporting period, sets out the Minister's assessment of the progress which still needs to be made before it can be removed,

(e) in relation to any relevant power that has not been repealed before the end of the reporting period, sets out the Minister's assessment of the progress which still needs to be made before it can be repealed, and

(f) contains any other information relating to any relevant powers or retained EU law restrictions, or the arrangements which are to replace them, that the Minister considers appropriate.

(2) The first reporting period is the period of three months beginning with the day on which this Act is passed.

(3) Each successive period of three months after the first reporting period is a reporting period.

(4) A Minister of the Crown must provide a copy of every report laid before Parliament under this paragraph—

(a) to the Scottish Ministers,

(b) to the Welsh Ministers, and

(c) either to the First Minister in Northern Ireland and the deputy First Minister in Northern Ireland or to the relevant Northern Ireland department and its Northern Ireland Minister.

(5) In sub-paragraph (4) "the relevant Northern Ireland department" means such Northern Ireland department as the Minister of the Crown concerned considers appropriate.

(6) This paragraph ceases to apply when no retained EU law restrictions have effect and all the relevant powers have been repealed.

Interpretation

5 In this Part—

"appropriate authority" means—

(a) the Scottish Ministers,

(b) the Welsh Ministers, or

(c) a Northern Ireland devolved authority;

"arrangement" means any enactment or other arrangement (whether or not legally enforceable);

"relevant power" means a power to make regulations conferred by—

(a) section 30A or 57(4) of the Scotland Act 1998,

(b) section 80(8) or 109A of the Government of Wales Act 2006, or

(c) section 6A or 24(3) of the Northern Ireland Act 1998;

"relevant regulations" means regulations made under a relevant power;

"retained EU law restriction" means any restriction which arises by virtue of relevant regulations.

PART 3

OTHER AMENDMENTS OF DEVOLUTION LEGISLATION

Scotland Act 1998

6 The Scotland Act 1998 is amended as follows.

7 In section 2 (ordinary general elections), in subsection (2A), omit paragraph (b) and the "or" before it.

8 In section 12 (power of the Scottish Ministers to make provision about elections), in subsection (4)(a)—
(a) omit "or the European Parliamentary Elections Act 2002", and
(b) omit ", European Parliamentary elections".

9 (1) Section 12A (power of the Secretary of State to make provision about elections) is amended as follows.

(2) In subsection (2)—
(a) after paragraph (a) insert "and", and
(b) omit paragraph (c) and the "and" before it.

(3) In subsection (3), omit paragraph (b) and the "and" before it.

(4) In subsection (5)(a)—
(a) omit "or the European Parliamentary Elections Act 2002", and
(b) omit ", European Parliamentary elections".

10 In section 32 (submission of Bills for Royal Assent), in subsection (3), omit paragraph (b) and the "or" before it.

11 Omit section 34 (ECJ references).

12 (1) Section 36 (stages of Bills) is amended as follows.

(2) In subsection (4), omit paragraph (b) but not the "or" at the end of it.

(3) In subsection (5)(a), omit ", (b)".

13 (1) Section 57 (EU law and Convention rights) is amended as follows.

(2) In the heading—
(a) omit "EU law and", and
(b) after "rights" insert "and retained EU law".

(3) Omit subsection (1).

14 (1) Section 80D (Scottish taxpayers) is amended as follows.

(2) In subsection (4)—
(a) insert "or" at the end of paragraph (a), and
(b) omit paragraph (b) and the "or" at the end of it.

(3) In subsection (4B), for "any of paragraphs (a) to (c)" substitute "paragraph (a) or (c)".

15 In section 80DA (Scottish taxpayers: Welsh parliamentarians), in subsection (2)(a), for "any of paragraphs (a) to (c)" substitute "paragraph (a) or (c)".

16 (1) Section 82 (limits on salaries of members of the Parliament) is amended as follows.

(2) In subsection (1)—
(a) insert "or" at the end of paragraph (za), and
(b) omit paragraph (b) and the "or" before it.

(3) In subsection (2)(b), for "(1)(za), (a) or (b)" substitute "(1)(za) or (a)".

17 (1) Section 106 (power to adapt functions) is amended as follows.

(2) In subsection (5), for "an obligation under EU law" substitute "a retained EU obligation".

(3) Omit subsection (7).

18 In section 119 (Consolidated Fund etc.), omit subsection (4).

19 (1) Section 126 (interpretation) is amended as follows.

(2) Omit subsection (9).

(3) In subsection (10), omit "EU law or".

20 In section 127 (index of defined expressions), omit the entry for EU law.

21 (1) Schedule 4 (enactments etc. protected from modification) is amended as follows.

(2) In paragraph 1(2)—
(a) omit paragraph (c), and
(b) after paragraph (f) insert ",
(g) the European Union (Withdrawal) Act 2018 (other than paragraphs 31 to 35 of Schedule 8 to that Act and any regulations made under that Act)".

(3) Omit paragraph 13(1)(a).

22 In Part 2 of Schedule 5 (specific reservations), in section C8 (product standards, safety and liability), for the words from "Technical standards and" to "EU law" substitute—

"The subject matter of all technical standards and requirements in relation to products that had effect immediately before exit day in pursuance of an obligation under EU law."

23 (1) Paragraph 1 of Schedule 6 (devolution issues) is amended as follows.

(2) In the first paragraph (d) for "with EU law" substitute "in breach of the restriction in section 57(4)".

(3) In paragraph (e), omit "or with EU law".

(4) In the second sentence for the words from "the compatibility" to the end substitute "a compatibility issue (within the meaning given by section 288ZA(2) of the Criminal Procedure (Scotland) Act 1995)".

24 (1) The table in paragraph 1(2) of Schedule 7 (procedure for subordinate legislation) is amended as follows.

(2) After the entry for section 30 insert—

"Section 30A	Type C".

(3) After the entry for section 56(2) insert—

"Section 57(4)	Type C".

25 After paragraph 5 of Schedule 7 (procedure for subordinate legislation: special cases) insert—

"6 (1) This paragraph applies where a draft of an instrument containing regulations under section 30A or 57(4) is to be laid before each House of Parliament.

(2) Before the draft is laid, the Minister of the Crown who is to make the instrument—

(a) must make a statement explaining the effect of the instrument, and

(b) in any case where the Parliament has not made a decision to agree a motion consenting to the laying of the draft—

(i) must make a statement explaining why the Minister has decided to lay the draft despite this, and

(ii) must lay before each House of Parliament any statement provided for the purpose of this sub-paragraph to a Minister of the Crown by the Scottish Ministers giving the opinion of the Scottish Ministers as to why the Parliament has not made that decision.

(3) A statement of a Minister of the Crown under sub-paragraph (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.

(4) For the purposes of this paragraph, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.

(5) This paragraph does not apply to a draft of an instrument which only contains regulations under section 30A or 57(4) which only relate to a revocation of a specification."

26 In Schedule 8 (modifications of enactments), omit paragraph 15 and the heading before it.

Government of Wales Act 2006

27 The Government of Wales Act 2006 is amended as follows.

28 In section 3 (ordinary general elections), in subsection (1A), omit paragraph (b) and the "or" before it.

29 In section 13(5) (power of the Welsh Ministers to make provision about elections etc.)—
(a) omit paragraph (c) but not the "and" at the end of it, and
(b) in paragraph (d) omit ", European Parliamentary elections".

30 (1) Section 13A (power of the Secretary of State to make provision about the combination of polls) is amended as follows.

(2) In subsection (2)—
(a) insert "and" at the end of paragraph (a), and
(b) omit paragraph (c) and the "and" before it.

(3) In subsection (3), omit paragraph (b) and the "and" before it.

31 In section 16(3) (disqualification from being Assembly member) omit "(other than the United Kingdom)".

32 (1) Section 21 (limit on salaries of Assembly members) is amended as follows.

(2) In subsection (1)—
(a) insert "or" at the end of paragraph (za), and
(b) omit paragraph (b) and the "or" before it.

(3) In subsection (2)(b), for "(1)(za), (a), or (b)" substitute "(1)(za) or (a)".

33 In section 58A (executive ministerial functions), in subsection (4)(d), for "obligations under EU law" substitute "retained EU obligations".

34 Omit section 58B (implementation of EU law: general).

35 (1) Section 59 (implementation of EU law: designation of Welsh Ministers etc.) is amended as follows.

(2) For the heading substitute "Fees and charges in relation to international law".

(3) Omit subsections (1) to (4).

(4) In subsection (5), for "in pursuance of an EU obligation etc" substitute "in pursuance of an international obligation".

36 In the heading before section 80 (EU law, human rights and international obligations etc.), before "EU" insert "Retained".

37 (1) Section 80 (EU law) is amended as follows.

(2) In the heading, before "EU" insert "Retained".

(3) In subsection (1), for "An EU obligation" substitute "A retained EU obligation".

(4) In subsection (2), for "an EU obligation" substitute "a retained EU obligation".

(5) In subsection (3)—
(a) for "an EU obligation" substitute "a retained EU obligation", and
(b) for "the EU obligation" substitute "the retained EU obligation".

(6) In subsection (7)—
(a) for "an EU obligation" substitute "a retained EU obligation", and

(b) for "the EU obligation" substitute "the retained EU obligation".

(7) In subsection (9), leave out "and (8)" and insert ", (8) and (8L)".

38 In section 111 (proceedings on Bills)—

(a) in subsection (6), omit paragraph (b) but not the "or" at the end of it, and

(b) in subsection (7)(a), omit ", (b)".

39 Omit section 113 (ECJ references).

40 In section 115 (Royal Assent), in subsection (3), omit paragraph (b) and the "or" before it.

41 (1) Section 116E (Welsh taxpayers) is amended as follows.

(2) In subsection (4)—

(a) insert "or" at the end of paragraph (a), and

(b) omit paragraph (b) and the "or" at the end of it.

(3) In subsection (6), for "any of paragraphs (a) to (c)" substitute "paragraph (a) or (c)".

42 In section 116F (Welsh taxpayers: Scottish parliamentarians), in subsection (2)(a), for "any of paragraphs (a) to (c)" substitute "paragraph (a) or (c)".

43 After section 157 (orders, regulations and directions) insert—

"157ZA Explanatory statements in relation to certain regulations

(1) This section applies where a draft of a statutory instrument containing regulations under section 80(8) or 109A is to be laid before each House of Parliament.

(2) Before the draft is laid, the Minister of the Crown who is to make the instrument—

(a) must make a statement explaining the effect of the instrument, and

(b) in any case where the Assembly has not made a decision to agree a motion consenting to the laying of the draft—

(i) must make a statement explaining why the Minister has decided to lay the draft despite this, and

(ii) must lay before each House of Parliament any statement provided for the purpose of this sub-paragraph to a Minister of the Crown by the Welsh Ministers giving the opinion of the Welsh Ministers as to why the Assembly has not made that decision.

(3) A statement of a Minister of the Crown under subsection (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.

(4) For the purposes of this section, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.

(5) This section does not apply to a draft of an instrument which only contains regulations under section 80(8) or 109A which only relate to a revocation of a specification."

44 In section 158(1) (interpretation)—
(a) omit the definition of "EU law", and
(b) in the definition of "international obligations" omit "EU law or".

45 In section 159 (index of defined expressions), omit the entry for EU law.

46 In Schedule 3 (transfer etc. of functions: further provisions), omit paragraph 5 and the heading before it (EU obligations).

47 In Part 2 of Schedule 7A (specific reservations), in section C7 (product standards, safety and liability), for paragraph 77 substitute—

"77 The subject matter of all technical standards and requirements in relation to products that had effect immediately before exit day in pursuance of an obligation under EU law."

48 In paragraph 5(1) of Schedule 7B (protected enactments), in the table—
(a) omit the entry for the European Communities Act 1972, and
(b) after the entry for the Energy Act 2008 insert—

"The European Union (Withdrawal) Act 2018	The whole Act."

49 In Schedule 11 (transitional provisions), omit paragraph 35A and the heading before it (instrument containing provisions under transferred power and provision under power in section 2(2) of the European Communities Act 1972: Assembly procedure).

Northern Ireland Act 1998

50 The Northern Ireland Act 1998 is amended as follows.

51 (1) Section 7 (entrenched enactments) is amended as follows.

(2) In subsection (1)—
(a) for "subsection (2)" substitute "subsection (2A)",
(b) omit paragraph (a),
(c) omit "and" at the end of paragraph (c), and
(d) after paragraph (d) insert "; and
(e) the European Union (Withdrawal) Act 2018".

(3) Omit subsection (2).

(4) Before subsection (3) insert—

"(2A) Subsection (1) does not prevent an Act of the Assembly or subordinate legislation modifying—
(a) paragraph 1(11) or (12) or 2(12) or (13) of Schedule 7 to the European Union (Withdrawal) Act 2018,
(b) paragraph 21 of Schedule 8 to that Act, or
(c) any regulations made under that Act."

52 Omit section 12 (reconsideration where reference made to ECJ).

53 In section 13 (stages of Bills), omit subsection (5)(b).

54 In section 14 (submission of Bills by the Secretary of State for Royal Assent), in subsection (3), omit paragraph (b) and the "or" before it.

55 In the heading of section 24 (EU law, Convention rights etc.)—
(a) omit "EU law,", and
(b) after "rights" insert ", retained EU law".

56 (1) Section 27 (quotas for purposes of international etc. obligations) is amended as follows.

(2) In subsection (1)(a), for "an obligation under EU law" substitute "a retained EU obligation".

(3) In subsection (2), for "obligation under EU law" substitute "retained EU obligation".

(4) In subsection (4), omit "or an obligation under EU law".

(5) After that subsection insert—

"(4A) Where an order under subsection (1) is in force in relation to a retained EU obligation, the Minister or Northern Ireland department must (in the exercise of the Minister's or the department's functions) achieve so much of the result to be achieved under the obligation as is specified in the order by the time or times so specified."

57 After section 96(4) (orders and regulations) insert—

"(4A) Regulations under section 6A or 24(3)—
(a) shall be made by statutory instrument, and
(b) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament."

58 After section 96 (orders and regulations) insert—

"96A Explanatory statements in relation to certain regulations

(1) This section applies where a draft of a statutory instrument containing regulations under section 6A or 24(3) is to be laid before each House of Parliament.

(2) Before the draft is laid, the Minister of the Crown who is to make the instrument—
(a) must make a statement explaining the effect of the instrument, and
(b) in any case where the Assembly has not made a decision to agree a motion consenting to the laying of the draft—
(i) must make a statement explaining why the Minister has decided to lay the draft despite this, and
(ii) must lay before each House of Parliament any statement provided for the purpose of this sub-paragraph to a Minister of the Crown by a relevant Minister giving the opinion of the relevant Minister as to why the Assembly has not made that decision.

(3) A statement of a Minister of the Crown under subsection (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.

(4) For the purposes of this section, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.

(5) In this section "relevant Minister" means the First Minister and the deputy First Minister acting jointly or a Northern Ireland Minister.

(6) This section does not apply to a draft of an instrument which only contains regulations under section 6A or 24(3) which only relate to a revocation of a specification."

59 In section 98(1) (interpretation)—

(a) omit the definition of "EU law", and

(b) in the definition of "international obligations" omit "EU law or".

60 (1) Schedule 2 (excepted matters) is amended as follows.

(2) In paragraph 3(c), for ", obligations under the Human Rights Convention and obligations under EU law" substitute "and obligations under the Human Rights Convention".

(3) In paragraph 12(1), omit ", the European Parliament".

61 In Schedule 3 (reserved matters), in paragraph 38, for the words from "Technical" to "not" substitute "The subject matter of all technical standards and requirements in relation to products that had effect immediately before exit day in pursuance of an obligation under EU law, other than".

62 In paragraph 1(c) of Schedule 10 (devolution issues) omit the words from ", any obligation" to "such an obligation".

SCHEDULE 4

Section 14(1)

POWERS IN CONNECTION WITH FEES AND CHARGES

PART 1

CHARGING IN CONNECTION WITH CERTAIN NEW FUNCTIONS

Power to provide for fees or charges

1 (1) An appropriate authority may by regulations make provision for, or in connection with, the charging of fees or other charges in connection with the exercise of a function ("the relevant function") which a public authority has by virtue of provision made under—

(a) section 8 or Part 1 of Schedule 2 (powers to deal with deficiencies arising from withdrawal), or

(b) section 9 or Part 2 of Schedule 2 (powers to implement the withdrawal agreement).

(2) Where there is more than one appropriate authority in relation to the relevant function, two or more of the appropriate authorities may make regulations under this paragraph jointly.

(3) Regulations under this paragraph may (among other things)—

(a) prescribe the fees or charges or make provision as to how they are to be determined;

(b) provide for the recovery or disposal of any sums payable under the regulations;

(c) confer power on the public authority to make, by subordinate legislation, any provision that the appropriate authority may make under this paragraph in relation to the relevant function.

Meaning of "appropriate authority"

2 (1) A Minister of the Crown is an "appropriate authority" for the purposes of paragraph 1.

(2) The Scottish Ministers are an "appropriate authority" for the purposes of paragraph 1—

(a) if the Scottish Ministers (whether acting jointly or alone) made the provision, as mentioned in paragraph 1(1), by virtue of which the public authority has the relevant function,

(b) if the relevant function is a function of the Scottish Ministers, the First Minister or the Lord Advocate, or

(c) if the provision by virtue of which the public authority has the relevant function, if it were included in an Act of the Scottish Parliament, would be within the legislative competence of that Parliament (ignoring section 29(2)(d) of the Scotland Act 1998 so far as relating to EU law and retained EU law).

(3) The Welsh Ministers are an "appropriate authority" for the purposes of paragraph 1—

(a) if the Welsh Ministers (whether acting jointly or alone) made the provision, as mentioned in paragraph 1(1), by virtue of which the public authority has the relevant function,

(b) if the relevant function is a function of the Welsh Ministers, or

(c) if the provision by virtue of which the public authority has the relevant function, if it were included in an Act of the National Assembly for Wales, would be within the legislative competence of that Assembly (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 consent of a Minister of the Crown).

(4) A Northern Ireland department is an "appropriate authority" for the purposes of paragraph 1—

(a) if a Northern Ireland department (whether acting jointly or alone) made the provision, as mentioned in paragraph 1(1), by virtue of which the public authority has the relevant function,

(b) if the relevant function is a function of a Northern Ireland devolved authority, or

(c) if the provision by virtue of which the public authority has the relevant function, if it were included in an Act of the Northern Ireland Assembly—

(i) would be within the legislative competence of that Assembly (ignoring section 6(2)(d) of the Northern Ireland Act 1998), and

(ii) would not require the consent of the Secretary of State.

Requirements for consent

3 (1) A Minister of the Crown may only make regulations under paragraph 1 with the consent of the Treasury.

(2) A devolved authority may only make regulations under paragraph 1 with the consent of a Minister of the Crown if—

(a) the relevant function is a function of a Minister of the Crown, or

(b) the public authority that has the relevant function—

(i) in the case of the Scottish Ministers, has any functions that can be exercised otherwise than in or as regards Scotland,

(ii) in the case of the Welsh Ministers, has any functions that can be exercised otherwise than in relation to Wales or the Welsh zone, or

(iii) in the case of a Northern Ireland department, has any functions that can be exercised otherwise than in or as regards Northern Ireland and is not an implementation body.

(3) In sub-paragraph (2)(b)(iii) "implementation body" has the same meaning as in section 55 of the Northern Ireland Act 1998 (see subsection (3) of that section).

Minister of the Crown power in relation to devolved authorities

4 A Minister of the Crown may by regulations—

(a) prescribe circumstances in which, or functions in relation to which, a devolved authority is to be regarded as being an appropriate authority for the purposes of paragraph 1;

(b) provide that a devolved authority that is regarded as being an appropriate authority under regulations made under paragraph (a) may only make regulations under paragraph 1, by virtue of being so regarded, with the consent of a Minister of the Crown;

(c) prescribe circumstances in which, or functions in relation to which, a devolved authority may, despite paragraph 3(2), make regulations under paragraph 1 without the consent of a Minister of the Crown.

Time limit for making certain provision

5 (1) Subject to sub-paragraph (2), no regulations may be made under paragraph 1 after the end of the period of two years beginning with exit day.

(2) After the end of that period, regulations may be made under paragraph 1 for the purposes of—

(a) revoking any provision made under that paragraph,

(b) altering the amount of any of the fees or charges that are to be charged under any provision made under that paragraph,

(c) altering how any of the fees or charges that are to be charged under any provision made under that paragraph are to be determined, or

(d) otherwise altering the fees or charges that may be charged in relation to anything in respect of which fees or charges may be charged under any provision made under that paragraph.

(3) This paragraph does not affect the continuation in force of any regulations made at or before the end of the period mentioned in sub-paragraph (1)

(including the exercise after the end of that period of any power conferred by regulations made under that paragraph at or before the end of that period).

Relationship to other powers

6 This Part does not affect the powers under section 8 or 9 or Schedule 2, or any other power exercisable apart from this Part, to require the payment of, or to make other provision in relation to, fees or other charges.

PART 2

MODIFYING PRE-EXIT FEES OR CHARGES

Power to modify pre-exit fees or charges

7 (1) Sub-paragraph (2) applies where any subordinate legislation contains provision ("the charging provision") for, or in connection with, the charging of fees or other charges that—
(a) was made under section 2(2) of the European Communities Act 1972, section 56 of the Finance Act 1973 or this Part, and
(b) forms part of retained EU law.

(2) Any appropriate authority may by regulations make provision ("the proposed modification") modifying the subordinate legislation for the purposes of—
(a) revoking the charging provision,
(b) altering the amount of any of the fees or charges that are to be charged,
(c) altering how any of the fees or charges are to be determined, or
(d) otherwise altering the fees or charges that may be charged in relation to anything in respect of which fees or charges may be charged under the charging provision.

Meaning of "appropriate authority"

8 In this Part an "appropriate authority" means a Minister of the Crown, or devolved authority, that could have made the proposed modification—
(a) under section 2(2) of the European Communities Act 1972 immediately before the repeal of that section by section 1, or
(b) under section 56 of the Finance Act 1973 immediately before the amendment of that section by paragraph 17 of Schedule 8.

Restriction on exercise of power

9 (1) Where the charging provision consists solely of 1972 Act provision, regulations under this Part may not impose or increase taxation.

(2) In sub-paragraph (1) "1972 Act provision" means—
(a) provision that is made under section 2(2) of the European Communities Act 1972 and not under section 56 of the Finance Act 1973, including such provision as modified under this Part, or
(b) provision that is made under this Part and is incidental to, or supplements or replaces, provision within paragraph (a).

Requirement for consent

10 If a Minister of the Crown—
(a) is an appropriate authority, and
(b) immediately before the amendment of section 56 of the Finance Act 1973 by paragraph 17 of Schedule 8 could only have made the proposed modification under that section,
the Minister may only make that modification under this Part with the consent of the Treasury.

Relationship to other powers

11 This Part does not affect the powers under section 8 or 9 or Schedule 2, or any other power exercisable apart from this Part, to require the payment of, or to make other provision in relation to, fees or other charges.

SCHEDULE 5

Section 15(1) and (2)

PUBLICATION AND RULES OF EVIDENCE

PART 1

PUBLICATION OF RETAINED DIRECT EU LEGISLATION ETC.

Things that must or may be published

1 (1) The Queen's Printer must make arrangements for the publication of—
(a) each relevant instrument that has been published before exit day by an EU entity, and
(b) the relevant international agreements.

(2) In this paragraph—
"relevant instrument" means—
(a) an EU regulation,
(b) an EU decision, and
(c) EU tertiary legislation;
"relevant international agreements" means—
(a) the Treaty on European Union,
(b) the Treaty on the Functioning of the European Union,
(c) the Euratom Treaty, and
(d) the EEA agreement.

(3) The Queen's Printer may make arrangements for the publication of—
(a) any decision of, or expression of opinion by, the European Court, or
(b) any other document published by an EU entity.

(4) The Queen's Printer may make arrangements for the publication of anything which the Queen's Printer considers may be useful in connection with anything published under this paragraph.

(5) This paragraph does not require the publication of—
(a) anything repealed before exit day, or

(b) any modifications made on or after exit day.

Exceptions from duty to publish

2 (1) A Minister of the Crown may create an exception from the duty under paragraph 1(1) in respect of a relevant instrument if satisfied that it has not become (or will not become, on exit day) retained direct EU legislation.

(2) An exception is created by giving a direction to the Queen's Printer specifying the instrument or category of instruments that are excepted.

(3) A Minister of the Crown must publish any direction under this paragraph.

(4) In this paragraph—

"instrument" includes part of an instrument;

"relevant instrument" has the meaning given by paragraph 1(2).

PART 2

RULES OF EVIDENCE

Questions as to meaning of EU law

3 (1) Where it is necessary, for the purpose of interpreting retained EU law in legal proceedings, to decide a question as to—

(a) the meaning or effect in EU law of any of the EU Treaties or any other treaty relating to the EU, or

(b) the validity, meaning or effect in EU law of any EU instrument,

the question is to be treated for that purpose as a question of law.

(2) In this paragraph—

"interpreting retained EU law" means deciding any question as to the validity, meaning or effect of any retained EU law;

"treaty" includes—

(a) any international agreement, and

(b) any protocol or annex to a treaty or international agreement.

Power to make provision about judicial notice and admissibility

4 (1) A Minister of the Crown may by regulations—

(a) make provision enabling or requiring judicial notice to be taken of a relevant matter, or

(b) provide for the admissibility in any legal proceedings of specified evidence of—

(i) a relevant matter, or

(ii) instruments or documents issued by or in the custody of an EU entity.

(2) Regulations under sub-paragraph (1)(b) may provide that evidence is admissible only where specified conditions are met (for example, conditions as to certification of documents).

(3) Regulations under this paragraph may modify any provision made by or under an enactment.

(4) In sub-paragraph (3) "enactment" does not include primary legislation passed or made after the end of the Session in which this Act is passed.

(5) For the purposes of this paragraph each of the following is a "relevant matter"—
  (a) retained EU law,
  (b) EU law,
  (c) the EEA agreement, and
  (d) anything which is specified in the regulations and which relates to a matter mentioned in paragraph (a), (b) or (c).

SCHEDULE 6

Section 20(1)

INSTRUMENTS WHICH ARE EXEMPT EU INSTRUMENTS

EU decisions

1 (1) An EU decision is "an exempt EU instrument" so far as it is, in accordance with a relevant Protocol, not applicable to the United Kingdom immediately before exit day.

(2) If any decision under Title V or former Title V of the Treaty on European Union is a decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union (and accordingly falls within the definition of "EU decision" in section 20(1)), it is "an exempt EU instrument".

(3) In sub-paragraph (2), the reference to former Title V of the Treaty on European Union is a reference to that Title as it had effect at any time before the coming into force of the Treaty of Lisbon.

EU regulations

2 An EU regulation is "an exempt EU instrument" so far as it is, in accordance with a relevant Protocol, not applicable to the United Kingdom immediately before exit day.

EU tertiary legislation

3 EU tertiary legislation is "an exempt EU instrument" so far as it is made under—
  (a) an EU decision or EU regulation which is an exempt EU instrument, or
  (b) an EU directive so far as it is, in accordance with a relevant Protocol, not applicable to the United Kingdom immediately before exit day.

Interpretation

4 The following are "relevant Protocols" for the purposes of this Schedule—
  (a) Protocol 15 to the Treaty on European Union and the Treaty on the Functioning of the European Union (protocol on certain provisions relating to the United Kingdom);

(b) Protocol 19 to the Treaty on European Union and the Treaty on the Functioning of the European Union (protocol on the Schengen acquis integrated into the framework of the European Union);

(c) the former Protocol integrating the Schengen acquis into the framework of the European Union annexed, in accordance with the Treaty of Amsterdam, to the Treaty on European Union and the Treaty establishing the European Community;

(d) Protocol 21 to the Treaty on European Union and the Treaty on the Functioning of the European Union (protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice);

(e) the former Protocol on the position of the United Kingdom and Ireland annexed, in accordance with the Treaty of Amsterdam, to the Treaty on European Union and the Treaty establishing the European Community (protocol in respect of Title IV of Part 3 of the Treaty establishing the European Community);

(f) Article 10 of Title VII of Protocol 36 to the Treaty on European Union and the Treaty on the Functioning of the European Union (transitional provision with respect to acts of the Union in the field of police co-operation and judicial co-operation in criminal matters adopted before the coming into force of the Treaty of Lisbon).

SCHEDULE 7

Section 22

REGULATIONS

PART 1

SCRUTINY OF POWERS TO DEAL WITH DEFICIENCIES

Scrutiny of regulations made by Minister of the Crown or devolved authority acting alone

1 (1) A statutory instrument containing regulations under section 8(1) 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—

(a) provides for any function of an EU entity or public authority in a member State of making an instrument of a legislative character to be exercisable instead by a public authority in the United Kingdom,

(b) relates to a fee in respect of a function exercisable by a public authority in the United Kingdom,

(c) creates, or widens the scope of, a criminal offence, or

(d) creates or amends a power to legislate.

(3) Any other statutory instrument containing regulations under section 8(1) 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 3 for restrictions on the choice of procedure under sub-paragraph (3).

(5) A statutory instrument containing regulations under section 8(3)(b) (including as applied by paragraph 1(3) 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.

(6) Regulations under Part 1 of Schedule 2 of the Scottish Ministers 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)).

(7) Any other regulations under Part 1 of Schedule 2 of the Scottish Ministers 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).

(8) A statutory instrument containing regulations under Part 1 of Schedule 2 of the Welsh Ministers 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, the National Assembly for Wales.

(9) Any other statutory instrument containing regulations under Part 1 of Schedule 2 of the Welsh Ministers is (if a draft of the instrument has not been laid before, and approved by a resolution of, the National Assembly for Wales) subject to annulment in pursuance of a resolution of the Assembly.

(10) See paragraph 4 for restrictions on the choice of procedure under sub-paragraph (9).

(11) Regulations under Part 1 of Schedule 2 of a Northern Ireland department 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.

(12) Any other regulations under Part 1 of Schedule 2 of 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.

(13) This paragraph—
  (a) does not apply to regulations to which paragraph 2 applies, and
  (b) is subject to paragraphs 5 to 8.

Scrutiny of regulations made by Minister of the Crown and devolved authority acting jointly

2 (1) This paragraph applies to regulations under Part 1 of Schedule 2 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 1(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 1(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 (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 (asp 10) (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 1(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(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, the National Assembly for Wales) subject to annulment in pursuance of a resolution of the Assembly.

(12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and contain provision falling within paragraph 1(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—
  (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, the National Assembly for Wales, 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) and (15) apply in place of provision made by any other enactment about the effect of such a resolution.

Parliamentary committee to sift certain deficiencies regulations of a Minister of the Crown

3 (1) Sub-paragraph (2) applies if a Minister of the Crown who is to make a statutory instrument to which paragraph 1(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.

(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 1(3) applies is made that another procedure should apply in relation to the instrument (whether under paragraph 1(3) or 5).

(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.

Committee of the National Assembly for Wales to sift certain deficiencies regulations of Welsh Ministers

4 (1) Sub-paragraph (2) applies if the Welsh Ministers are to make a statutory instrument to which paragraph 1(9) 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 the National Assembly for Wales.

(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 the National Assembly for Wales, and
- (b) have laid before the Assembly—
  - (i) a draft of the instrument, and
  - (ii) a memorandum setting out the statement and the reasons for the Welsh Ministers' opinion.

(4) Condition 2 is that a committee of the National Assembly for Wales 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 the National Assembly for Wales as mentioned in sub-paragraph (3) 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 the National Assembly for Wales 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 1(9) applies is made that another procedure should apply to the instrument (whether under paragraph 1(9) or 7).

(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 the Assembly) does not apply in relation to any statutory instrument to which this paragraph applies.

(9) The references in this paragraph to paragraph 1(9) do not include references to paragraph 1(9) as applied by paragraph 10(5) (for which see paragraph 18).

Scrutiny procedure in certain urgent deficiencies cases: Ministers of the Crown

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

(b) a statutory instrument to which paragraph 1(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.

(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 1(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 3 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.

Scrutiny procedure in certain urgent deficiencies cases: devolved authorities

6 (1) This paragraph applies to—
(a) regulations to which paragraph 1(6) applies, or
(b) regulations to which paragraph 1(7) applies which would not otherwise be made without being subject to the affirmative procedure.

(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.

(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.

(7) The references in this paragraph to paragraph 1(6) or (7) do not include references to paragraph 1(6) or (7) as applied by paragraph 10(5) (for which see paragraph 19(7)).

7 (1) Sub-paragraph (2) applies to—
  (a) a statutory instrument to which paragraph 1(8) applies, or
  (b) a statutory instrument to which paragraph 1(9) applies which would not otherwise be made without a draft of the instrument being laid before, and approved by a resolution of, the National Assembly for Wales.

(2) The instrument may be made without a draft of the instrument being laid before, and approved by a resolution of, the National Assembly for Wales 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 the National Assembly for Wales.

(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 the National Assembly for Wales.

(5) In calculating the period of 28 days, no account is to be taken of any time during which the National Assembly for Wales 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 1(9) 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 the National Assembly for Wales.

(8) Paragraph 4 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.

(9) The references in this paragraph to paragraph 1(8) or (9) do not include references to paragraph 1(8) or (9) as applied by paragraph 10(5) (for which see paragraph 19(7)).

8 (1) This paragraph applies to—
(a) regulations to which paragraph 1(11) applies, or
(b) regulations to which paragraph 1(12) 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.

(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.

(7) The references in this paragraph to paragraph 1(11) or (12) do not include references to paragraph 1(11) or (12) as applied by paragraph 10(5) (for which see paragraph 19(7)).

PART 2

SCRUTINY OF OTHER POWERS UNDER ACT

Power to enable challenges to validity of retained EU law

9 (1) A statutory instrument containing regulations under paragraph 1(2)(b) of Schedule 1 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) This paragraph is subject to paragraph 19.

Power to implement withdrawal agreement

10 (1) A statutory instrument containing regulations under section 9 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—

(a) provides for any function of an EU entity or public authority in a member State of making an instrument of a legislative character to be exercisable instead by a public authority in the United Kingdom,

(b) relates to a fee in respect of a function exercisable by a public authority in the United Kingdom,

(c) creates, or widens the scope of, a criminal offence, or

(d) creates or amends a power to legislate.

(3) Any other statutory instrument containing regulations under section 9 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 17 for restrictions on the choice of procedure under sub-paragraph (3).

(5) Paragraphs 1(6) to (13)(a) and 2 apply to regulations under Part 2 of Schedule 2 as they apply to regulations under Part 1 of that Schedule except that any reference to provision falling within paragraph 1(2) is to be read as a reference to any provision falling within sub-paragraph (2) above.

(6) This paragraph is subject to paragraph 19.

Power to repeal provisions relating to retained EU law restrictions

11 A statutory instrument containing regulations under section 12(9) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Powers in connection with fees and charges

12 (1) A statutory instrument containing regulations of a Minister of the Crown under Schedule 4 which contain provision which does not relate to altering the amount of a fee or charge to reflect changes in the value of money 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) Any other statutory instrument containing regulations under Schedule 4 of a Minister of the Crown 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.

(3) Paragraphs 1(6) to (13)(a) and 2 apply to regulations under Schedule 4 as they apply to regulations under Part 1 of Schedule 2 except that any reference to provision falling within paragraph 1(2) is to be read as a reference to any provision made under Schedule 4 which does not relate to altering the amount of a fee or charge to reflect changes in the value of money.

(4) This paragraph is subject to paragraph 19.

Power to make provision about judicial notice and admissibility

13 A statutory instrument containing regulations under paragraph 4 of Schedule 5 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Power to amend the definition of "exit day"

14 A statutory instrument containing regulations under section 20(4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Power to make consequential provision

15 (1) A statutory instrument containing regulations under section 23(1) 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.

(2) See paragraph 17 for restrictions on the choice of procedure under sub-paragraph (1).

Power to make transitional, transitory or saving provision

16 (1) Sub-paragraph (2) applies if a Minister of the Crown who is to make regulations under section 23(6) considers that—

(a) it is not appropriate for the statutory instrument containing them to be subject to no parliamentary procedure, and

(b) it is appropriate for that statutory instrument to be subject to the parliamentary procedure in sub-paragraph (2).

(2) The statutory instrument containing the regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(3) Sub-paragraph (4) applies if a Minister of the Crown who is to make regulations under section 23(6) considers that—

(a) it is not appropriate for the statutory instrument containing them to be subject to no parliamentary procedure, and

(b) it is appropriate for that statutory instrument to be subject to the parliamentary procedure in sub-paragraph (4).

(4) The statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

Parliamentary committee to sift certain implementation or consequential regulations of a Minister of the Crown

17 (1) Sub-paragraph (2) applies if a Minister of the Crown who is to make a statutory instrument to which paragraph 10(3) or 15 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.

(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 of Parliament 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 10(3) or 15 applies is made that another procedure should apply in relation to the instrument (whether under that paragraph or paragraph 19).

(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.

Committee of the National Assembly for Wales to sift certain implementation regulations of Welsh Ministers

18 Paragraph 4 applies to regulations under Part 2 of Schedule 2 as it applies to regulations under Part 1 of that Schedule but as if—

(a) the references to paragraph 1(9) were references to paragraph 1(9) as applied by paragraph 10(5),

(b) the reference to paragraph 7 were a reference to that paragraph as applied by paragraph 19(7), and

(c) paragraph 4(9) were omitted.

Scrutiny procedure for certain powers to which this Part applies in urgent cases

19 (1) Sub-paragraph (2) applies to—

(a) a statutory instrument to which paragraph 9(1), 10(1) or 12(1) applies, or

(b) a statutory instrument to which paragraph 10(3), 12(2) or 15 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.

(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) Paragraphs 6 to 8 apply to regulations under Part 2 of Schedule 2 as they apply to regulations under Part 1 of that Schedule but as if—
  (a) the references to paragraphs 1(6), (7), (8), (9), (10) or (11) were references to those provisions as applied by paragraph 10(5),
  (b) the reference in paragraph 7(8) to paragraph 4 were a reference to that paragraph as applied by paragraph 18, and
  (c) paragraphs 6(7), 7(9) and 8(7) were omitted.

(8) Sub-paragraph (9) applies to a statutory instrument to which paragraph 10(3) or 15 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.

(9) Paragraph 17 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.

PART 3

GENERAL PROVISION ABOUT POWERS UNDER ACT

Scope and nature of powers: general

20 (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 (SI 1979/1573 (NI 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).

21 Any power to make regulations under this Act—
  (a) may be exercised so as to—

(i) modify retained EU law, or
(ii) 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 (including provision re-stating any retained EU law in a clearer or more accessible way).

22 The fact that a power to make regulations is conferred by this Act does not affect the extent of any other power to make regulations under this Act.

Scope of consequential and transitional powers

23 (1) The fact that anything continues to be, or forms part of, domestic law by virtue of any provision of sections 2 to 6 or Schedule 1 does not prevent it from being modified by regulations made under section 23(1) in consequence of any other provision made by or under this Act.

(2) Accordingly, any retained EU law may, for example, be modified by regulations made under section 23(1) in consequence of the repeal of any enactment contained in the European Communities Act 1972.

(3) The power to make regulations under section 23(6) includes the power to make transitional, transitory or saving provision in connection with—
(a) the repeal of any enactment contained in the European Communities Act 1972, or
(b) the withdrawal of the United Kingdom from the EU,
which is additional to that made by any provision of sections 2 to 6 or Schedule 1 or alters its effect in particular cases or descriptions of case.

(4) The power to make regulations under section 23(1) includes the power to make transitional, transitory or saving provision which—
(a) is in connection with any repeal or revocation made by any such regulations of an enactment in consequence of—
(i) the repeal of any enactment contained in the European Communities Act 1972, or
(ii) the withdrawal of the United Kingdom from the EU, and
(b) is additional to that made by any provision of sections 2 to 6 or Schedule 1 or alters its effect in particular cases or descriptions of case.

(5) Provision of the kind mentioned in sub-paragraph (3) or (4) may (among other things) include further provision treating any provision of that kind as retained EU law for particular purposes or all purposes.

Anticipatory exercise of powers in relation to retained EU law

24 Any power to make regulations under this Act which modify retained direct EU legislation, anything which is retained EU law by virtue of section 4 or any other retained EU law is capable of being exercised before exit day so that the regulations come into force on or after exit day.

Scope of appointed day powers

25 Any power of a Minister of the Crown under this Act to appoint a day includes a power to appoint a time on that day if the Minister considers it appropriate to do so.

Effect of certain provisions in Schedule 8 on scope of powers

26 The modifications made by Part 1 of Schedule 8 and paragraphs 18 to 22 and 31 to 35 of that Schedule do not prevent or otherwise limit the making of different provision, in particular cases or descriptions of case, in regulations under section 23(1) or in any other regulations under this Act.

Disapplication of certain review provisions

27 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 conferred by this Act.

Explanatory statements for certain powers: appropriateness, equalities etc.

28 (1) This paragraph applies where—
(a) a statutory instrument containing regulations under section 8(1), 9 or 23(1) or paragraph 1(2) or 12(2) of Schedule 2, or
(b) a draft of such an instrument,
is to be laid before each House of Parliament.

(2) Before the instrument or draft is laid, the relevant Minister must make a statement to the effect that in the Minister's opinion the instrument or draft does no more than is appropriate.

(3) Before the instrument or draft is laid, the relevant Minister must make a statement as to why, in the Minister's opinion—
(a) there are good reasons for the instrument or draft, and
(b) the provision made by the instrument or draft is a reasonable course of action.

(4) Before the instrument or draft is laid, the relevant Minister must make a statement—
(a) as to whether the instrument or draft amends, repeals or revokes any provision of equalities legislation, and
(b) if it does, explaining the effect of each such amendment, repeal or revocation.

(5) Before the instrument or draft is laid, the relevant Minister must make a statement to the effect that, in relation to the instrument or draft, the Minister has, so far as required to do so by equalities legislation, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.

(6) Before the instrument or draft is laid, the relevant Minister must make a statement otherwise explaining—
(a) the instrument or draft,
(b) its purpose,
(c) the law before exit day which is relevant to it, and

(d) its effect (if any) on retained EU law.

(7) Where an instrument or draft creates a criminal offence, the statement required by sub-paragraph (3) must (among other things) include an explanation of why, in the relevant Minister's opinion, there are good reasons for creating the offence and for the penalty provided in respect of it.

(8) If the relevant Minister fails to make a statement required by sub-paragraph (2), (3), (4), (5) or (6) before the instrument or draft is laid, a Minister of the Crown must make a statement explaining why the relevant Minister has failed to do so.

(9) A statement under sub-paragraph (2), (3), (4), (5), (6) or (8) must be made in writing and be published in such manner as the Minister making it considers appropriate.

(10) For the purposes of this paragraph, where an instrument or draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.

(11) This paragraph does not apply in relation to any laying before each House of Parliament of an instrument or draft instrument where an equivalent draft instrument (ignoring any differences relating to procedure) has previously been laid before both Houses.

(12) In this paragraph—

"equalities legislation" means the Equality Act 2006, the Equality Act 2010 or any subordinate legislation made under either of those Acts;

"the relevant Minister" means the Minister of the Crown who makes, or is to make, the instrument.

29 (1) This paragraph applies where—

(a) a Scottish statutory instrument containing regulations under Part 1 or 2 of Schedule 2, or

(b) a draft of such an instrument,

is to be laid before the Scottish Parliament.

(2) Before the instrument or draft is laid, the Scottish Ministers must make a statement to the effect that in the Scottish Ministers' opinion the instrument or draft does no more than is appropriate.

(3) Before the instrument or draft is laid, the Scottish Ministers must make a statement as to why, in the Scottish Ministers' opinion—

(a) there are good reasons for the instrument or draft, and

(b) the provision made by the instrument or draft is a reasonable course of action.

(4) Before the instrument or draft is laid, the Scottish Ministers must make a statement—

(a) as to whether the instrument or draft amends, repeals or revokes any provision of equalities legislation, and

(b) if it does, explaining the effect of each such amendment, repeal or revocation.

(5) Before the instrument or draft is laid, the Scottish Ministers must make a statement to the effect that, in relation to the instrument or draft, the Scottish Ministers have, so far as required to do so by equalities legislation, had due

regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.

(6) Before the instrument or draft is laid, the Scottish Ministers must make a statement otherwise explaining—
  (a) the instrument or draft,
  (b) its purpose,
  (c) the law before exit day which is relevant to it, and
  (d) its effect (if any) on retained EU law.

(7) Where an instrument or draft creates a criminal offence, the statement required by sub-paragraph (3) must (among other things) include an explanation of why, in the Scottish Ministers' opinion, there are good reasons for creating the offence and for the penalty provided in respect of it.

(8) If the Scottish Ministers fail to make a statement required by sub-paragraph (2), (3), (4), (5) or (6) before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why they have failed to do so.

(9) A statement under sub-paragraph (2), (3), (4), (5), (6) or (8) must be made in writing and be published in such manner as the Scottish Ministers consider appropriate.

(10) In this paragraph "equalities legislation" means the Equality Act 2006, the Equality Act 2010 or any subordinate legislation made under either of those Acts.

Further explanatory statements in certain sub-delegation cases

30 (1) This paragraph applies where—
  (a) a statutory instrument containing regulations under section 8(1) or 9 or paragraph 1 of Schedule 4 which create a relevant sub-delegated power, or
  (b) a draft of such an instrument,
  is to be laid before each House of Parliament.

(2) Before the instrument or draft is laid, the relevant Minister must make a statement explaining why it is appropriate to create a relevant sub-delegated power.

(3) If the relevant Minister fails to make a statement required by sub-paragraph (2) before the instrument or draft is laid, a Minister of the Crown must make a statement explaining why the relevant Minister has failed to do so.

(4) A statement under sub-paragraph (2) or (3) must be made in writing and be published in such manner as the Minister making it considers appropriate.

(5) Sub-paragraphs (10) and (11) of paragraph 28 apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

(6) For the purposes of this paragraph references to creating a relevant sub-delegated power include (among other things) references to—
  (a) amending a power to legislate which is exercisable by statutory instrument by a relevant UK authority so that it becomes a relevant sub-delegated power, or
  (b) providing for any function of an EU entity or public authority in a member State of making an instrument of a legislative character to be

exercisable instead as a relevant sub-delegated power by a public authority in the United Kingdom.

(7) In this paragraph—

"the relevant Minister" means the Minister of the Crown who makes, or is to make, the instrument;

"relevant sub-delegated power" means a power to legislate which—

(a) is not exercisable by any of the following—

(i) statutory instrument,

(ii) Scottish statutory instrument, or

(iii) statutory rule, or

(b) is so exercisable by a public authority other than a relevant UK authority;

"relevant UK authority" means a Minister of the Crown, a member of the Scottish Government, the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government or a Northern Ireland devolved authority.

31 (1) This paragraph applies where—

(a) a Scottish statutory instrument containing regulations under Part 1 or 2 of Schedule 2 or paragraph 1 of Schedule 4 which create a relevant sub-delegated power, or

(b) a draft of such an instrument,

is to be laid before the Scottish Parliament.

(2) Before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why it is appropriate to create a relevant sub-delegated power.

(3) If the Scottish Ministers fail to make a statement required by sub-paragraph (2) before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why they have failed to do so.

(4) A statement under sub-paragraph (2) or (3) must be made in writing and be published in such manner as the Scottish Ministers consider appropriate.

(5) For the purposes of this paragraph references to creating a relevant sub-delegated power include (among other things) references to—

(a) amending a power to legislate which is exercisable by Scottish statutory instrument by a member of the Scottish Government so that it becomes a relevant sub-delegated power, or

(b) providing for any function of an EU entity or public authority in a member State of making an instrument of a legislative character to be exercisable instead as a relevant sub-delegated power by a public authority in the United Kingdom.

(6) In this paragraph "relevant sub-delegated power" means a power to legislate which—

(a) is not exercisable by Scottish statutory instrument, or

(b) is so exercisable by a public authority other than a member of the Scottish Government.

Annual reports in certain sub-delegation cases

32 (1) Each person by whom a relevant sub-delegated power is exercisable by virtue of regulations made by a Minister of the Crown under section 8(1) or 9 or paragraph 1 of Schedule 4 must—
(a) if the power has been exercised during a relevant year, and
(b) as soon as practicable after the end of the year,
prepare a report on how the power has been exercised during the year.

(2) The person must—
(a) lay the report before each House of Parliament, and
(b) once laid—
(i) provide a copy of it to a Minister of the Crown, and
(ii) publish it in such manner as the person considers appropriate.

(3) In this paragraph—
"relevant sub-delegated power" has the same meaning as in paragraph 30;
"relevant year" means—
(a) in the case of a person who prepares an annual report, the year by reference to which the report is prepared, and
(b) in any other case, the calendar year.

33 (1) Each person by whom a relevant sub-delegated power is exercisable by virtue of regulations made by the Scottish Ministers by Scottish statutory instrument under Part 1 or 2 of Schedule 2 or paragraph 1 of Schedule 4 must—
(a) if the power has been exercised during a relevant year, and
(b) as soon as practicable after the end of the year,
prepare a report on how the power has been exercised during the year.

(2) The person must—
(a) lay the report before the Scottish Parliament, and
(b) once laid—
(i) send a copy of it to the Scottish Ministers, and
(ii) publish it in such manner as the person considers appropriate.

(3) In this paragraph—
"relevant sub-delegated power" has the same meaning as in paragraph 31;
"relevant year" means—
(a) in the case of a person who prepares an annual report, the year by reference to which the report is prepared, and
(b) in any other case, the calendar year.

Further explanatory statements in urgency cases

34 (1) This paragraph applies where a statutory instrument containing regulations under this Act is to be made by virtue of paragraph 5(2) or 19(2).

(2) The Minister of the Crown who is to make the instrument must make a statement in writing explaining the reasons for the Minister's opinion that, by reason of urgency, it is necessary to make the regulations without a draft of the instrument containing them being laid before, and approved by a resolution of, each House of Parliament.

(3) A statement under sub-paragraph (2) must be published before, or at the same time as, the instrument as made is laid before each House of Parliament.

(4) If the Minister—

(a) fails to make the statement required by sub-paragraph (2) before the instrument is made, or

(b) fails to publish it as required by sub-paragraph (3),

a Minister of the Crown must make a statement explaining the failure.

(5) A statement under sub-paragraph (4) must be made in writing and be published in such manner as the Minister making it considers appropriate.

(6) For the purposes of this paragraph, where an instrument is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.

35 (1) This paragraph applies where regulations are to be made by the Scottish Ministers under this Act by virtue of paragraph 6(2) (whether or not as applied by paragraph 19(7)).

(2) The Scottish Ministers must make a statement in writing explaining the reasons for the Scottish Ministers' opinion that, by reason of urgency, it is necessary to make the regulations without them being subject to the affirmative procedure.

(3) A statement under sub-paragraph (2) must be published before, or at the same time as, the regulations as made are laid before the Scottish Parliament.

(4) If the Scottish Ministers—

(a) fail to make the statement required by sub-paragraph (2) before the regulations are made, or

(b) fail to publish it as required by sub-paragraph (3),

they must make a statement explaining the failure.

(5) A statement under sub-paragraph (4) must be made in writing and be published in such manner as the Scottish Ministers consider appropriate.

Hybrid instruments

36 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

37 (1) 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.

(2) For the purposes of sub-paragraph (1) in its application to regulations under section 23(6) no procedure is also a procedure.

Combinations of instruments

38 (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 the National Assembly for Wales 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 the National Assembly for Wales.

(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, the National Assembly for Wales 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, the National Assembly for Wales 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).

SCHEDULE 8

Section 23(5) and (7)

CONSEQUENTIAL, TRANSITIONAL, TRANSITORY AND SAVING PROVISION

PART 1

GENERAL CONSEQUENTIAL PROVISION

Existing ambulatory references to retained direct EU legislation

1 (1) Any reference which, immediately before exit 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 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,

is to be read, on or after exit day, as a reference to the EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement as it forms part of domestic law by virtue of section 3 and, unless the contrary intention appears, as modified by domestic law from time to time.

(2) Sub-paragraph (1) does not apply to any reference which forms part of a power to make, confirm or approve subordinate legislation so far as the power to make the subordinate legislation—
(a) continues to be part of domestic law by virtue of section 2, and
(b) is subject to a procedure before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.

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

Other existing ambulatory references

2 (1) Any reference which—
(a) exists, immediately before exit day, 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),
(b) is not a reference to which paragraph 1(1) applies, and
(c) is, immediately before exit day, 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 to be read, on or after exit day, as a reference to the EU Treaty, instrument or document as it has effect immediately before exit day.

(2) Sub-paragraph (1) does not apply to any reference which forms part of a power to make, confirm or approve subordinate legislation so far as the power to make the subordinate legislation—
  (a) continues to be part of domestic law by virtue of section 2, and
  (b) is subject to a procedure before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.

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

Existing powers to make subordinate legislation etc.

3 (1) Any power to make, confirm or approve subordinate legislation which—
  (a) was conferred before the day on which this Act is passed, and
  (b) is capable of being exercised to amend or repeal (or, as the case may be, result in the amendment or repeal of) an enactment contained in primary legislation,

is to be read, so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of) any retained direct EU legislation or anything which is retained EU law by virtue of section 4.

(2) But sub-paragraph (1) does not apply if the power to make, confirm or approve subordinate legislation is only capable of being exercised to amend or repeal (or, as the case may be, result in the amendment or repeal of) an enactment contained in Northern Ireland legislation which is an Order in Council.

4 (1) Any subordinate legislation which—
  (a) is, or is to be, made, confirmed or approved by virtue of paragraph 3, and
  (b) amends or revokes any retained direct principal EU legislation,

is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were amending or repealing an enactment contained in primary legislation.

(2) Any subordinate legislation which—
  (a) is, or is to be, made, confirmed or approved by virtue of paragraph 3, and
  (b) either—
    (i) modifies (otherwise than as a connected modification and otherwise than by way of amending or revoking it) any retained direct principal EU legislation, or
    (ii) modifies (otherwise than as a connected modification) anything which is retained EU law by virtue of section 4,

is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were amending or repealing an enactment contained in primary legislation.

(3) Any subordinate legislation which—
  (a) is, or is to be, made, confirmed or approved by virtue of paragraph 3, and

(b) amends or revokes any retained direct minor EU legislation,

is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were amending or revoking an enactment contained in subordinate legislation made under a different power.

(4) Any subordinate legislation which—

(a) is, or is to be, made, confirmed or approved by virtue of paragraph 3, and

(b) modifies (otherwise than as a connected modification and otherwise than by way of amending or revoking it) any retained direct minor EU legislation,

is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were amending or revoking an enactment contained in subordinate legislation made under a different power.

(5) Any subordinate legislation which—

(a) is, or is to be, made, confirmed or approved by virtue of paragraph 3, and

(b) modifies as a connected modification any retained direct EU legislation or anything which is retained EU law by virtue of section 4,

is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to the modification to which it is connected.

(6) Any provision which may be made, confirmed or approved by virtue of paragraph 3 may be included in the same instrument as any other provision which may be so made, confirmed or approved.

(7) Where more than one procedure of a kind falling within sub-paragraph (8) would otherwise apply in the same legislature for an instrument falling within sub-paragraph (6), the higher procedure is to apply in the legislature concerned.

(8) The order of procedures is as follows (the highest first)—

(a) a procedure which requires a statement of urgency before the instrument is made and the approval of the instrument after it is made to enable it to remain in force,

(b) a procedure which requires the approval of the instrument in draft before it is made,

(c) a procedure not falling within paragraph (a) which requires the approval of the instrument after it is made to enable it to come into, or remain in, force,

(d) a procedure which provides for the annulment of the instrument after it is made,

(e) a procedure not falling within any of the above paragraphs which provides for the laying of the instrument after it is made,

(f) no procedure.

(9) The references in this paragraph to amending or repealing an enactment contained in primary legislation or amending or revoking an enactment

contained in subordinate legislation do not include references to amending or repealing or (as the case may be) amending or revoking an enactment contained in any Northern Ireland legislation which is an Order in Council.

(10) In this paragraph "connected modification" means a modification which is supplementary, incidental, consequential, transitional or transitory, or a saving, in connection with—

(a) another modification under the power of retained direct EU legislation or anything which is retained EU law by virtue of section 4, or

(b) anything else done under the power.

5 (1) This paragraph applies to any power to make, confirm or approve subordinate legislation—

(a) which was conferred before the day on which this Act is passed, and

(b) is not capable of being exercised as mentioned in paragraph 3(1)(b) or is only capable of being so exercised in relation to Northern Ireland legislation which is an Order in Council.

(2) Any power to which this paragraph applies (other than a power to which sub-paragraph (4) applies) is to be read—

(a) so far as is consistent with any retained direct principal EU legislation or anything which is retained EU law by virtue of section 4, and

(b) so far as the context permits or requires,

as being capable of being exercised to modify (or, as the case may be, result in the modification of) any retained direct minor EU legislation.

(3) Any power to which this paragraph applies (other than a power to which sub-paragraph (4) applies) is to be read, so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of)—

(a) any retained direct principal EU legislation, or

(b) anything which is retained EU law by virtue of section 4,

so far as the modification is supplementary, incidental or consequential in connection with any modification of any retained direct minor EU legislation by virtue of sub-paragraph (2).

(4) Any power to which this paragraph applies so far as it is a power to make, confirm or approve transitional, transitory or saving provision is to be read, so far as the context permits or requires, as being capable of being exercised to modify (or, as the case may be, result in the modification of)—

(a) any retained direct EU legislation, or

(b) anything which is retained EU law by virtue of section 4.

6 Any subordinate legislation which is, or is to be, made, confirmed or approved by virtue of paragraph 5(2), (3) or (4) is to be subject to the same procedure (if any) before Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly as would apply to that legislation if it were doing anything else under the power.

7 Any power to make, confirm or approve subordinate legislation which, immediately before exit day, is subject to an implied restriction that it is exercisable only compatibly with EU law is to be read on or after exit day

without that restriction or any corresponding restriction in relation to compatibility with retained EU law.

8 (1) Paragraphs 3 to 7 and this paragraph—
(a) do not prevent the conferral of wider powers,
(b) do not apply so far as section 57(4) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 or section 24(3) of the Northern Ireland Act 1998 applies (or would apply when in force on and after exit day), and
(c) are subject to any other provision made by or under this Act or any other enactment.

(2) For the purposes of paragraphs 3 and 5—
(a) a power is conferred whether or not it is in force, and
(b) a power in retained direct EU legislation is not conferred before the day on which this Act is passed.

(3) A power which, by virtue of paragraph 3 or 5 or any Act of Parliament passed before, and in the same Session as, this Act, is capable of being exercised to modify any retained EU law is capable of being so exercised before exit day so as to come into force on or after exit day.

Review provisions in existing subordinate legislation

9 (1) In carrying out a review of a provision of subordinate legislation on or after exit day (whether under provision made in accordance with section 28 of the Small Business, Enterprise and Employment Act 2015 or otherwise), a person is not required, by any pre-exit enactment, to have regard to how any former EU obligation is implemented elsewhere than in the United Kingdom.

(2) In this paragraph—
"former EU obligation" means an obligation by which the United Kingdom is, as a result of the United Kingdom's withdrawal from the EU, no longer bound at the time of the review;
"pre-exit enactment" means an Act passed, or subordinate legislation made, before exit day;
"subordinate legislation" does not include an instrument made under an Act of the Scottish Parliament, Northern Ireland legislation or a Measure or Act of the National Assembly for Wales.

Future powers to make subordinate legislation

10 (1) This paragraph applies to any power to make, confirm or approve subordinate legislation which is conferred on or after the day on which this Act is passed.

(2) Any power to which this paragraph applies (other than a power to which sub-paragraph (4) applies) may—
(a) so far as is consistent with any retained direct principal EU legislation or anything which is retained EU law by virtue of section 4, and
(b) so far as applicable and unless the contrary intention appears,
be exercised to modify (or, as the case may be, result in the modification of) any retained direct minor EU legislation.

(3) Any power to which this paragraph applies (other than a power to which sub-paragraph (4) applies) may, so far as applicable and unless the contrary intention appears, be exercised to modify (or, as the case may be, result in the modification of)—

(a) any retained direct principal EU legislation, or

(b) anything which is retained EU law by virtue of section 4,

so far as the modification is supplementary, incidental or consequential in connection with any modification of any retained direct minor EU legislation by virtue of sub-paragraph (2).

(4) Any power to which this paragraph applies so far as it is a power to make, confirm or approve transitional, transitory or saving provision may, so far as applicable and unless the contrary intention appears, be exercised to modify (or, as the case may be, result in the modification of)—

(a) any retained direct EU legislation, or

(b) anything which is retained EU law by virtue of section 4.

11 (1) Sub-paragraph (2) applies to any power to make, confirm or approve subordinate legislation which—

(a) is conferred on or after the day on which this Act is passed, and

(b) is capable of being exercised to amend or revoke (or, as the case may be, result in the amendment or revocation of) any retained direct principal EU legislation.

(2) The power may, so far as applicable and unless the contrary intention appears, be exercised—

(a) to modify otherwise than by way of amendment or revocation (or, as the case may be, result in such modification of) any retained direct principal EU legislation, or

(b) to modify (or, as the case may be, result in the modification of) anything which is retained EU law by virtue of section 4.

12 (1) Paragraphs 10 and 11 and this paragraph—

(a) do not prevent the conferral of wider powers,

(b) do not apply so far as section 57(4) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 or section 24(3) of the Northern Ireland Act 1998 applies (or would apply when in force on and after exit day), and

(c) are subject to any other provision made by or under this Act or any other enactment.

(2) For the purposes of paragraphs 10 and 11—

(a) a power is conferred whether or not it is in force,

(b) a power in retained direct EU legislation is conferred on or after the day on which this Act is passed, and

(c) the references to powers conferred include powers conferred by regulations under this Act (but not powers conferred by this Act).

(3) A power which, by virtue of paragraph 10 or 11 or any Act of Parliament passed after, and in the same Session as, this Act, is capable of being exercised to modify any retained EU law is capable of being so exercised before exit day so as to come into force on or after exit day.

Affirmative procedure for instruments which amend or revoke subordinate legislation made under section 2(2) of the ECA (including subordinate legislation implementing EU directives)

13 (1) A statutory instrument which—
(a) is to be made on or after exit day by a Minister of the Crown under a power conferred before the beginning of the Session in which this Act is passed,
(b) is not to be made jointly with any person who is not a Minister of the Crown,
(c) amends or revokes any subordinate legislation made under section 2(2) of the European Communities Act 1972, and
(d) would otherwise be subject to a lower procedure before each House of Parliament and no procedure before any other legislature,
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) Sub-paragraph (1) has effect instead of any other provision which would otherwise apply in relation to the procedure for such an instrument before each House of Parliament but does not affect any other requirements which apply in relation to making, confirming or approving the instrument.

(3) Any provision which—
(a) may be made under the power mentioned in sub-paragraph (1)(a),
(b) is not provision which falls within sub-paragraph (1)(c), and
(c) is subject to a lower procedure than the procedure provided for by sub-paragraph (1),
may be included in an instrument to which sub-paragraph (1) applies (and is accordingly subject to the procedure provided for by that sub-paragraph instead of the lower procedure).

(4) If a draft of a statutory instrument which—
(a) is to be made on or after exit day by a Minister of the Crown under a power conferred before the beginning of the Session in which this Act is passed,
(b) is not to be made jointly with any person who is not a Minister of the Crown,
(c) amends or revokes any provision, made otherwise than under section 2(2) of the European Communities Act 1972 (whether or not by way of amendment), of subordinate legislation made under that section, and
(d) would otherwise be subject to a lower procedure before each House of Parliament and no procedure before any other legislature,
is laid before, and approved by a resolution of, each House of Parliament, then the instrument is not subject to the lower procedure.

(5) This paragraph applies to an instrument which is subject to a procedure before the House of Commons only as it applies to an instrument which is subject to a procedure before each House of Parliament but as if the references to each House of Parliament were references to the House of Commons only.

(6) For the purposes of this paragraph, the order of procedures is as follows (the highest first)—

(a) a procedure which requires a statement of urgency before the instrument is made and the approval of the instrument after it is made to enable it to remain in force,
(b) a procedure which requires the approval of the instrument in draft before it is made,
(c) a procedure not falling within paragraph (a) which requires the approval of the instrument after it is made to enable it to come into, or remain in, force,
(d) a procedure which provides for the annulment of the instrument after it is made,
(e) a procedure not falling within any of the above paragraphs which provides for the laying of the instrument after it is made,
(f) no procedure.

(7) For the purposes of this paragraph a power is conferred whether or not it is in force.

(8) References in this paragraph, other than in sub-paragraph (4), to subordinate legislation made under section 2(2) of the European Communities Act 1972—
(a) do not include references to any provision of such legislation which is made (whether or not by way of amendment) otherwise than under section 2(2) of that Act, and
(b) do include references to subordinate legislation made otherwise than under section 2(2) of that Act so far as that legislation is amended by provision made under that section (but do not include references to any primary legislation so far as so amended).

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

Enhanced scrutiny procedure for instruments which amend or revoke subordinate legislation under section 2(2) of the ECA (including subordinate legislation implementing EU directives)

14 (1) This paragraph applies where, on or after exit day—
(a) a statutory instrument which—
(i) amends or revokes subordinate legislation made under section 2(2) of the European Communities Act 1972, and
(ii) is made under a power conferred before the beginning of the Session in which this Act is passed, or
(b) a draft of such an instrument,
is to be laid before each House of Parliament and subject to no procedure before any other legislature.

(2) The relevant authority must publish, in such manner as the relevant authority considers appropriate, a draft of the instrument at least 28 days before the instrument or draft is laid.

(3) The relevant authority must make a scrutiny statement before the instrument or draft is laid.

(4) A scrutiny statement is a statement—
(a) setting out the steps which the relevant authority has taken to make the draft instrument published in accordance with sub-paragraph (2) available to each House of Parliament,

(b) containing information about the relevant authority's response to—
  (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and
  (ii) any other representations made to the relevant authority about the published draft instrument, and
(c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

(5) A scrutiny statement must be in writing and must be published in such manner as the relevant authority considers appropriate.

(6) Sub-paragraphs (2) to (5) do not apply if the relevant authority—
(a) makes a statement in writing to the effect that the relevant authority is of the opinion that, by reason of urgency, sub-paragraphs (2) to (5) should not apply, and
(b) publishes the statement in such manner as the relevant authority considers appropriate.

(7) This paragraph does not apply in relation to any laying before each House of Parliament of an instrument or draft instrument where an equivalent draft instrument (ignoring any differences relating to procedure) has previously been laid before both Houses.

(8) This paragraph applies to an instrument which is subject to a procedure before the House of Commons only as it applies to an instrument which is subject to a procedure before each House of Parliament but as if references to each or either House of Parliament, or both Houses, were references to the House of Commons only.

(9) For the purposes of this paragraph—
(a) a power is conferred whether or not it is in force,
(b) the draft instrument published under sub-paragraph (2) need not be identical to the final version of the instrument or draft instrument as laid,
(c) where an instrument or draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses, and
(d) in calculating the period of 28 days, no account is to be taken of any time during which—
  (i) Parliament is dissolved or prorogued, or
  (ii) either House of Parliament is adjourned for more than four days.

(10) Sub-paragraph (8) of paragraph 13 applies for the purposes of this paragraph as it applies for the purposes of sub-paragraph (1) of that paragraph.

(11) In this paragraph "the relevant authority" means—
(a) in the case of an Order in Council or Order of Council, the Minister of the Crown who has responsibility in relation to the instrument,
(b) in the case of any other statutory instrument which is not to be made by a Minister of the Crown, the person who is to make the instrument, and

(c) in any other case, the Minister of the Crown who is to make the instrument.

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

Explanatory statements for instruments amending or revoking regulations etc. under section 2(2) of the ECA

15 (1) This paragraph applies where, on or after exit day—

(a) a statutory instrument which amends or revokes any subordinate legislation made under section 2(2) of the European Communities Act 1972, or

(b) a draft of such an instrument,

is to be laid before each House of Parliament or before the House of Commons only.

(2) Before the instrument or draft is laid, the relevant authority must make a statement as to why, in the opinion of the relevant authority, there are good reasons for the amendment or revocation.

(3) Before the instrument or draft is laid, the relevant authority must make a statement otherwise explaining—

(a) the law which is relevant to the amendment or revocation, and

(b) the effect of the amendment or revocation on retained EU law.

(4) If the relevant authority fails to make a statement required by sub-paragraph (2) or (3) before the instrument or draft is laid—

(a) a Minister of the Crown, or

(b) where the relevant authority is not a Minister of the Crown, the relevant authority,

must make a statement explaining why the relevant authority has failed to make the statement as so required.

(5) A statement under sub-paragraph (2), (3) or (4) must be made in writing and be published in such manner as the person making it considers appropriate.

(6) For the purposes of this paragraph, where an instrument or draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.

(7) This paragraph applies in relation to instruments whether the power to make them is conferred before, on or after exit day including where the power is conferred by regulations under this Act (but not where it is conferred by this Act).

(8) This paragraph does not apply in relation to any laying before each House of Parliament, or before the House of Commons only, of an instrument or draft instrument where an equivalent draft instrument (ignoring any differences relating to procedure) has previously been laid before both Houses or before the House of Commons only.

(9) Sub-paragraph (8) of paragraph 13 applies for the purposes of this paragraph as it applies for the purposes of sub-paragraph (1) of that paragraph.

(10) In this paragraph "the relevant authority" means—

(a) in the case of an Order in Council or Order of Council, the Minister of the Crown who has responsibility in relation to the instrument,

(b) in the case of any other statutory instrument which is not made by a Minister of the Crown, the person who makes, or is to make, the instrument, and

(c) in any other case, the Minister of the Crown who makes, or is to make, the instrument.

16 (1) This paragraph applies where, on or after exit day—

(a) a Scottish statutory instrument which amends or revokes any subordinate legislation made under section 2(2) of the European Communities Act 1972, or

(b) a draft of such an instrument,

is to be laid before the Scottish Parliament.

(2) Before the instrument or draft is laid, the relevant authority must make a statement as to why, in the opinion of the relevant authority, there are good reasons for the amendment or revocation.

(3) Before the instrument or draft is laid, the relevant authority must make a statement otherwise explaining—

(a) the law which is relevant to the amendment or revocation, and

(b) the effect of the amendment or revocation on retained EU law.

(4) If the relevant authority fails to make a statement required by sub-paragraph (2) or (3) before the instrument or draft is laid, the relevant authority must make a statement explaining why the relevant authority has failed to make the statement as so required.

(5) A statement under sub-paragraph (2), (3) or (4) must be made in writing and be published in such manner as the relevant authority considers appropriate.

(6) This paragraph applies in relation to instruments whether the power to make them is conferred before, on or after exit day including where the power is conferred by regulations under this Act (but not where it is conferred by this Act).

(7) Sub-paragraph (8) of paragraph 13 applies for the purposes of this paragraph as it applies for the purposes of sub-paragraph (1) of that paragraph.

(8) In this paragraph "the relevant authority" means—

(a) in the case of a Scottish statutory instrument which is not made by the Scottish Ministers, other than an Order in Council, the person who makes, or is to make, the instrument, and

(b) in any other case, the Scottish Ministers.

PART 2

SPECIFIC CONSEQUENTIAL PROVISION

Finance Act 1973

17 In section 56 of the Finance Act 1973 (charges for services etc. by Government departments), in subsection (1), omit "any EU obligation or".

Interpretation Act 1978

18 The Interpretation Act 1978 is amended as follows.

19 In section 21(1) (meaning of "subordinate legislation") after "any Act" insert "or made or to be made on or after exit day under any retained direct EU legislation".

20 After section 23 (application to other instruments) insert—

"23ZA Retained direct EU legislation

(1) The provisions of this Act (except sections 1 to 4, 13 and 19(2)) apply, so far as applicable and unless the contrary intention appears, to any retained direct EU legislation so far as it—
  (a) is amended by an Act, subordinate legislation or devolution legislation, and
  (b) is not subordinate legislation,
as they apply to an Act passed at the corresponding time.

(2) In their application by virtue of subsection (1)—
  (a) section 10 has effect as if the reference to the passing of the Act were a reference to the corresponding time,
  (b) section 11 has effect as if the second reference to an Act included a reference to the retained direct EU legislation so far as unamended (as well as a reference to that legislation so far as amended), and
  (c) section 16(1) has effect as if the reference to the repealing Act not being passed were a reference to the repeal not having been made.

(3) References in this Act to the repeal of an enactment are to be read, in the case of an enactment which is retained direct EU legislation, as references to the revocation of the enactment.

(4) In Schedule 1—
  (a) in the definition of "Commencement", the references to an enactment do not include any retained direct EU legislation other than—
    (i) any such legislation to which subsection (1) applies, or
    (ii) any instrument made on or after exit day under any retained direct EU legislation, and
  (b) in the definitions of "The Corporation Tax Acts" and "The Income Tax Acts", the references to an enactment do not include any retained direct EU legislation.

(5) For the application of this Act to retained direct EU legislation which is subordinate legislation, see section 23(1) and (2).

(6) In this section—
  "corresponding time" means the time when the amending Act, subordinate legislation or devolution legislation was passed or (as the case may be) made, and
  "devolution legislation" means—
    (a) an Act of the Scottish Parliament,

(b) a Measure or Act of the National Assembly for Wales,
(c) Northern Ireland legislation (for the meaning of which see section 24(5)), or
(d) an instrument made under anything falling within paragraph (a), (b) or (c)."

21 In section 24 (application to Northern Ireland), in subsection (4)—
(a) omit "and related expressions",
(b) after "Corporation Tax Acts;" insert—
"E.C.S.C. Treaty;
E.E.C. Treaty;",
(c) after "state;" insert—
"Entry date;
The EU or the European Union;
EU institution;
EU instrument;
Euratom, Economic Community and Coal and Steel Community;
Euratom Treaty;
European Court;",
(d) after "Income Tax Acts;" insert—
"Member (in the expression "member State");", and
(e) after "The Tax Acts" insert ";
The Treaties or the EU Treaties".

22 In Schedule 1 (words and expressions defined)—
(a) omit ""The EU" or "the EU Treaties" and other expressions defined by section 1 of and Schedule 1 to the European Communities Act 1972 have the meanings prescribed by that Act.",
(b) omit the definition of "EEA agreement",
(c) omit the definition of "EEA state",
(d) in the definition of "enactment", before "does" insert "includes any retained direct EU legislation but", and
(e) at the end insert—

"Definitions relating to the EU and the United Kingdom's withdrawal

"The Communities" means Euratom, the Economic Community and the Coal and Steel Community, but a reference to any or all of those Communities is to be treated as being or including (as the context requires) a reference to the EU.

"E.C.S.C. Treaty" means the Treaty establishing the European Coal and Steel Community, signed at Paris on 18 April 1951.

"EEA agreement" means the agreement on the European Economic Area signed at Oporto on 2 May 1992, together with the Protocol adjusting that Agreement signed at Brussels on 17 March 1993, as modified or supplemented from time to time, but does not include any retained direct EU legislation. [8 January 2007]

"EEA state", in relation to a time, means—

(a) a state which at that time is a member State, or

(b) any other state which at that time is a party to the EEA agreement. [8 January 2007]

"E.E.C. Treaty" means the Treaty establishing the European Economic Community, signed at Rome on 25 March 1957.

"Entry date" means the date on which the United Kingdom became a member of the Communities (which neither includes nor is a reference to the EU).

"The EU" or "the European Union" means the European Union, being the Union established by the Treaty on European Union signed at Maastricht on 7 February 1992 (as amended by any later Treaty); and includes, so far as the context permits or requires, Euratom.

"EU institution" means any institution of the EU.

"EU instrument" means any instrument issued by an EU institution other than any retained direct EU legislation.

"Euratom", "Economic Community" and "Coal and Steel Community" mean respectively the European Atomic Energy Community, the European Economic Community and the European Coal and Steel Community (but see the definition of "the Communities" for provision as to the construction of references to those Communities).

"Euratom Treaty" means the Treaty establishing the European Atomic Energy Community, signed at Rome on 25 March 1957.

"European Court" means the Court of Justice of the European Union.

"Exit day" (and related expressions) have the same meaning as in the European Union (Withdrawal) Act 2018 (see section 20(1) to (5) of that Act).

"Member", in the expression "member State", refers to membership of the EU.

"Retained EU law", "retained direct minor EU legislation", "retained direct principal EU legislation" and "retained direct EU legislation" have the same meaning as in the European Union (Withdrawal) Act 2018 (see sections 6(7), 7(6) and 20(1) of that Act).

"Retained EU obligation" means an obligation that—

(a) was created or arose by or under the EU Treaties before exit day, and

(b) forms part of retained EU law,

as modified from time to time.

"The Treaties" or "the EU Treaties" means the Treaties or EU Treaties, within the meaning given by section 1(2) of

the European Communities Act 1972 as that Act had effect immediately before its repeal by section 1 of the European Union (Withdrawal) Act 2018, as at immediately before exit day."

European Economic Area Act 1993

23 The European Economic Area Act 1993 is amended as follows.

24 Omit section 1 (EEA agreement to be an EU Treaty).

25 (1) Section 2 (consistent application of law to the whole of the EEA) is amended as follows.

(2) In subsection (3)—

(a) in paragraph (a), after "Act" insert "as at immediately before exit day", and

(b) omit paragraph (b), the "or" before that paragraph and the words after that paragraph.

(3) After that subsection insert—

"(3A) This section is subject to any amendment, repeal, revocation or other modification of retained EU law on or after exit day."

(4) Omit subsections (4) to (6).

26 (1) Section 3 (general implementation of the EEA agreement) is amended as follows.

(2) In subsection (3)—

(a) in paragraph (a), after "Act" insert "as at immediately before exit day", and

(b) omit paragraph (b), the "or" before that paragraph and the words after that paragraph.

(3) After subsection (4) insert—

"(4A) This section is subject to any amendment, repeal, revocation or other modification of retained EU law on or after exit day."

27 Omit section 4 (modification of section 3 of the European Communities Act 1972).

28 In section 6 (interpretation), in subsection (1), in the definition of "the 1972 Act", after "1972" insert (before its repeal by section 1 of the European Union (Withdrawal) Act 2018)".

Criminal Procedure (Scotland) Act 1995

29 (1) Section 288ZA of the Criminal Procedure (Scotland) Act 1995 (right of Advocate General to take part in proceedings) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a)(ii), for "incompatible with EU law" substitute "made unlawful by section 57(4) of the Scotland Act 1998 (restriction on subordinate legislation modifying retained EU law)", and

(b) in paragraph (b), for "with EU law" substitute "in breach of the restriction in section 30A(1) of the Scotland Act 1998 (restriction on the modification of retained EU law)".

(3) In subsection (3), omit paragraph (c).

Human Rights Act 1998

30 (1) This paragraph has effect for the purposes of the Human Rights Act 1998.

(2) Any retained direct principal EU legislation is to be treated as primary legislation.

(3) Any retained direct minor EU legislation is to be treated as primary legislation so far as it amends any primary legislation but otherwise is to be treated as subordinate legislation.

(4) In this paragraph "amend", "primary legislation" and "subordinate legislation" have the same meaning as in the Human Rights Act 1998.

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

31 The Interpretation and Legislative Reform (Scotland) Act 2010 is amended as follows.

32 (1) Section 1 (application of Part 1 of the Act) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b), after "day" insert ", in the case of Scottish instruments made as mentioned in paragraph (a) or (b) of the definition of "Scottish instrument" in subsection (4),", and

(b) after paragraph (b) (but before the "and" at the end of that paragraph) insert—

"(ba) Scottish instruments made on or after exit day, in the case of Scottish instruments made as mentioned in paragraph (c) or (d) of the definition of "Scottish instrument" in subsection (4),".

(3) In subsection (4)—

(a) omit the "or" at the end of paragraph (a), and

(b) after paragraph (b) insert—

"(c) an Act of the Scottish Parliament (whenever passed) and any retained direct EU legislation (whenever made), or

(d) an Act of the Scottish Parliament and an Act of Parliament (in each case, whenever passed) and any retained direct EU legislation (whenever made)."

(4) After subsection (9) insert—

"(10) In this section "exit day" (and related expressions) and "retained direct EU legislation" have the same meaning as in the European Union (Withdrawal) Act 2018 (see section 20(1) to (5) of that Act)."

33 In section 30 (other instruments laid before the Scottish Parliament), after

subsection (6), insert—

"(7) This section does not apply in relation to any regulations made in accordance with paragraph 6 of Schedule 7 to the European Union (Withdrawal) Act 2018 (including that paragraph as applied by paragraph 19(7) of that Schedule)."

34 In section 37 (interpretation of Part 2 of the Act)—

(a) in the definition of "enactment", at the end insert "and any retained direct EU legislation",

(b) after that definition insert—

""retained direct EU legislation" has the same meaning as in the European Union (Withdrawal) Act 2018 (see section 20(1) of that Act),", and

(c) at the end insert—

""subordinate legislation" includes an instrument made or to be made under any retained direct EU legislation on or after exit day (within the meaning of the European Union (Withdrawal) Act 2018 (see section 20(1) to (5) of that Act))."

35 In Schedule 1 (definitions of words and expressions)—

(a) omit from "the EU" to "meanings given by that Act", and

(b) at the end insert—

"Definitions relating to the EU

"The Communities" means Euratom, the Economic Community and the Coal and Steel Community, but a reference to any or all of those Communities is to be treated as being or including (as the context requires) a reference to the EU.

"E.C.S.C. Treaty" means the Treaty establishing the European Coal and Steel Community, signed at Paris on 18 April 1951.

"E.E.C. Treaty" means the Treaty establishing the European Economic Community, signed at Rome on 25 March 1957.

"Entry date" means the date on which the United Kingdom became a member of the Communities (which neither includes nor is a reference to the EU).

"The EU" or "the European Union" means the European Union, being the Union established by the Treaty on European Union signed at Maastricht on 7 February 1992 (as amended by any later Treaty); and includes, so far as the context permits or requires, Euratom.

"EU institution" means any institution of the EU.

"EU instrument" means any instrument issued by an EU institution other than any retained direct EU legislation (within the meaning of the European Union (Withdrawal) Act 2018 (see section 20(1) of that Act)).

"Euratom", "Economic Community" and "Coal and Steel Community" mean respectively the European Atomic Energy Community, the European Economic Community and the European Coal and Steel Community (but see the definition of "the Communities" for provision as to the construction of references to those Communities).

"Euratom Treaty" means the Treaty establishing the European Atomic Energy Community, signed at Rome on 25 March 1957.

"European Court" means the Court of Justice of the European Union.

"Member", in the expression "member State", refers to membership of the EU.

"The Treaties" or "the EU Treaties" means the Treaties or EU Treaties, within the meaning given by section 1(2) of the European Communities Act 1972 as that Act had effect immediately before its repeal by section 1 of the European Union (Withdrawal) Act 2018, as at immediately before exit day (within the meaning of that Act (see section 20(1) to (5) of that Act))."

Small Business, Enterprise and Employment Act 2015

36 In section 30 of the Small Business, Enterprise and Employment Act 2015 (meaning of "provision for review"), in subsection (3)—
(a) omit "EU obligation or any other", and
(b) omit "Member States or".

PART 3

GENERAL TRANSITIONAL, TRANSITORY OR SAVING PROVISION

Continuation of existing acts etc.

37 (1) Anything done—
(a) in connection with anything which continues to be, or forms part of, domestic law by virtue of section 2, 3, 4 or 6(3) or (6), or
(b) for a purpose mentioned in section 2(2)(a) or (b) of the European Communities Act 1972 or otherwise related to the EU or the EEA,
if in force or effective immediately before exit day, continues to be in force or effective on and after exit day.

(2) Anything done—
(a) in connection with anything which continues to be, or forms part of, domestic law by virtue of section 2, 3, 4 or 6(3) or (6), or
(b) for a purpose mentioned in section 2(2)(a) or (b) of the European Communities Act 1972 or otherwise related to the EU or the EEA,
which, immediately before exit day, is in the process of being done continues to be done on and after exit day.

(3) Sub-paragraphs (1) and (2) are subject to—
(a) section 1 and the withdrawal of the United Kingdom from the EU,

(b) sections 2 to 6 and Schedule 1,
(c) any provision made under section 23(6), and
(d) any other provision made by or under this Act or any other enactment.

(4) References in this paragraph to anything done include references to anything omitted to be done.

PART 4

SPECIFIC TRANSITIONAL, TRANSITORY AND SAVING PROVISION

Retention of existing EU law

38 Section 4(2)(b) does not apply in relation to any rights, powers, liabilities, obligations, restrictions, remedies or procedures so far as they are of a kind recognised by a court or tribunal in the United Kingdom in a case decided on or after exit day but begun before exit day (whether or not as an essential part of the decision in the case).

39 (1) Subject as follows and subject to any provision made by regulations under section 23(6), section 5(4) and paragraphs 1 to 4 of Schedule 1 apply in relation to anything occurring before exit day (as well as anything occurring on or after exit day).

(2) Section 5(4) and paragraphs 1 to 4 of Schedule 1 do not affect any decision of a court or tribunal made before exit day.

(3) Section 5(4) and paragraphs 3 and 4 of Schedule 1 do not apply in relation to any proceedings begun, but not finally decided, before a court or tribunal in the United Kingdom before exit day.

(4) Paragraphs 1 to 4 of Schedule 1 do not apply in relation to any conduct which occurred before exit day which gives rise to any criminal liability.

(5) Paragraph 3 of Schedule 1 does not apply in relation to any proceedings begun within the period of three years beginning with exit day so far as—
(a) the proceedings involve a challenge to anything which occurred before exit day, and
(b) the challenge is not for the disapplication or quashing of—
(i) an Act of Parliament or a rule of law which is not an enactment, or
(ii) any enactment, or anything else, not falling within sub-paragraph (i) which, as a result of anything falling within that sub-paragraph, could not have been different or which gives effect to, or enforces, anything falling within that sub-paragraph.

(6) Paragraph 3(2) of Schedule 1 does not apply in relation to any decision of a court or tribunal, or other public authority, on or after exit day which is a necessary consequence of any decision of a court or tribunal made before exit day or made on or after that day by virtue of this paragraph.

(7) Paragraph 4 of Schedule 1 does not apply in relation to any proceedings begun within the period of two years beginning with exit day so far as the proceedings relate to anything which occurred before exit day.

Main powers in connection with withdrawal

40 The prohibition on making regulations under section 8, 9 or 23(1) or Schedule 2 after a particular time does not affect the continuation in force of regulations made at or before that time (including the exercise after that time of any power conferred by regulations made at or before that time).

Devolution

41 (1) The amendments made by section 12 and Part 1 of Schedule 3 do not affect the validity of—
  (a) any provision of an Act of the Scottish Parliament, Act of the National Assembly for Wales or Act of the Northern Ireland Assembly made before exit day,
  (b) any subordinate legislation which is subject to confirmation or approval and is made and confirmed or approved before exit day, or
  (c) any other subordinate legislation made before exit day.

(2) Accordingly and subject to sub-paragraphs (3) to (10), the validity of anything falling within sub-paragraph (1)(a), (b) or (c) is to be decided by reference to the law before exit day.

(3) Section 29(2)(d) of the Scotland Act 1998, so far as relating to EU law, does not apply to any provision of an Act of the Scottish Parliament made before exit day if the provision—
  (a) comes into force on or after exit day or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and
  (b) is made when there are no regulations under section 30A of the Scotland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before exit day, on or after exit day) if the provision were made and the regulations were in force at that time.

(4) Section 108A(2)(e) of the Government of Wales Act 2006, so far as relating to EU law, does not apply to any provision of an Act of the National Assembly for Wales made before exit day if the provision—
  (a) comes into force on or after exit day or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and
  (b) is made when there are no regulations under section 109A of the Government of Wales Act 2006 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before exit day, on or after exit day) if the provision were made and the regulations were in force at that time.

(5) Section 6(2)(d) of the Northern Ireland Act 1998, so far as relating to EU law, does not apply to any provision of an Act of the Northern Ireland Assembly made before exit day if the provision—
  (a) comes into force on or after exit day or comes into force before that day and is a power to make, confirm or approve subordinate legislation, and

(b) is made when there are no regulations under section 6A of the Northern Ireland Act 1998 by virtue of which the provision would be in breach of the restriction in subsection (1) of that section when the provision comes into force (or, in the case of a provision which comes into force before exit day, on or after exit day) if the provision were made and the regulations were in force at that time.

(6) Section 57(2) of the Scotland Act 1998, so far as relating to EU law, does not apply to the making, confirming or approving before exit day of any subordinate legislation if the legislation—

(a) comes into force on or after exit day, and

(b) is made, confirmed or approved when there are no regulations under subsection (4) of section 57 of the Scotland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection when the legislation comes into force if—

(i) the making, confirming or approving had occurred at that time,

(ii) in the case of legislation confirmed or approved, the legislation was made at that time, and

(iii) the regulations were in force at that time.

(7) Section 80(8) of the Government of Wales Act 2006, so far as relating to EU law, does not apply to the making, confirming or approving before exit day of any subordinate legislation if the legislation—

(a) comes into force on or after exit day, and

(b) is made, confirmed or approved when there are no regulations under subsection (8) of section 80 of the Government of Wales Act 2006 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection, so far as relating to retained EU law, when the legislation comes into force if—

(i) the making, confirming or approving had occurred at that time,

(ii) in the case of legislation confirmed or approved, the legislation was made at that time, and

(iii) the regulations were in force at that time.

(8) Section 24(1)(b) of the Northern Ireland Act 1998, so far as relating to EU law, does not apply to the making, confirming or approving before exit day of any subordinate legislation if the legislation—

(a) comes into force on or after exit day, and

(b) is made, confirmed or approved when there are no regulations under subsection (3) of section 24 of the Northern Ireland Act 1998 by virtue of which the making, confirming or approving would be in breach of the restriction in that subsection when the legislation comes into force if—

(i) the making, confirming or approving had occurred at that time,

(ii) in the case of legislation confirmed or approved, the legislation was made at that time, and

(iii) the regulations were in force at that time.

(9) For the purposes of sub-paragraphs (3) to (8) assume that the restrictions relating to retained EU law in—

(a) sections 30A(1) and 57(4) of the Scotland Act 1998,
(b) sections 80(8) and 109A(1) of the Government of Wales Act 2006, and
(c) sections 6A(1) and 24(3) of the Northern Ireland Act 1998,

come into force on exit day.

(10) Section 57(2) of the Scotland Act 1998, section 80(8) of the Government of Wales Act 2006 and section 24(1)(b) of the Northern Ireland Act 1998, so far as relating to EU law, do not apply to the making of regulations under Schedule 2 or 4.

42 The amendments made by Part 1 of Schedule 3 do not affect the validity of any act (other than the making, confirming or approving of subordinate legislation) done before exit day by a member of the Scottish Government, the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government, a Northern Ireland Minister, the First Minister in Northern Ireland, the deputy First Minister in Northern Ireland or a Northern Ireland department.

43 A consent decision of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly made before the day on which this Act is passed, or the commencement of the 40-day period before the day on which this Act is passed, is as effective for the purposes of—

(a) section 30A(3) or 57(6) of the Scotland Act 1998,
(b) section 80(8C) or 109A(4) of the Government of Wales Act 2006, or
(c) section 6A(3) or 24(5) of the Northern Ireland Act 1998,

as a consent decision made, or (as the case may be) the commencement of that period, on or after that day.

Other provision

44 (1) The definition of "relevant criminal offence" in section 20(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.

45 (1) The amendment made by paragraph 17 does not affect whether the payment of any fees or other charges may be required under section 56 of the Finance Act 1973 in connection with a service or facilities provided, or an authorisation, certificate or other document issued, before that amendment comes into force.

(2) Sub-paragraph (3) applies where—

(a) immediately before the amendment made by paragraph 17 comes into force, the payment of fees or other charges could be required, under section 56 of the Finance Act 1973, in connection with the provision of a service or facilities, or issuing an authorisation, certificate or other document, in pursuance of an EU obligation, and
(b) after the amendment made by paragraph 17 comes into force—
(i) regulations made under that section (whether or not modified under Part 2 of Schedule 4 or otherwise) prescribing the fees or charges, or under which the fees or

charges are to be determined, form part of retained EU law, and

(ii) the service or facilities are provided, or the authorisation, certificate or other document is issued, under or in connection with retained EU law.

(3) Despite the amendment made by paragraph 17, the payment of fees or other charges may be required, under that section and in accordance with the regulations, in connection with the provision of the service or facilities, or the issuing of the authorisation, certificate or other document.

SCHEDULE 9

Section 23(8)

ADDITIONAL REPEALS

Short title	*Extent of repeal*
European Parliamentary Elections Act 2002	The whole Act.
European Parliament (Representation) Act 2003	The whole Act.
European Union (Amendment) Act 2008	The whole Act.
European Union Act 2011	The whole Act.
European Union (Approval of Treaty Amendment Decision) Act 2012	The whole Act.
European Union (Approvals) Act 2013	The whole Act.
European Union (Approvals) Act 2014	The whole Act.
Serious Crime Act 2015	Section 82. Section 88(5)(c).
European Union (Finance) Act 2015	The whole Act.
European Union (Approvals) Act 2015	The whole Act.

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