

SCHEDULES

SCHEDULE 8

CONSEQUENTIAL, TRANSITIONAL, TRANSITORY AND SAVING PROVISION

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.

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- (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—

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- (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—

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- (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

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- (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.