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European Union (Withdrawal Agreement) Act 2020

Principal Act

Act. No. 2020-01	<i>Commencement (ss.1, 2, 3, 6, 16, 23, 24, 25(1), (2), (4), Sch.1, Sch 2 (para 1(3), 2, 3, 5(a)-(d), 8, 9(1), (3), 14(1)-(4), (6), 17(1), (4), 18, 19,)</i>	21.1.2020
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	<i>Assent</i>	21.1.2020

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AN ACT TO IMPLEMENT, AND MAKE OTHER PROVISION IN CONNECTION WITH, THE AGREEMENT BETWEEN THE UNITED KINGDOM AND THE EU UNDER ARTICLE 50(2) OF THE TREATY ON EUROPEAN UNION WHICH SETS OUT THE ARRANGEMENTS FOR GIBRALTAR'S WITHDRAWAL FROM THE EU, AND FOR CONNECTED PURPOSES.

PART 1

INTRODUCTORY

General provisions

Short title.

1. This Act may be cited as the European Union (Withdrawal Agreement) Act 2020.

Commencement.

- 2.(1) The following provisions come into operation on the day of publication-

- (a) section 1;
- (b) this section;
- (c) section 3;
- (d) section 6;
- (e) section 16;
- (f) section 23;
- (g) section 24;
- (h) section 25(1), (2) and (4);
- (i) Schedule 1; and
- (j) the following provisions of Schedule 2-
 - (i) paragraph 1(3);
 - (ii) paragraph 2;
 - (iii) paragraphs 3 and 5(a) to (d);

- (iv) paragraphs 8 and 9(1) and (3);
- (v) paragraph 14(1) to (4) and (6);
- (vi) paragraph 17(1) and (4);
- (vii) paragraph 18;
- (viii) paragraph 19,

(and section 25(3) and (5) so far as relating to any provision so far as it falls within any of subparagraphs (i) to (viii)).

(2) The remaining provisions of this Act come into operation on such day as the Chief Minister may appoint by notice in the Gazette, and different days may be appointed for different provisions and for different purposes.

Interpretation.

3.(1) In this Act, unless the context otherwise requires-

“domestic law” means the law of Gibraltar;

“EEA EFTA separation agreement” means (as modified from time to time in accordance with any provision of it) the Agreement on arrangements between Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland following the withdrawal of the United Kingdom from the European Union, the EEA Agreement and other agreements applicable between the United Kingdom and the EEA EFTA States by virtue of the United Kingdom’s membership of the European Union;

“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; and
- (c) any retained direct EU legislation;

“IP completion day” means midnight on 31 December 2020 (and see subsections (2) to (5));

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

“primary legislation” means an Act of Parliament;

“subsidiary legislation” means any proclamation, order, rules, regulations, bye-law or other instrument made under any Act;

“Swiss citizens’ rights agreement” means (as modified from time to time in accordance with any provision of it) the Agreement signed at Bern on 25 February 2019 between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation on citizens’ rights following the withdrawal of the United Kingdom from-

- (a) the European Union; and
- (b) the free movement of persons agreement,

so far as the Agreement operates for the purposes of the case where “specified date” for the purposes of that Agreement has the meaning given in Article 2(b)(ii) of that Agreement;

“withdrawal agreement” means the agreement 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 (as that agreement is modified from time to time in accordance with any provision of it).

(2) In this Act references to before, after or on IP completion day, or to beginning with IP completion day, are to be read as references to before, after or at midnight on 31 December 2020 or (as the case may be) to beginning with midnight on that day.

(3) Subsection (4) applies if, by virtue of any change to EU summer-time arrangements, the transition or implementation period provided for by Part 4 of the withdrawal agreement is to end on a day or time which is different from that specified in the definition of “IP completion day” in subsection (1).

(4) The Chief Minister may by regulations-

- (a) amend the definition of “IP completion day” in subsection (1) to ensure that the day and time specified in the definition are the day and time that the transition or implementation period provided for by Part 4 of the withdrawal agreement is to end; and
- (b) amend subsection (2) in consequence of any such amendment.

(5) In subsection (3) “EU summer-time arrangements” means the arrangements provided for by Directive 2000/84/EC of the European Parliament and of the Council of 19 January 2001 on summer-time arrangements.

(6) In this Act a reference to either Gibraltar’s membership of the EU or Gibraltar’s withdrawal from the EU is to be construed in the context of the United Kingdom’s membership of the European Union and Gibraltar’s status as a European territory for whose external relations the United Kingdom is responsible within the meaning of Article 355(3) TFEU and to which the provisions of the EU Treaties apply, subject to the exceptions specified in the 1972 Act of Accession.

(7) In this Act any reference to an Article of the Treaty on European Union includes a reference to that Article as applied by Article 106a of the Euratom Treaty.

PART 2

IMPLEMENTATION PERIOD

Saved law for implementation period

Saving of ECA for implementation period.

4. After section 4 of the European Union (Withdrawal) Act 2019 insert-

“Savings for implementation period

Saving for ECA for implementation period.

4A.(1) Subsections (2) to (5) have effect despite the repeal of the European Communities Act and section 23(g) of the Interpretation and General Clauses Act on exit day by section 4.

(2) Section 23(g) of the Interpretation and General Clauses Act, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law on and after exit day so far as provided by subsections (3) and (6).

(3) Section 23(g) of the Interpretation and General Clauses Act has effect on and after exit day as if references in that section to the Treaties were references to the Treaties as defined in the European Communities Act as it has effect by virtue of subsections (4) and (5)(a).

(4) The European Communities Act, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law on and after exit day so far as provided by subsections (5) and (6).

(5) The European Communities Act has effect on and after exit day as if-

(a) the definitions of “the Treaties” and “the EU Treaties” in section 2-

- (i) included Part 4 of the withdrawal agreement (implementation period), other than that Part so far as it relates to, or could be applied in relation to, the Common Foreign and Security Policy, but
 - (ii) were otherwise limited to anything which falls within those definitions as at immediately before exit day so far as it is not excluded by regulations made on or after exit day by a Minister under this subparagraph;
- (b) section 2(4) were omitted;
- (c) the proviso to section 3(1) were omitted;
- (d) the reference in section 4(1) to the objects of the EU were a reference to those objects so far as they are applicable to and in Gibraltar by virtue of Part 4 of the withdrawal agreement;
- (e) section 4(4) to (10) were omitted;
- (f) section 5 were omitted;
- (g) in section 6-
- (i) the references to the Treaties in subsections (1) and (2) included the withdrawal agreement,
 - (ii) the words in brackets in subsection (1) only applied so far as they are in accordance with Part 4 of the withdrawal agreement, and
 - (iii) subsection (5) were omitted;
- (h) in Part 2 of Schedule 1-
- (i) in the definition of “EU customs duty”, the reference to directly applicable EU provision were to such provision so far as it is applicable to and in Gibraltar by virtue of Part 4 of the withdrawal agreement, and
 - (ii) in the definition of “Member” in the expression “member State”, after “EU” there were inserted “and for the purposes of this expression the United Kingdom is to be treated as if it were a member of the EU during the implementation period (within the meaning given by section 4A(7) of the European Union (Withdrawal) Act 2019);

- (i) in Schedule 3, after “The United Kingdom of Great Britain and Northern Ireland” there were inserted “and for the purposes of this expression the United Kingdom is to be treated as if it were a European Union State during the implementation period (within the meaning given by section 4A(7) of the European Union (Withdrawal) Act 2019).”.
- (6) Subsections (1) to (5) are repealed on IP completion day.
- (7) In this Act-
 - “the implementation period” means the transition or implementation period provided for by Part 4 of the withdrawal agreement and beginning with exit day and ending on IP completion day;
 - “IP completion day” (and related expressions) have the same meaning as in the European Union (Withdrawal Agreement) Act 2020;
 - “withdrawal agreement” has the same meaning as in the European Union (Withdrawal Agreement) Act 2020.
- (8) In this Act-
 - (a) references to the European Communities Act are to be read, so far as the context permits or requires, as being or (as the case may be) including references to that Act as it continues to have effect by virtue of subsections (4) and (5) above; and
 - (b) references to any Part of the withdrawal agreement or the EEA EFTA separation agreement include references to any other provisions of that agreement so far as applying to that Part.”.

Additional saving for implementation period.

5. After section 4A of the European Union (Withdrawal) Act 2019 insert-

“Saving for EU-derived domestic legislation for implementation period.

- 4B.(1) Subsections (2) to (5) have effect despite the repeal of the European Communities Act and section 23(g) of the Interpretation and General Clauses Act on exit day by section 4.
- (2) 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, subject as follows.

- (3) Any enactment which continues to have effect by virtue of subsection (2) is to be read, on and after exit day and so far as the context permits or requires, as if-
- (a) any reference to an expression which is to be read in accordance with section 2 of the Interpretation and General Clauses Act and is an expression defined by section 2 of, or Part 2 of Schedule 1 to, the European Communities Act were a reference to that expression as defined by that section or that Part of that Schedule as it continues to have effect by virtue of section 4A(4) and (5) of this Act;
 - (b) any reference (however expressed and subject to paragraph (a) above) to-
 - (i) EU law,
 - (ii) any particular EU Treaty or any part of it,
 - (iii) any EU instrument, or other document of an EU entity or of the EU, or any part of any such instrument or document,
 - (iv) any part of EU law not falling within subparagraph (ii) or (iii),
 - (v) any tax, duty, levy or interests of the EU, or
 - (vi) any arrangement involving, or otherwise relating to, the EU of a kind not falling within subparagraph (i), (ii), (iii), (iv) or (v),were a reference to any such thing so far as it is applicable to and in Gibraltar by virtue of Part 4 of the withdrawal agreement;
 - (c) any reference (however expressed and subject to paragraph (a) above) to the European Communities Act were or (as the case may be) included a reference to that Act as it continues to have effect by virtue of section 4A(4) and (5) of this Act;
 - (d) any reference (however expressed) to section 23(g) of the Interpretation and General Clauses Act were or (as the case may be) included a reference to that section as it continues to have effect by virtue of section 4A(2) and (3) of this Act;
 - (e) any reference (however expressed) to the area of the EU or of the EEA included Gibraltar;
 - (f) any reference (however expressed) to a citizen of the EU or a national of the EEA included a United Kingdom national (within the meaning given by Article 2(d) of the withdrawal agreement); and

- (g) such other modifications were made as-
 - (i) are provided for by regulations under section 11A, or
 - (ii) so far as not so provided, are necessary for any purpose of Part 4 of the withdrawal agreement and are capable of being ascertained from any such purpose or otherwise from that Part of that agreement.

- (4) Any EU-derived domestic legislation which is an enactment passed or made on or after exit day and before IP completion day is, unless the contrary intention appears, to be read in accordance with subsection (3) (and anything done or omitted to be done in connection with any such enactment is to be understood, and has effect, accordingly).

- (5) Subsections (2) to (4) are subject to any regulations made under section 11A or 15 or otherwise under this Act or under the European Union (Withdrawal Agreement) Act 2020.

- (6) Subsections (1) to (5) are repealed on IP completion day.

- (7) In this Act “EU-derived domestic legislation” means any enactment so far as-
 - (a) made under section 4(1) of the European Communities Act;
 - (b) passed or made, or operating, for a purpose mentioned in section 4(1)(a) or (b) of that Act;
 - (c) made pursuant to section 23(g)(i) or (ii) of the Interpretation and General Clauses Act;
 - (d) relating to -
 - (i) anything which falls within paragraph (a), (b) or (c), or
 - (ii) any rights, powers, liabilities, obligations, restrictions, remedies or procedures which are recognised and available in domestic law by virtue of section 3(1) of the European Communities Act; or
 - (e) relating otherwise to the EU or the EEA,

but does not include any enactment contained in the European Communities Act or any enactment contained in this Act or the European Union (Withdrawal Agreement) Act 2020 or in regulations made under this Act or the European Union (Withdrawal Agreement) Act 2020.”.

Supplementary powers

Supplementary power in connection with implementation period.

6. After section 11 of the European Union (Withdrawal) Act 2019 insert-

“Supplementary powers in connection with implementation period.

11A.(1) A Minister may by regulations-

- (a) provide for other modifications for the purposes of section 4B(3)(g)(i) (whether applying in all cases or particular cases or descriptions of case);
- (b) provide for subsection (3) or (4) of section 4B not to apply to any extent in particular cases or descriptions of case;
- (c) make different provision in particular cases or descriptions of case to that made by subsection (3) or (4) of that section;
- (d) modify any enactment contained in this Act in consequence of any repeal made by section 4A(6) or 4B(6); or
- (e) make such provision not falling within paragraph (a), (b), (c) or (d) as the Minister considers appropriate for any purpose of, or otherwise in connection with, Part 4 of the withdrawal agreement.

(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.”.

PART 3

**REMAINING IMPLEMENTATION OF WITHDRAWAL AGREEMENT ETC:
GENERAL**

Withdrawal agreement

General implementation of remainder of withdrawal agreement.

7. After section 10 of the European Union (Withdrawal) Act 2019 insert-

“Further aspects of withdrawal

General implementation of remainder of withdrawal agreement.

10A.(1) Subsection (2) applies to-

- (a) all such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the withdrawal agreement; and
- (b) all such remedies and procedures from time to time provided for by or under the withdrawal agreement,

as in accordance with the withdrawal agreement are without further enactment to be given legal effect or used in Gibraltar.

- (2) The rights, powers, liabilities, obligations, restrictions, remedies and procedures concerned are to be-
 - (a) recognised and available in domestic law; and
 - (b) enforced, allowed and followed accordingly.
- (3) Every enactment (including an enactment contained in this Act) is to be read and has effect subject to subsection (2).
- (4) This section does not apply in relation to Part 4 of the withdrawal agreement so far as section 3(1) of the European Communities Act applies in relation to that Part.
- (5) See also (among other things)-
 - (a) Part 4 of the European Union (Withdrawal Agreement) Act 2020;
 - (b) section 10C of this Act;
 - (c) section 11B of this Act;
 - (d) section 11C of this Act.”.

Related EEA EFTA and Swiss agreements

General implementation of related EEA EFTA and Swiss agreements.

8. After section 10A of the European Union (Withdrawal) Act 2019 insert-

“General implementation of EEA EFTA and Swiss agreements.

10B.(1) Subsection (2) applies to all such rights, powers, liabilities, obligations, restrictions, remedies and procedures as-

- (a) would from time to time be created or arise, or (in the case of remedies or procedures) be provided for, by or under the EEA EFTA separation agreement or the Swiss citizens' rights agreement; and
- (b) would, in accordance with Article 4(1) of the withdrawal agreement, be required to be given legal effect or used in Gibraltar without further enactment,

if that Article were to apply in relation to the EEA EFTA separation agreement and the Swiss citizens' rights agreement, those agreements were part of EU law and the relevant EEA states and Switzerland were member States.

- (2) The rights, powers, liabilities, obligations, restrictions, remedies and procedures concerned are to be-
 - (a) recognised and available in domestic law; and
 - (a) enforced, allowed and followed accordingly.
- (3) Every enactment (other than section 10A but otherwise including an enactment contained in this Act) is to be read and has effect subject to subsection (2).
- (4) See also (among other things)-
 - (a) Part 4 of the European Union (Withdrawal Agreement) Act 2020;
 - (b) section 10C of this Act; and
 - (c) section 11B of this Act.
- (5) In this section "the relevant EEA states" means Norway, Iceland and Liechtenstein.
- (6) In this Act "EEA EFTA separation agreement" and "Swiss citizens' rights agreement" have the same meanings as in the European Union (Withdrawal Agreement) Act 2020."

PART 4

CITIZENS' RIGHTS

Rights in relation to entry and residence

Rights related to residence.

9.(1) A Minister may by regulations make such provision as the Minister considers appropriate for implementing-

- (a) Article 18 of the withdrawal agreement;
- (b) Article 17 of the EEA EFTA separation agreement;
- (c) Article 16 of the Swiss citizens' rights agreement.

(2) If the Minister considers it appropriate, regulations under subsection (1) relating to the implementation of a provision mentioned in subsection (1)(a), (b) or (c) may be made so as to apply both to-

- (a) persons to whom the provision in question applies; and
- (b) persons to whom that provision does not apply but who are prescribed under the regulations.

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

Frontier workers.

10.(1) A Minister may by regulations make such provision as the Minister considers appropriate for the purpose of implementing any of the following-

- (a) Articles 24(3) and 25(3) of the withdrawal agreement other than as regards rights enjoyed as workers;
- (b) Articles 23(3) and 24(3) of the EEA EFTA separation agreement other than as regards rights enjoyed as workers;
- (c) Article 20(2) of the Swiss citizens' rights agreement.

(2) A Minister may by regulations make such provision as the Minister considers appropriate for the purpose of implementing any of the following-

- (a) Article 26 of the withdrawal agreement;
- (b) Article 25 of the EEA EFTA separation agreement;
- (c) Article 21(1) and (2) of the Swiss citizens' rights agreement.

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

Restrictions of rights of entry and residence.

11.(1) A Minister may by regulations make such provision as the Minister considers appropriate for the purpose of implementing any of the following-

- (a) Article 20(1), (3) and (4) of the withdrawal agreement;
- (b) Article 19(1), (3) and (4) of the EEA EFTA separation agreement;
- (c) Articles 17(1) and (3) and 20(3) of the Swiss citizens' rights agreement.

(2) If the Minister considers it appropriate, regulations under subsection (1) relating to the implementation of a provision mentioned in subsection (1)(a), (b) or (c) may be made so as to apply both to-

- (a) persons to whom the provision in question applies; and
- (b) persons to whom that provision does not apply but who are prescribed under the regulations.

(3) The power to make regulations under subsection (1) may (among other things) be exercised by modifying any provision made under primary legislation.

Professional qualifications

Recognition of professional qualifications.

12.(1) A Minister may by regulations make such provision as the Minister considers appropriate-

- (a) to implement Chapter 3 of Title II of Part 2 of the withdrawal agreement;
- (b) to supplement the effect of section 10A of the European Union (Withdrawal) Act 2019 in relation to that Chapter; or
- (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Chapter (including matters arising by virtue of section 10A of that Act and that Chapter).

(2) A Minister may by regulations make such provision as the Minister considers appropriate-

- (a) to implement Chapter 3 of Title II of Part 2 of the EEA EFTA separation agreement;

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- (b) to supplement the effect of section 10B of the European Union (Withdrawal) Act 2019 in relation to that Chapter; or
 - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Chapter (including matters arising by virtue of section 10B of that Act and that Chapter).
- (3) A Minister may by regulations make such provision as the Minister considers appropriate-
- (a) to implement professional qualification provisions of the Swiss citizen's rights agreement;
 - (b) to supplement the effect of section 10B of the European Union (Withdrawal) Act 2019 in relation to those provisions; or
 - (c) otherwise for the purposes of dealing with matters arising out of, or related to, those provisions (including matters arising by virtue of section 10B of that Act and those provisions).
- (4) For the purposes of subsection (3) the following are "professional qualification provisions" of the Swiss citizens' rights agreement-
- (a) Part 4 of that agreement;
 - (b) Article 23(4) of that agreement as regards the recognition of professional qualifications.
- (5) If a Minister considers it appropriate, regulations under subsection (1) or (2) relating to the implementation of a provision of Chapter 3 of Title II of Part 2 of the withdrawal agreement or of the EEA EFTA separation agreement may be made so as to apply both to-
- (a) persons to whom the provision in question applies; and
 - (b) persons to whom that provision does not apply but who are prescribed under the regulations.
- (6) The power to make regulations under subsection (1), (2) or (3) may (among other things) be exercised by modifying any provision made by or under an enactment.

Coordination of social security systems

Coordination of social security systems.

13.(1) A Minister may by regulations make such provision as the Minister considers appropriate-

- (a) to implement Title III of Part 2 of the withdrawal agreement;
 - (b) to supplement the effect of section 10A of the European Union (Withdrawal) Act 2019 in relation to that Title; or
 - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Title (including matters arising by virtue of section 10A of that Act and that Title).
- (2) A Minister may by regulations make such provision as the Minister considers appropriate-
- (a) to implement Title III of Part 2 of the EEA EFTA separation agreement;
 - (b) to supplement the effect of section 10B of the European Union (Withdrawal) Act 2019 in relation to that Title; or
 - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Title (including matters arising by virtue of section 10B of that Act and that Title).
- (3) A Minister may by regulations make such provision as the Minister considers appropriate-
- (a) to implement social security coordination provisions of the Swiss citizens' rights agreement;
 - (b) to supplement the effect of section 10B of the European Union (Withdrawal) Act 2019 in relation to those provisions; or
 - (c) otherwise for the purposes of dealing with matters arising out of, or related to, those provisions (including matters arising by virtue of section 10B of that Act and those provisions).
- (4) For the purposes of subsection (3) the following are "social security coordination provisions" of the Swiss citizens' rights agreement-
- (a) Part 3 of that agreement;
 - (b) Article 23(4) of that agreement as regards social security coordination.
- (5) The power to make regulations under subsection (1), (2) or (3) may (among other things) be exercised by modifying any provision made by or under an enactment.

Equal treatment etc.

Non-discrimination, equal treatment and rights of workers etc.

14.(1) A Minister may by regulations make such provision as the Minister considers appropriate for the purpose of implementing any of the following provisions of the withdrawal agreement-

- (a) Article 12;
- (b) Article 23;
- (c) Articles 24(1) and 25(1);
- (d) Articles 24(3) and 25(3) as regards rights enjoyed as workers.

(2) A Minister may by regulations make such provision as the Minister considers appropriate for the purpose of implementing any of the following provisions of the EEA EFTA separation agreement-

- (a) Article 11;
- (b) Article 22;
- (c) Articles 23(1) and 24(1);
- (d) Articles 23(3) and 24(3) as regards rights enjoyed as workers.

(3) A Minister may by regulations make such provision as the Minister considers appropriate for the purpose of implementing any of the following provisions of the Swiss citizens' rights agreement-

- (a) Article 7;
- (b) Article 18;
- (c) Article 19;
- (d) Article 20(1);
- (e) Article 23(1).

(4) If the Minister considers it appropriate, regulations under subsections (1), (2) or (3) relating to the implementation of a provision mentioned in that subsection, may be made so as to apply both to-

- (a) persons to whom the provision in question applies; and

- (b) persons to whom that provision does not apply but who are prescribed under the regulations.

(5) The power to make regulations under subsections (1), (2) or (3) may (among other things) be exercised by modifying any provision made by or under an enactment.

Independent Monitoring Authority

Independent Monitoring Authority for the Citizens' Rights Agreements.

15.(1) The Independent Monitoring Authority is the body corporate established under the United Kingdom's European Union (Withdrawal Agreement) Act 2020.

(2) A Minister may by regulations make such provision as the Minister considers appropriate to—

- (a) prescribe the functions of the Independent Monitoring Authority;
- (b) allow the authority to exercise powers incidental to those functions;
- (c) provide for any related matters; and
- (d) make provision in consequence of regulations made under Schedule 2 to the United Kingdom European Union (Withdrawal Agreement) Act 2020.

(3) Where the Secretary of State has transferred functions to another body under paragraph 39 of Schedule 2 to the United Kingdom's European Union (Withdrawal Agreement) Act 2020 the power to make regulations under subsection (2) may be exercised in relation to that body.

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

Supplementary

Interpretation and regulations: supplementary.

16.(1) In this Part, a reference to a Chapter, Title, Part or other provision of the withdrawal agreement, EEA EFTA separation agreement or Swiss citizens' rights agreement includes a reference to—

- (a) any other provision of the agreement in question so far as relating to that Chapter, Title, Part or other provision; and

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- (b) any provision of EU law which is applied by, or referred to in, that Chapter, Title, Part or other provision (to the extent of the application or reference).
- (2) In sections 9, 10, 11 and 14-
- (a) a power to make provision for the purpose of implementing a provision of the withdrawal agreement includes power to make provision to supplement the effect of section 10A of the European Union (Withdrawal) Act 2019 in relation to that provision of the agreement;
 - (b) a power to make provision for the purpose of implementing a provision of the EEA EFTA separation agreement includes power to make provision to supplement the effect of section 10B of that Act in relation to that provision of the agreement; and
 - (c) a power to make provision for the purpose of implementing a provision of the Swiss citizens' rights agreement includes power to make provision to supplement the effect of section 10B of that Act in relation to that provision of the agreement.

PART 5

OTHER SUBJECT AREAS

Other separation issues

Main power in connection with other separation issues.

17. After section 11A of the European Union (Withdrawal) Act 2019 insert-

“Power in connection with certain other separation issues.

- 11B.(1) A Minister may by regulations make such provision as the Minister considers appropriate-
- (a) to implement Part 3 of the withdrawal agreement;
 - (b) to supplement the effect of section 10A in relation to that Part; or
 - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 10A and that Part).
- (2) A Minister may by regulations make such provision as the Minister considers appropriate-

- (a) to implement Part 3 of the EEA EFTA separation agreement;
 - (b) to supplement the effect of section 10B in relation to that Part; or
 - (c) otherwise for the purposes of dealing with matters arising out of, or related to, that Part (including matters arising by virtue of section 10B and that Part).
- (3) Regulations under this section may make any provision that could be made by an Act of Parliament.
- (4) Regulations under this section may (among other things) restate, for the purposes of making the law clearer or more accessible, anything that forms part of domestic law by virtue of-
- (a) section 10A and Part 3 of the withdrawal agreement; or
 - (b) section 10B and Part 3 of the EEA EFTA separation agreement.
- (5) In this section references to Part 3 of the withdrawal agreement or of the EEA EFTA separation agreement include references to any provision of EU law which is applied by, or referred to in, that Part (to the extent of the application or reference).”.

Gibraltar Protocol

Power in connection with Gibraltar Protocol.

18. After section 11B of the European Union (Withdrawal) Act 2019 insert-

“Power in connection with Gibraltar Protocol in withdrawal agreement.

11C.(1) A Minister may by regulations make such provision as the Minister considers appropriate-

- (a) to implement the Protocol on Gibraltar in the withdrawal agreement;
 - (b) to supplement the effect of section 10A in relation to the Protocol; or
 - (c) otherwise for the purposes of dealing with matters arising out of, or related to, the Protocol (including matters arising by virtue of section 10A and the Protocol).
- (2) Regulations under this section may make any provision that could be made by an Act of Parliament (including modifying this Act).

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- (3) Regulations under this section may (among other things) restate, for the purposes of making the law clearer or more accessible, anything that forms part of domestic law by virtue of section 10A and the Protocol.
- (4) In this section, any reference to the Protocol on Gibraltar includes a reference to-
 - (a) any other provision of the withdrawal agreement so far as applying to the Protocol; and
 - (b) any provision of EU law, an international convention or multilateral agreement which is applied by, or referred to in, the Protocol (to the extent of the application or reference).”.

Relationship to EUWA 2019

Retention of saved EU law at end of implementation period.

19.(1) In section 5 of the European Union (Withdrawal) Act 2019-

- (a) in subsection (1) for “exit day”, in both places where it appears, substitute “IP completion day”;
- (b) omit subsection (2); and
- (c) in subsection (3) after “incorporation)” insert “and section 8A”.

(2) In section 6 of that Act-

- (a) in subsection (1) for “exit day”, in both places where it appears, substitute “IP completion day”;
- (b) in subsection (2)(a)-
 - (i) for “exit day”, in both places where it appears, substitute “IP completion day”, and
 - (ii) before subparagraph (i), insert-

“(ai) it is applicable to and in Gibraltar by virtue of Part 4 of the withdrawal agreement,

(bi) it neither has effect nor is to have effect by virtue of section 10A or 10B.”;

- (c) in subsection (2)(b)-

- (i) for “exit day” substitute “IP completion day”,
 - (ii) before subparagraph (i), insert-
 - “(ai) it is applicable to and in Gibraltar by virtue of Part 4 of the withdrawal agreement,
 - (bi) it neither has effect nor is to have effect by virtue of section 10A or 10B,”;
 - (d) in subsection (2)(c) for “exit day” substitute “IP completion day and so far as-
 - (i) it is applicable to and in Gibraltar by virtue of Part 4 of the withdrawal agreement,
 - (ii) it neither has effect nor is to have effect by virtue of section 10A or 10B”;
 - (e) in subsection (3) for “exit day”, wherever it appears, substitute “IP completion day”; and
 - (f) in subsection (5) after “incorporation)” insert “and section 8A”.
- (3) In section 7 of that Act-
- (a) in subsection (1) for “exit day”, in both places where it appears, substitute “IP completion day”;
 - (b) in subsection (2)-
 - (i) after paragraph (a) (and before the “or” at the end of the paragraph) insert-
 - “(aa) are, or are to be, recognised and available in domestic law (and enforced, allowed and followed accordingly) by virtue of section 10A or 10B,”; and
 - (ii) in paragraph (b) for “exit day” substitute “IP completion day”; and
 - (c) in subsection (3) after “incorporation)” insert “and section 8A”.
- (4) In section 8 of that Act-
- (a) in subsections (1) to (5) for “exit day”, wherever it appears, substitute “IP completion day”; and
 - (b) after subsection (6) insert-

“(7) Subsections (1) to (6) and Schedule 1 are subject to relevant separation agreement law (for which see section 10C).”.

(5) After section 8 of that Act insert-

“Savings and incorporation: supplementary.

8A. The fact that anything which continues to be, or forms part of, domestic law on or after IP completion day by virtue of section 5, 6 or 7 has an effect immediately before IP completion day which is time-limited by reference to the implementation period does not prevent it from having an indefinite effect on and after IP completion day by virtue of section 5, 6 or 7.”.

(6) In Schedule 1 to that Act-

- (a) for “exit day”, wherever it appears, substitute “IP completion day”; and
- (b) in paragraph 5(1) for “in accordance with this Act” substitute “by virtue of section 5, 6, 7 or 9(3) or (6) and otherwise in accordance with this Act”.

Interpretation of retained EU law and relevant separation agreement law.

20.(1) In section 9 of the European Union (Withdrawal) Act 2019-

- (a) for “exit day”, wherever it appears, substitute “IP completion day”; and
- (b) in subsection (4), after paragraph (a) insert-
 - “(aa) a relevant court or relevant tribunal is not bound by any retained EU case law so far as is provided for by regulations under subsection (5A);”;
- (c) in subsection (5) after “EU case law” insert “by virtue of subsection (4)(a)”;
- (d) after subsection (5) insert-

“(5A) A Minister may by regulations provide for-

- (a) a court or tribunal to be a relevant court or (as the case may be) a relevant tribunal for the purposes of this section;
- (b) the extent to which, or circumstances in which, a relevant court or relevant tribunal is not to be bound by retained EU case law;
- (c) the test which a relevant court or relevant tribunal must apply in deciding whether to depart from any retained EU case law; or

- (d) considerations which are to be relevant to-
 - (i) the Judicial Committee of the Privy Council in applying the test mentioned in subsection (5), or
 - (ii) the relevant court or relevant tribunal in applying any test provided for by virtue of paragraph (c) above.

(5B) Regulations under subsection (5A) may (among other things) provide for-

- (a) the Supreme Court to be a relevant court;
- (b) the extent to which, or circumstances in which, a relevant court or relevant tribunal not being bound by retained EU case law includes (or does not include) that court or tribunal not being bound by retained domestic case law which relates to retained EU case law;
- (c) other matters arising in relation to retained domestic case law which relates to retained EU case law (including by making provision of a kind which could be made in relation to retained EU case law); or
- (d) the test mentioned in paragraph (c) of subsection (5A) or the considerations mentioned in paragraph (d) of that subsection be determined (whether with or without the consent of a Minister) by a person mentioned in subsection (5C)(a) or (b) or by more than one of those persons acting jointly.

(5C) Before making regulations under subsection (5A), a Minister must consult-

- (a) the Chief Justice; and
- (b) such other persons as the Minister considers appropriate.”; and

(e) after subsection (6) insert-

“(6A) Subsections (1) to (6) are subject to relevant separation agreement law (for which see section 10C).”.

(2) After section 10B of that Act insert-

“Interpretation of relevant separation agreement law.

10C.(1) Any question as to the validity, meaning or effect of any relevant separation agreement law is to be decided, so far as they are applicable-

- (a) in accordance with the withdrawal agreement, the EEA EFTA separation agreement and the Swiss citizens' rights agreement; and
- (b) having regard (among other things) to the desirability of ensuring that, where one of those agreements makes provision which corresponds to provision made by another of those agreements, the effect of relevant separation agreement law in relation to the matters dealt with by the corresponding provision in each agreement is consistent.

(2) See (among other things)-

- (a) Article 4 of the withdrawal agreement;
- (b) Articles 158 and 160 of the withdrawal agreement;
- (c) Article 4 of the EEA EFTA separation agreement; and
- (d) Article 4 of the Swiss citizens' rights agreement.

(3) In this Act "relevant separation agreement law" means-

- (a) any of the following provisions or anything which is domestic law by virtue of any of them-
 - (i) section 10A, 10B, 11B or 11C or this section, or
 - (ii) Part 4 of the European Union (Withdrawal Agreement) Act 2020; or
- (b) anything not falling within paragraph (a) so far as it is domestic law for the purposes of, or otherwise within the scope of-
 - (i) the withdrawal agreement (other than Part 4 of that agreement),
 - (ii) the EEA EFTA separation agreement, or
 - (iii) the Swiss citizens' rights agreement,

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.”.

Dealing with deficiencies in retained EU law.

21.(1) Section 11 of the European Union (Withdrawal) Act 2019 is amended in accordance with subsections (2) to (4).

(2) In subsection (2)-

- (a) in paragraph (d)(ii), after “membership of the EU” insert “or Part 4 of the withdrawal agreement”;
 - (b) in paragraph (e), after “Treaties” insert “or as a result of either the end of the implementation period or any other effect of the withdrawal agreement”;
 - (c) after paragraph (e) insert-
 - “(ea) is not clear in its effect as a result of the operation of any provisions of sections 5 to 9 or Schedule 1;”; and
 - (d) in paragraph (f)(i) for “exit day” substitute “IP completion day”.
- (3) In subsection (4) for “exit day” substitute “IP completion day”.
- (4) In subsection (7)-
- (a) for “arising from that withdrawal taken together” substitute-
“arising from-
 - (a) any aspect of that withdrawal, including (among other things)-
 - (i) the end of the implementation period, or
 - (ii) any other effect of the withdrawal agreement; or
 - (b) that withdrawal, or any such aspect of it, taken together;”; and
 - (b) after “Act” insert “or the European Union (Withdrawal Agreement) Act 2020”.

Other matters

Certain dispute procedures under withdrawal agreement.

22. After section 12 of the European Union (Withdrawal) Act 2019 insert-

“Certain dispute procedures under withdrawal agreement.

12A.(1) A Minister must make a statement to the Parliament where-

- (a) a request has been made under Article 170 of the withdrawal agreement in relation to a matter that concerns Gibraltar; and

(b) the European Court has given a ruling that relates (in whole or in part) to Gibraltar.

(2) A statement made under subsection (1) must be made as soon as practicable after the Government has been informed of the request or ruling, as the case may be.”.

Repeal of unnecessary or spent enactments.

23. The following enactments are repealed-

- (a) section 12 of the European Union (Withdrawal) Act 2019 (implementing the withdrawal agreement); and
- (b) section 16 of that Act (future interaction with the law and agencies of the EU).

PART 6**FINAL PROVISION***Supplementary and final***Regulations.**

24. Schedule 1 contains provision about regulations under this Act.

Consequential and transitional provision.

25.(1) A Minister 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) Parts 1 and 2 of Schedule 2 contain minor and consequential provision.

(4) A Minister 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 or IP completion day).

(5) Part 3 of Schedule 2 contains transitional, transitory and saving provision.

SCHEDULE 1

Section 24

REGULATIONS UNDER THIS ACT

General.

1. Any power to make regulations under this Act-
 - (a) may be exercised so as to 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.
2. 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.

Anticipatory exercise of powers in relation to the withdrawal agreement etc.

3. Any power to make regulations under this Act in relation to the withdrawal agreement, the EEA EFTA separation agreement or the Swiss citizens' rights agreement, or any modification of any of them which requires ratification, is capable of being exercised before the agreement or (as the case may be) modification concerned is ratified.

Scope of appointed day power.

4. The power of the Chief Minister under section 2(2) to appoint a day includes a power to appoint a time on that day if the Chief Minister considers it appropriate to do so.

SCHEDULE 2

Section 25(3) and (5)

CONSEQUENTIAL AND TRANSITIONAL PROVISION ETC.

PART 1

GENERAL CONSEQUENTIAL PROVISION

Subsidiary legislation with commencement by reference to exit day.

1.(1) Any provision in subsidiary legislation made before exit day under-

- (a) any provision of the European Union (Withdrawal) Act 2019 (or any provision made under any such provision); or
- (b) any other enactment,

which provides, by reference to exit day (however expressed), for all or part of that or any other subsidiary legislation to come into force immediately before exit day, on exit day or at any time after exit day is to be read instead as providing for the subsidiary legislation or (as the case may be) the part to come into force immediately before IP completion day, on IP completion day or (as the case may be) at the time concerned after IP completion day.

(2) Subparagraph (1) does not apply so far as it is expressly disapplied by the subsidiary legislation that provides as mentioned in that subparagraph.

(3) A Minister may by regulations-

- (a) provide for subparagraph (1) not to apply to any extent in particular cases or descriptions of case; or
- (b) make different provision in particular cases or descriptions of case to that made by subparagraph (1).

Power to make consequential regulations under EUWA 2019.

2.(1) The power of a Minister under section 15(1) of the European Union (Withdrawal) Act 2019 to make such provision as the Minister considers appropriate in consequence of that Act includes the power to make such provision as the Minister considers appropriate in consequence of that Act as modified, or to be modified, by or under this Act (and references in the European Union (Withdrawal) Act 2019 to the power under section 15(1) of that Act are to be read accordingly).

(2) Subparagraph (1) does not limit the power conferred by section 25(1) above.

(3) The reference in subparagraph (1) to any modification by or under this Act of the European Union (Withdrawal) Act 2019 includes a reference to any modification made by or under this Act of a provision of another Act which was inserted into that other Act or otherwise modified by the European Union (Withdrawal) Act 2019.

PART 2

SPECIFIC CONSEQUENTIAL PROVISION ETC.

Interpretation and General Clauses Act.

3. The Interpretation and General Clauses Act is amended as follows.

4. In section 2, in the definitions of “subsidiary legislation” and “rules” for “exit day” substitute “IP completion day”.

5. In section 2, under the bold cross-heading “Definitions relating to the EU and Gibraltar’s withdrawal.”-

(a) after the definition of “EU instrument” insert-

““EU withdrawal agreement” means the withdrawal agreement within the meaning of the European Union (Withdrawal Agreement) Act 2020;”;

(b) in the definition of “exit day” for “2018” substitute “2019”;

(c) after the definition of “exit day” insert-

““IP completion day” (and related expressions) have the same meaning as in the European Union (Withdrawal Agreement) Act 2020;”;

(d) in the definitions of “retained EU law”, “retained direct minor EU legislation”, “retained direct principal EU legislation” and “retained direct EU legislation” for “2018” substitute “2019”;

(e) in the definition of “retained EU obligation” for “exit day” substitute “IP completion day”;

(f) in the definition of “the Treaties” or “the EU Treaties”-

(i) for “or EU Treaties,” substitute “or EU Treaties as at immediately before IP completion day and”; and

- (ii) for the words from “its repeal” to the end of the definition substitute “IP completion day”.

6. In section 17(2) for “exit day” substitute “IP completion day”.

7. In section 23-

- (a) in paragraph (h), for “before its repeal by section 4 of the European Union (Withdrawal) Act 2018” substitute “before it ceases to have effect by virtue of section 4A(6) of the European Union (Withdrawal) Act 2019”;
- (b) in paragraph (i), for “exit day” substitute “IP completion day”.

European Union (Withdrawal) Act 2019.

8. The European Union (Withdrawal) Act 2019 is amended as follows.

9.(1) Section 3 is amended as follows.

(2) In subsection (1)-

- (a) in the definition of “enactment” in paragraph (c) for “5” substitute “4B”;
- (b) in the definition of “retained direct EU legislation” for “exit day” substitute “IP completion day”;
- (c) in the definition of “subsidiary legislation” for “exit day” substitute “IP completion day”;
- (d) in the definition of “tribunal” for the semicolon substitute a full stop;
- (e) omit the definition of “withdrawal agreement”.

(3) After subsection (6) insert-

“(6A) In this Act references to anything which continues to be domestic law by virtue of section 4B(2) include-

- (a) references to anything to which section 4B(2) applies which continues to be domestic law on or after exit day (whether or not it would have done so irrespective of that provision); and
- (b) references to anything which continues to be domestic law on or after exit day by virtue of section 4B(2) (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).”.

(4) In subsection (7) for “exit day” substitute “IP completion day”.

(5) In subsection (11)-

(a) before the entry for “Anything which continues to be domestic law by virtue of section 5” (and after the headings for the table) insert-

Anything which continues to be domestic law by virtue of section 4B(2)	Section 3(6A)
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(b) after the entry for “EEA agreement” insert-

EEA EFTA separation agreement	Section 10B(6)
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(c) after the entry for “EU decision” insert-

EU-derived domestic legislation	Section 4B(7)
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(d) after the entry for “EU regulation” insert-

European Communities Act	Section 4A(8)(a)
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(e) after the entry for “Former Article 34(2)(c) of Treaty on European Union” insert-

Implementation period	Section 4A(7)
IP completion day (and related expressions)	Section 4A(7)

(f) after the entry for “Operative (in relation to direct EU legislation)” insert-

Part (of withdrawal agreement or EEA EFTA separation agreement)	Section 4A(8)(b)
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(g) after the entry for “Relevant criminal offence” insert-

Relevant separation agreement law	Section 10C(3)
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(h) after the entry for “Subsidiary legislation” insert-

Swiss citizens’ rights agreement	Section 10B(6)
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(i) in the entry for “Withdrawal agreement” for “Section 3(1)” substitute “Section 4A(7)”.

10. In the italic heading before section 5, for “existing EU law” substitute “saved EU law at end of implementation period”.

11.(1) Section 10 is amended as follows.

(2) In subsection (1)(b) for “section 5” substitute “section 4A(2) or (4) or 4B(2)”.

(3) After subsection (1) insert-

“(1A) Anything which-

- (a) was, immediately before IP completion day, primary legislation of a particular kind, subsidiary legislation of a particular kind or another enactment of a particular kind; and
- (b) continues to be domestic law on and after IP completion day by virtue of section 5,

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

(4) In subsection (5)-

- (a) in paragraph (a) after “(3)” insert “and (7)”; and
- (b) after paragraph (b) insert-

“(ba) section 10C (status of case law of European Court etc. in relation to retained EU law which is relevant separation agreement law);”.

(5) In subsection (6) for “exit day”, wherever it appears, substitute “IP completion day”.

12. In section 15(4) after “exit day” insert “or IP completion day”.

13.(1) Schedule 2 is amended as follows.

(2) In paragraph 1-

(a) in subparagraph (1)-

- (i) for “, for the purpose of interpreting retained EU law in legal proceedings,” substitute “in legal proceedings”, and
- (ii) omit “for that purpose”; and

(b) in subparagraph (2) omit the definition of “interpreting retained EU law”.

(3) In paragraph 2-

(a) in subparagraph (4) for “this Act is passed” substitute “IP completion day”; and

(b) in subparagraph (5) –

(i) after paragraph (c) but before the “and” at the end of that paragraph insert-

“(ca) the EEA EFTA separation agreement;

(cb) the Swiss citizens’ rights agreement;

(cc) the withdrawal agreement;”, and

(ii) in paragraph (d) for “or (c)” substitute “, (c), (ca), (cb) or (cc)”.

14.(1) Schedule 3 is amended as follows.

(2) In paragraph 1-

(a) in paragraph (a)(i) after “modify” insert “anything which continues to be domestic law by virtue of 4B(2) or any”; and

(b) in paragraph (b) for “any retained EU law” substitute “anything which continues to be domestic law by virtue of section 4B(2), or any retained EU law,”.

(3) In paragraph 3-

(a) in subparagraph (1) for “sections 5” substitute “sections 4A”;

(b) in subparagraph (2) after “Accordingly,” insert “anything which continues to be domestic law by virtue of section 4B(2) or”;

(c) in subparagraph (3) for “sections 5” substitute “sections 4A”;

(d) in subparagraph (4)(b) for “sections 5” substitute “sections 4A”; and

(e) in subparagraph (5) for “retained EU law” substitute “anything which continues to be domestic law by virtue of section 4B(2), or as retained EU law,”.

(4) After paragraph 3 insert-

“Anticipatory exercise of powers in relation to section 4B(2) saved law.

3A. Any power to make regulations under this Act which modify anything which continues to be domestic law by virtue of section 4B(2) is capable of being exercised before exit day so that the regulations come into force on or after exit day.”.

(5) In paragraph 4 for “exit day”, in both places where it appears, substitute “IP completion day”.

(6) After paragraph 4 insert-

“Anticipatory exercise of powers in relation to the withdrawal agreement etc.

4A. Any power to make regulations under this Act in relation to the withdrawal agreement, the EEA EFTA separation agreement or the Swiss citizens’ rights agreement, or any modification of any of them which requires ratification, is capable of being exercised before the agreement or (as the case may be) modification concerned is ratified.”.

15.(1) Part 1 of Schedule 4 is amended as follows.

(2) In paragraph 1(1) for “exit day”, in both places where it appears, substitute “IP completion day”.

(3) In paragraph 2-

(a) in subparagraph (1) for “exit day”, wherever it appears, substitute “IP completion day”;

(b) after subparagraph (2) insert-

“(2A) Subparagraph (1) does not apply so far as any reference forms part of relevant separation agreement law.”; and

(c) in subparagraph (3) for “and (2)” substitute “to (2A)”.

(4) For paragraph 5 substitute-

“5. Any power to make, confirm or approve subsidiary 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-

(a) on or after exit day, without that restriction; and

(b) on or after IP completion day, without any corresponding restriction in relation to compatibility with retained EU law,

so far as the restriction concerned is not applicable to and in Gibraltar by virtue of the withdrawal agreement.”.

(5) In paragraph 6(3) for “exit day”, in both places where it appears, substitute “IP completion day”.

(6) In paragraph 7-

(a) in subparagraph (1)-

(i) for “exit day” substitute “IP completion day”; and

(ii) for “pre-exit” substitute “pre-IP completion day”; and

(b) in subparagraph (2)-

(i) for “pre-exit” substitute “pre-IP completion day”, and

(ii) for “exit day” substitute “IP completion day”.

(7) In paragraph 10(3)-

(a) for “this Act” substitute “this Act and before IP completion day”; and

(b) for “exit day”, in both places where it appears, substitute “IP completion day”.

16.(1) Part 3 of Schedule 4 is amended as follows.

(2) Before paragraph 12 (but not before the paragraph heading before it) insert-

“11A.(1) Anything done-

(a) in connection with anything which continues to be domestic law by virtue of section 4A(2) or (4) or 4B(2); or

(b) for a purpose mentioned in section 4(1) of the European Communities Act or section 23(g) of the Interpretation and General Clauses Act 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 domestic law by virtue of section 4A(2) or (4) or 4B(2); or

- (b) for a purpose mentioned in section 4(1) of the European Communities Act or section 23(g) of the Interpretation and General Clauses Act 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) Subparagraphs (1) and (2) are subject to-

- (a) sections 4 to 4B and the withdrawal of Gibraltar from the EU;
- (b) any provision made under section 15(4) of this Act or section 25(4) of the European Union (Withdrawal Agreement) Act 2020; and
- (c) any other provision made by or under this Act, the European Union (Withdrawal Agreement) Act 2020 or any other enactment.

(4) References in this paragraph to anything done include references to anything omitted to be done.”.

(3) In paragraph 12-

- (a) in subparagraph (1) and (2) for “exit day”, wherever it appears, substitute “IP completion day”;
- (b) in subparagraph 3(a) for “section 4” substitute “sections 4 to 4B”;
- (c) in subparagraph 3(b) for “9” substitute “10C”;
- (d) in subparagraph 3(c) after “15(4)” insert “of this Act or section 25(4) of the European Union (Withdrawal Agreement) Act 2020”; and
- (e) in subparagraph (3)(d) after “this Act” insert “, the European Union (Withdrawal Agreement) Act 2020”.

17.(1) Part 4 of Schedule 4 is amended as follows.

(2) for paragraph 13 substitute-

“Retention of saved EU law at end of implementation period.

12A. The repeal of section 4A(1) to (5) by section 4A(6) and the repeal of section 4B(1) to (5) by section 4B(6) do not prevent an enactment to which section 5 applies from continuing to be read, on and after IP completion day and by virtue of section 5, in accordance with section 4B(3) or (4).

13. Section 7(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 Gibraltar in a case decided on or after IP completion day but begun before IP completion day (whether or not as an essential part of the decision in the case).”.

(3) In paragraph 14-

- (a) for “exit day”, wherever it appears, substitute “IP completion day”; and
- (b) in subparagraph (1)-
- (i) after “subject to” insert “relevant separation agreement law (for which see section 10C) and”, and
- (ii) after “section 15(4)” insert “of this Act or section 25(4) of the European Union (Withdrawal Agreement) Act 2020”.

(4) In paragraph 15 delete “11 or”.

(5) In paragraph 16-

- (a) in subparagraph (1)-
- (i) in paragraph (a), for “reference by” substitute “reference to”,
- (ii) in the tailpiece, for “or after” substitute “and after”;
- (b) in subparagraphs (2) and (3), for “exit day” substitute “IP completion day”.

(6) In paragraph 17 in subparagraph (2) and (4), for “exit day” substitute “IP completion day”.

(7) In paragraph 18(b), for “its repeal by section 4” substitute “it ceases to have effect by virtue of section 4A(6)”.

PART 3

TRANSITIONAL, TRANSITORY AND SAVING PROVISION

Regulations under EUWA 2019 etc.

18.(1) The fact that a power to make regulations is conferred by this Act in the European Union (Withdrawal) Act 2019 does not affect the extent of any other power to make regulations under that Act.

(2) The modifications made by this Act to any power to make regulations conferred by the European Union (Withdrawal) Act 2019 do not affect the validity of any regulations made under that power before the coming into force of the modifications.

(3) Subparagraph (2) is subject to any provision made by regulation under section 25(4) above or section 15(4) of the European Union (Withdrawal) Act 2019.

Power to make transitional, transitory or saving regulations under EUWA 2019.

19.(1) The power of a Minister under section 15(4) of the European Union (Withdrawal) Act 2019 to make such transitional, transitory or saving provision as the Minister considers appropriate in connection with the coming into force of any provision of that Act includes the power to make such transitional, transitory or saving provision as the Minister considers appropriate in connection with the coming into force (whether by virtue of this Act, this Act and that Act, or otherwise) of any provision of that Act as inserted into that Act, or modified, by or under this Act (and references in the European Union (Withdrawal) Act 2019 to the power under section 15(4) of that Act are to be read accordingly).

(2) Subparagraph (1) does not limit the power conferred by section 25(4) above; and the power of the Chief Minister under section 2(2) of the European Union (Withdrawal) Act 2019 does not apply to any insertions into, or other modifications of, that Act made by this Act (for which see section 2 above).

(3) References in this paragraph to any modification made by or under this Act of any provision of the European Union (Withdrawal) Act 2019 include references to any modification made by or under this Act of a provision of another Act which was inserted into that other Act or otherwise modified by the European Union (Withdrawal) Act 2019.