
Changes to legislation: There are currently no known outstanding effects for the Retained EU Law (Revocation and Reform) Act 2023, Paragraph 8. (See end of Document for details)

SCHEDULES

SCHEDULE 2

“ASSIMILATED LAW”: CONSEQUENTIAL AMENDMENTS

European Union (Withdrawal) Act 2018

- 8 (1) The European Union (Withdrawal) Act 2018 (as amended by this Act) is amended as follows.
- (2) In section 5 (exceptions to savings and incorporation), in subsections (A2) and (8), for “retained direct EU” substitute “assimilated direct”.
- (3) In section 6 (interpretation of retained EU law)—
- (a) in the heading for “retained EU” substitute “assimilated”;
 - (b) in subsection (3)—
 - (i) for “retained EU” substitute “assimilated”;
 - (ii) in paragraph (a) for “retained” (in the first place it appears) substitute “assimilated”;
 - (c) in subsections (4) to (5ZA), for “retained” (in each place it appears) substitute “assimilated”;
 - (d) in subsection (6), for “retained EU” substitute “assimilated”;
 - (e) in subsection (7)—
 - (i) before the definition of “higher court” insert—
 - ““assimilated case law” means—
 - (a) assimilated domestic case law, and
 - (b) assimilated EU case law;
 - “assimilated 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 IP completion day and so far as they—
 - (a) relate to anything to which section 2 or 3 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);
 - “assimilated 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 IP completion day and so far as they—
 - (a) relate to anything to which section 2 or 3 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);

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“assimilated law” means anything which, on or after IP completion day, continues to be, or forms part of, domestic law by virtue of section 2 or 3 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);”;

(ii) omit the definitions of “retained case law”, “retained domestic case law”, “retained EU case law” and “retained EU law”.

- (4) In section 6A (references on retained case law by lower courts or tribunals), for “retained” (in each place it appears, including the heading) substitute “assimilated”.
- (5) In section 6B (references on retained case law by UK or devolved law officers), for “retained” (in each place it appears, including the heading) substitute “assimilated”.
- (6) In section 6C (interventions on retained case law by UK or devolved law officers), for “retained” (in each place it appears, including the heading) substitute “assimilated”.
- (7) In section 6D (incompatibility orders), in subsection (1)(a) and (b), for “retained direct EU” substitute “assimilated direct”.
- (8) In section 7 (status of retained EU law)—
- (a) in the heading for “retained EU” substitute “assimilated”;
 - (b) in subsection (4A) for “Retained direct EU” substitute “Assimilated direct”;
 - (c) in subsection (5)—
 - (i) for “retained EU” (in each place it appears) substitute “assimilated”;
 - (ii) in paragraph (b), for “retained” (in the first place it appears) substitute “assimilated”;
 - (iii) in paragraphs (e) and (f), for “retained direct EU” substitute “assimilated direct”.
 - (d) omit subsection (6).
- (9) In section 20(1) (interpretation)—
- (a) before the definition of “Charter of Fundamental Rights” insert—

““assimilated direct 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 IP completion day);

“assimilated direct minor legislation” means any assimilated direct legislation which is not assimilated direct principal legislation;

“assimilated direct principal legislation” means—

 - (a) any EU regulation so far as it—
 - (i) forms part of domestic law on and after IP completion day by virtue of section 3, and
 - (ii) was not EU tertiary legislation immediately before IP completion day, or
 - (b) any Annex to the EEA agreement so far as it—
 - (i) forms part of domestic law on and after IP completion 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),

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- (as modified by or under this Act or by other domestic law from time to time);”;
- (b) in the definition of “enactment”, in paragraph (h), for “retained direct EU” substitute “assimilated direct”;
 - (c) omit the definition of “retained direct EU legislation”;
 - (d) in the definition of “subordinate legislation” for “retained direct EU” substitute “assimilated direct”.
- (10) In section 21(1) (index of defined expressions), in the table—
- (a) after the entry for “Article (in relation the Treaty on European Union or the Treaty on the Functioning of the European Union)”, insert—
- | | |
|--|---------------|
| “Assimilated case law | Section 6(7) |
| Assimilated direct legislation | Section 20(1) |
| Assimilated direct minor legislation | Section 20(1) |
| Assimilated direct principal legislation | Section 20(1) |
| Assimilated domestic case law | Section 6(7) |
| Assimilated EU case law | Section 6(7) |
| Assimilated law | Section 6(7)” |
- (b) omit the entries for “Retained case law”, “Retained direct EU legislation”, “Retained direct minor EU legislation”, “Retained direct principal EU legislation”, “Retained domestic case law”, “Retained EU case law” and “Retained EU law”.
- (11) In Schedule 1 (further provision about exceptions to savings and incorporation), for “retained EU” (in each place it appears) substitute “assimilated”.
- (12) In Schedule 4 (powers in connection with fees and charges), in paragraph 7(1) (b) (power to modify pre-exit fees or charges), for “retained EU” substitute “assimilated”.
- (13) In Schedule 5 (publication and rules of evidence), in paragraph 4(5) (definition of “relevant matter” for power to make provision about judicial notice and admissibility), for paragraph (a) substitute—
- “(a) assimilated law.”.
- (14) In Schedule 7 (regulations)—
- (a) in the italic heading before paragraph 9, for “retained EU” substitute “assimilated”;
 - (b) in paragraphs 21, 23 and 28, for “retained EU” (in each place it appears) substitute “assimilated”.
- (15) In Schedule 8 (consequential etc provision)—
- (a) in the italic heading before paragraph 1, for “retained direct EU” substitute “assimilated direct”;
 - (b) in paragraphs 2A(6A)(b), 3(1), 8(2), 11A(2), 11B(2) and 12(2)(b), for “retained direct EU” (in each place it appears) substitute “assimilated direct”;
 - (c) in paragraphs 7, 16(3)(b) and 45(2)(b)(i) and (ii), for “retained EU” substitute “assimilated”;

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- (d) in paragraphs 11A(3), 11B(3) and 30—
- (i) for “retained direct minor EU” (in each place it appears) substitute “assimilated direct minor”;
 - (ii) for “retained direct principal EU” (in each place it appears) substitute “assimilated direct principal”.

Commencement Information

- I1** Sch. 2 para. 8 not in force at Royal Assent, see **s. 22(3)**
I2 Sch. 2 para. 8 in force at 1.1.2024 by **S.I. 2023/1363, reg. 3(e)**

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