



**Isle of Man
Government**

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Council of Ministers

Consultation on the draft European Union (Withdrawal) Bill

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CONTENTS

	Page No.
Background	2
European Union (Withdrawal) Bill	4
Questions	5
Responding to the consultation	6
What happens next?	6
Bodies to be consulted	7
Consultation criteria	7
 Appendix 1 – draft European Union (Withdrawal) Bill	
 Appendix 2 – Explanatory Notes on the draft European Union (Withdrawal) Bill	
 Appendix 3 – draft Impact Assessment	

Background

In a referendum on 23 June 2016, the United Kingdom (UK) voted to leave the European Union (EU), which is commonly known as “Brexit”. The decision of a Member State to leave the EU is provided for in Article 50 of the Treaty on the European Union (TEU)¹. Under Article 50, formal notification of such a decision activates a two year period for the Member State and the EU to negotiate the terms of departure. At the end of this period, whether or not those terms have been agreed, the country ceases to be an EU Member State².

The UK Government submitted its formal notification under Article 50 on 29 March 2017 and so the UK will cease to be an EU Member State at 11.00pm (UK time) on 29 March 2019. Although Article 50 allows for a Member State to leave the EU, until the UK invoked Article 50, the procedure had not been used so much of the detail had not been established and the negotiations between the UK and the EU have broken new ground.

Several months of negotiations between the UK and EU have led to a draft Withdrawal Agreement³. This deals with matters such as the financial contribution to the EU required from the UK and the position of EU citizens living in the UK and that of British citizens living in the EU. In addition, although the draft Agreement includes a proposed “fall back” position on what will happen to the border between Northern Ireland and the Republic of Ireland, which is of course an EU Member State, after the UK leaves the EU that issue is still to be agreed. The draft Agreement also includes provision for a status quo transitional period (or what the UK Government refers to as an “implementation period”) during which the UK will no longer be an EU Member State but it will still be subject to all EU legislation, obligations and rights. The UK and EU has agreed that this transitional period will run until 31 December 2020.

Negotiations between the UK and the EU are now moving on to the future relationship following the conclusion of the transitional period with the aim of agreeing what the new relationship will look like by October 2018. However, whilst negotiations have moved on to the new agreement, the Withdrawal Agreement with its transitional period still cannot be taken for granted because, as the EU has commented, “nothing is agreed until everything is agreed”.

Most Isle of Man residents did not have the right to vote in the 2016 Referendum, although those who qualified to vote in UK general elections, perhaps because they have lived in the UK recently, did have the right to vote.

Furthermore, the Isle of Man Government did not take a position on the referendum debate. This is because the Isle of Man is not and never has been a member of the EU. But the Isle of Man does have a limited relationship with the EU which is set out in Protocol 3 to the UK’s Treaty of Accession to the EU⁴.

This relationship means that the Island is included within the UK’s membership of the EU customs union, and it is subject to certain provisions of the Single Market for trade in goods.

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2016:202:TOC>

² The two year period can only be extended with the unanimous agreement of the remaining EU Member States and the country that is leaving the EU.

³ https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement.pdf

⁴ <https://www.gov.im/media/624101/protocol3relationshipwiththeeu.pdf>

But, the Isle of Man's Protocol 3 relationship with the European Union is dependent upon the UK's membership of the EU. This means that the Island's relationship with the EU, in its current form at least, will come to an end when the UK is no longer an EU Member State.

The Isle of Man must therefore deal with the consequences of the UK's decision to leave.

However, the Isle of Man (along with the other Crown Dependencies, British Overseas Territories and the Devolved Administrations) is not part of the negotiations on the UK's Withdrawal Agreement (including the implementation period provisions) or the Agreement(s) on the future relationship between the UK and the EU. Similarly, the Isle of Man, the other Crown Dependencies, British Overseas Territories and the Devolved Administrations will not be parties to these Agreements in their own right; they will be between the UK and the EU.

Immediately after the UK referendum result, the Isle of Man Government moved quickly to establish dialogue and communicate its position. There has been an unprecedented level of engagement between the UK Government and the Isle of Man Government about the implications of Brexit on the Island. This is important for two reasons. Firstly, that the Isle of Man is able to input into the UK negotiating position, and ensure that senior UK officials conducting the negotiations are aware of and understand the areas of interest or importance for the Island; and, secondly, that relationships are established with key UK officials as the UK position has been, and continues to be determined. In this way the Island's priorities are being taken into account as part of the UK's withdrawal and future relationship policy deliberations.

Nevertheless, the Island is dependent on the UK in respect of its future relationship with the EU in matters such as continued free movement of goods and being able to recruit people from the EU to work in the Island and support its economy.

The changes to Manx legislation as a direct or indirect result of Brexit will be wide-ranging and substantial. In the current period of uncertainty about the Island's future relationship through the UK with the EU, it is not yet possible to predict exactly what those changes will be or make the necessary amendments to the Island's legislation. It is anticipated that whatever the outcome the complexity and volume of this work will be significant. A substantial amount of preparatory work has been carried out. However, it is likely that the time available to make necessary changes to the Island's legislation will be limited. The Island must ensure that it can respond appropriately in a timely manner.

European Union (Withdrawal) Bill

The UK's European Union (Withdrawal) Bill⁵ ("the UK Bill") is progressing through the UK Parliament⁶. The passage of this Bill has been lengthy and it is still not certain when this process will be completed.

From the outset of drafting, the Island's European Union (Withdrawal) Bill has been based on the UK Bill⁷.

The main advantage of this approach is that the provisions of the Island's Bill that are closely based on provisions of the UK Bill will have already been subject to intense scrutiny and debate both inside and outside the Houses of Parliament. In addition, Manx law and UK law are closely aligned in a number of areas, including customs and immigration. In addition, by adopting the same concepts and terminology as the UK, the Island should find it easier to keep in step with the UK in these areas and in relation to other Brexit legislation if it needs or wants to do so.

As the timetable for the UK Bill to complete its passage and obtain Royal Assent has lengthened though the time available for an Isle of Man Bill based on the final form of that legislation has become increasingly compressed. However, the Island's draft Bill on which this consultation is based proposes enabling powers that allow consideration of secondary legislation to be actively pursued in parallel with the progress of the Bill⁸. Basing the Island's Withdrawal Bill on the UK Bill may also mean though that any issues which arise in relation to the UK Brexit legislation may also arise in relation to the Manx legislation.

In addition to looking at the UK's Withdrawal Bill other UK Brexit-related Bills have also been considered during the drafting process, in particular the UK's Trade Bill⁹, and the Brexit Law that has been adopted by Jersey¹⁰.

The Island's draft Withdrawal Bill:

- deals with the repeal of the 1973 Act, the preservation (subject to modification) of EU instruments which fall within the scope of Protocol 3, saves existing statutory documents made under the 1973 Act and continues to allow EU instruments to be voluntarily applied to, or implemented in, the Island where useful to do so;
- makes provision by way of enabling powers for effect to be given to the Withdrawal Agreement (which will include the provisions governing the

⁵ <https://services.parliament.uk/Bills/2017-19/europeanunionwithdrawal.html>

⁶ This is just one of perhaps nine directly Brexit related Bills, some of which have also been introduced into the UK Parliament (Trade Bill, Taxation (Cross-border Trade) Bill, Nuclear Safeguards Bill, Sanctions and Anti-money Laundering Bill) but others have not yet been published (Agriculture Bill, Fisheries Bill, Immigration Bill, Withdrawal Agreement and Implementation Bill).

⁷ Whilst recognising that it is impossible though for the Island's Bill to be identical to the UK Bill given the differences between the UK's relationship with the EU and the Island's relationship with the EU. In addition, a significant amount of the UK Bill deals with devolution issues that are not relevant to the Island.

⁸ For example, consideration of which EU Regulations need/should be preserved as retained EU law in the Island after exit day to avoid a legal "cliff-edge" and any necessary modifications to those Regulations and other Manx legislation.

⁹ <https://services.parliament.uk/Bills/2017-19/trade.html>

¹⁰ European Union (Repeal and Amendment) (Jersey) Law 201-:

http://www.statesassembly.gov.je/assemblypropositions/2018/p.16-2018_with_corrigendum.pdf

This Law was approved by the States of Jersey on 6 March 2018 and is awaiting Royal Assent.

Guernsey's Brexit legislation has not been published or submitted to the States of Guernsey for consideration.

Implementation Period during which, it is proposed, Protocol 3 will in effect remain in place) in Manx law, so far as possible; and

- provides enabling powers to allow for continued effect to be given to certain international agreements which currently apply to the Isle of Man by virtue of Protocol 3, or which may be extended to the Island in the future, including certain WTO and free trade agreements.

Views on the draft Bill which is attached to this document are now sought. To assist readers of the Bill, Explanatory Notes have been prepared and these are provided with this document. A draft Impact Assessment is also attached.

Questions

Specific questions that readers may wish to consider are suggested below:

1. Do you have any comments on the provisions of the Bill dealing with the retention of EU legislation? See clauses 6 to 10 and the description of these clauses in the Explanatory Notes.
2. In particular, do you have any comments on the proposal to prescribe a list of EU legislation that currently applies to the Island directly and which is to be retained as Manx law after Brexit (or after the transition period)? See clause 7 of the draft Bill and the description of that clause in the Explanatory Notes.
3. Do you have any comments on the ability to amend or revoke any retained EU law by Manx secondary legislation after Brexit using the powers in the Bill and in other Manx primary legislation?
4. Do you have any comments on the powers in the Bill in connection with the UK's withdrawal from the EU? See clauses 11 to 13.
5. Do you have any comments on the proposal to have similar powers in the Bill to those currently in the 1973 Act to voluntarily apply EU legislation to the Island, or implement such legislation in the Island, with any necessary modifications where useful to do so? See clause 16.
6. Do you have any comments on the proposal that it should be possible to back date the application to the Island of EU legislation that is currently directly applicable to the Isle of Man under Protocol 3 if it has not been retained using the powers in clause 7 but it is subsequently found that there is reason why it should have been retained? See clause 17.
7. Do you have any comments on the proposal that it should be possible to use Manx secondary legislation to apply to the Island relevant UK legislation relating to Brexit, the Withdrawal Agreement (if any) and any future agreement on a new relationship between the UK and EU? See clause 18.

8. Do you have any comments about the proposed powers in the Bill concerning trade agreements? See clause 20 to 23.
9. Do you have any comments on the proposed Tynwald procedure for any of the powers in the Bill?
10. Do you have any other comments on the Bill?

General comments on the Bill and related matters are welcome although, as referred to above, it should be borne in mind that matters such as the merits or otherwise of Brexit, the final content of the Withdrawal Agreement with its implementation period, and the shape of the UK's future relationship with the EU (and hence what is available to the Isle of Man in respect of a future relationship with the EU) are very largely outside of the Island's control.

Responding to the consultation

When submitting your comments please indicate whether you are responding on behalf of an organisation (and if so which organisation) or on your own behalf. Anonymous responses will not be accepted.

Please let us know whether we can publish your comments.

Any comments or questions should be submitted in writing please (unless unable to do so by reason of a disability) to:

Anne Shimmin
External Relations
Cabinet Office
3rd Floor
Government Office
Bucks Road
Douglas
IM1 3PN

Or by email to: anne.shimmin@gov.im

The closing date for the receipt of comments is **25 May 2018**.

Paper copies of this document can be provided upon request.

What happens next?

After this consultation closes a summary of matters raised in the consultation, with responses where appropriate, will be published and the draft Bill will be finalised with a view to it being introduced into House of Keys at the earliest practical opportunity.

Bodies to be consulted directly

- Tynwald Members
- Isle of Man Chamber of Commerce
- Isle of Man Law Society
- Isle of Man Trade Unions
- HM Attorney General's Chambers
- Government Departments, Statutory Boards and Offices
- General Registry

Consultation Criteria

The Council of Ministers' "[Public engagement and consultation principles](#)" were laid before the November 2017 sitting of Tynwald. In summary, the consultation principles are as follows:

1. Consultations have a purpose and offer genuine opportunities to make a difference
 2. Consultations follow a clear and open process
 3. Consultations are well planned and delivered in a reasonable timescale
 4. We encourage and enable everyone affected to get involved, if they wish to
 5. We provide jargon free and understandable information
 6. Use suitable methods to deliver the consultation
 7. We learn and share lessons to improve future consultations
 8. We tell people the impact of their contribution
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EUROPEAN UNION (WITHDRAWAL) BILL 2018

Explanatory Memorandum

1. This Bill is promoted by [•] on behalf of the Cabinet Office.
2. *Clause 1* deals with the short title of the resulting Act.
3. *Clause 2* deals with the commencement of the resulting Act. Subsection (1) provides for certain sections of the resulting Act to come into operation on the day on which Royal Assent is announced to Tynwald.

Subsection (2) provides that the remaining provisions of the resulting Act will come into operation on such day or days appointed by the Council of Ministers by way of an order. The Tynwald procedure for such an order is laying only.

Subsection (3) enables an order under subsection (2) to make such consequential, incidental, supplemental, transitional, transitory or saving provisions as the Council of Ministers considers necessary in connection with the coming into operation of any section of the resulting Act. The power also enables the Council of Ministers to make such provisions in connection with the operation of any such sections in connection with exit day.

4. *Clause 3* gives effect to Schedule 1 to the Bill which defines certain terms used in the Bill.
5. *Clause 4* expands on the meaning of “exit day” for the purposes of the Bill. “Exit day” is defined in Schedule 1 to the Bill as meaning 11.00 p.m. on 29 March 2019. This is in line with the calculation of time in EU law, as well as the EU’s negotiating directives, which indicate that the UK will leave the EU at 00.00 on 30 March 2019 Brussels time which corresponds to 11.00 p.m. on 29 March 2019 UK time.

Subsection (1) provides that references in the Bill 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.

Subsections (2) and (3) provide that if the date and time at which the Treaties cease to apply to the United Kingdom is not the date and time specified in subsection (1), the Council of Ministers may by regulations amend the definition of “exit day” in Schedule 1 to ensure that they are aligned. The Tynwald procedure for making such regulations is laying only.

For the purposes of subsections (2) and (3) “the Treaties” are defined as meaning the Treaty on European Union and the Treaty on the Functioning of the European Union.

6. *Clause 5* repeals the *European Communities (Isle of Man) Act 1973* (the “1973 Act”) on exit day. This Act is the conduit via which EU law flows into Manx domestic law. The main effect of the repeal of the 1973 Act is to remove the mechanism for the automatic flow of EU law into Manx law (under section 2(1) of the 1973 Act) and to remove the enabling powers to make statutory documents to implement EU obligations into Manx law (under section 2B(1)(a) and (b) of the 1973 Act) and to apply EU instruments to the Island (under section 2A and 2B(1)(c) and (d) of the 1973 Act).
7. Normally, a statutory document will automatically lapse when the primary legislation under which it was made is repealed, unless the statutory document is expressly saved. One purpose of *clause 6* is to save any statutory documents made under section 2A or section 2B of the 1973 Act so that they will continue to have effect in Manx law on and after exit day following the repeal of the 1973 Act. These saved statutory documents will form part of a new category of law which will be called “retained EU law”.

An enabling power to make a statutory document also includes the power to amend or repeal it. As the enabling power for these statutory documents will be lost on the repeal of the 1973 Act, subsection (2) gives the Council of Ministers the power to modify any statutory document saved under clause 6(1) on and after exit day.

Subsection (3) provides that the saving of these statutory documents is subject to the exceptions in clause 9 and Schedule 2.

8. Section 2(1) of the 1973 Act provides that EU legislation is given legal effect in the Island “in accordance with the Treaties”. This provision ensures that certain types of EU legislation e.g. EU regulations, are directly applicable in Manx law without the need for any further implementing Manx legislation. However, only EU legislation which falls within the scope of Protocol 3 is given legal effect in the Island by virtue of section 2(1) of the 1973 Act.

Upon the withdrawal of the United Kingdom from the EU, the Island will no longer be bound by the Treaties and EU legislation can no longer have effect in the Island in accordance with the Treaties. The purpose of *clause 7* is to convert and retain certain directly applicable EU legislation as Manx law on and after exit day. It is the text of the legislation itself which will form part of Manx law.

Subsection (1) requires the Council of Ministers to prescribe which directly applicable EU legislation will be converted and retained as Manx law on and after exit day. The Tynwald procedure for such regulations will be “approval required”. Subsection (2) provides the Council of Ministers with a number of options as to how to prescribe the relevant EU legislation.

The types of legislation which will be converted and retained under clause 7 are EU regulations, EU decisions and EU tertiary legislation. These terms are defined in Schedule 1. These terms are defined as also including any adaptations made to the relevant instrument under the EEA agreement. This is

to ensure that such adaptations are also converted and retained as Manx law on and after exit day.

Subsection (3) provides that any directly applicable EU legislation which does not fall within subsection (1) ceases to have effect in Manx law on and after exit day.

Subsection (5) clarifies that clause 7 will only convert and retain the English language version of the prescribed directly applicable EU legislation into Manx law. However, other language versions can continue to be considered as aids to interpretation.

Subsection (6) gives the Attorney General the power to certify that any EU regulation, EU decision or EU tertiary legislation did or did not have legal effect in Manx law by virtue of section 2(1) of the 1973 Act immediately before exit day. Any such certificate will be evidence of that fact.

Subsection (7) provides that the conversion and retention of any directly applicable legislation is subject to the exceptions in clause 9 and Schedule 2.

9. *Clause 8* ensures that any remaining rights, powers, liabilities, obligations, restrictions, remedies and procedures which were recognised and available in Manx law immediately before exit day by virtue of section 2(1) of the 1973 Act continue to be recognised and available in Manx law on and after exit day.

Subsection (2) provides that this clause only applies to such rights, powers, liabilities, obligations, restrictions, remedies and procedures so far as they pertain to any statutory document saved under clause 6 or any directly applicable EU legislation retained under clause 7.

This includes, for example, directly effective rights contained within EU treaties. Directly effective rights are those provisions of EU treaties which are sufficiently clear, precise and unconditional to confer rights directly on individuals which can be relied on in national law without the need for implementing measures. Where directly effective rights are converted under this clause, it is the right which is converted, not the text of the article itself.

Any directly effective rights converted into Manx law as a result of this clause would be subject to amendment under clause 11 and 14.

Subsection (3) sets out exceptions to the conversion under subsections (1) and (2). It provides that the clause does not bring in any rights, powers etc if they already form part of Manx law by virtue of clause 7 (in order to avoid duplication on the Manx statute book) and it excludes certain directly effective rights arising under an EU directive.

Subsection (4) clarifies that subsection (1) does not save any rights, powers etc pertaining to any directly applicable EU legislation which is not retained under clause 7.

Subsection (5) provides that this clause is also subject to the exceptions in clause 9 and Schedule 2.

10. *Clause 9* sets out exceptions to the savings and retention of EU law provided for in clauses 6, 7 and 8. Subsection (1)(a) makes it clear that retained EU law is to be construed and have effect subject to any Manx law made on or after exit day.

Subsection (1)(b) acknowledges that any Manx law made before exit day will be construed and have effect subject to any retained EU law. However subsection (2) provides that this does not apply to any Manx legislation passed or made before exit day and which is expressed to be as a result of the withdrawal of the United Kingdom from the EU; this ensures that any Manx legislation passed or made before exit day in preparation for exit day will not be construed, and will not have effect, subject to any retained EU law.

Subsection (3) provides that the Charter of Fundamental Rights will not be part of Manx law on or after exit day.

Subsection (4) clarifies that this exception does not affect the retention in Manx law on or after exit day in accordance with the Bill of any fundamental rights or principles which exist irrespective of the Charter.

Subsection (5) provides that further limited exceptions to the savings and retention of EU law, as set out in Schedule 2, have effect.

11. *Clause 10* sets out how retained EU law is to be read and interpreted on and after exit day.

Subsections (1) and (2) set out the relationship between the European Court and the Manx courts and tribunals on and after exit. On or after exit day, a Manx court and tribunal —

- (a) is not bound by any principles laid down, or any decisions made, by the European Court;
- (b) cannot refer any matter to the European Court;
- (c) need not have regard to anything done by the European Court, another EU entity or the EU.

Subsection (3) provides that if any retained EU law is unmodified on or after exit day, any question as to its validity or meaning will be decided in accordance with any relevant pre-exit EU or Manx case law and any relevant general principles of EU law. Any such retained EU law will also be interpreted by reference to the limits of EU competences in relation to the Island immediately before exit day. A matter could not fall within retained EU law if the EU had no competence in that area.

However, subsections (4) and (5) provide that the Staff of Government division is not bound by any pre-exit EU case law and in deciding whether to depart from such pre-exit EU case law, the Staff of Government Division must apply the same test as it would apply in deciding whether to depart from its own case law. In addition no Manx court or tribunal is bound by any relevant pre-exit Manx case law that it would not otherwise be bound by.

Subsection (6) sets out that retained EU law which has been amended on or after exit day can be determined in accordance with pre-exit EU or Manx case law and the pre-exit general principles where the amendments so provide.

12. *Clause 11* gives the Council of Ministers the power to make regulations to prevent, remedy or mitigate any failure of, or other deficiency in, retained EU law or other Manx legislation arising from the withdrawal of the United Kingdom from the EU. The Tynwald procedure for such regulations will be “approval required”.

Subsection (2) sets out a list of what constitutes a deficiency for the purposes of subsection (1).

Subsection (3) states that deficiencies not on the list in subsection (2), but which are “of a similar kind”, are within the scope of the correcting power set out in subsection (1). Subsection (3) will also enable the Council of Ministers to make regulations to describe or provide for other kinds of deficiency in retained EU law or other Manx legislation. The Tynwald procedure for such regulations will be “approval required”.

Subsection (4) provides that retained EU law or other Manx legislation is not deficient just because it does not contain any modification of EU law which is adopted or notified, comes into operation or only applies on or after exit day.

Subsection (5) provides that regulations made under subsection (1) can do anything an Act of Tynwald might to deal with deficiencies. This could include amending Acts of Tynwald where appropriate.

Subsection (6) sets out a non-exhaustive list of what regulations made under subsection (1) may do. Such regulations may –

- (a) provide for functions of EU entities or public authorities to be exercisable by a public authority in the Island or the United Kingdom;
- (b) provide for the establishment of public authorities in the Island to carry out functions; or
- (c) provide for the modification of any retained EU law or other Manx legislation.

Subsection (7) sets out a number of safeguards on the use of the power in subsection (1). Such regulations may not impose or increase taxation; make retrospective provision; create a relevant criminal offence; or amend, repeal or revoke the Human Rights Act 2001.

Subsection (8) clarifies that the power of the Council of Ministers to make regulations under this clause will not limit its powers to make statutory documents under clauses 6(2) or 14.

13. *Clause 12* gives the Council of Ministers the power to make regulations to prevent or remedy any breach of an international obligation that applies or extends to the Island and which arises from the withdrawal of the United

Kingdom from the EU. The Tynwald procedure for such regulations will be “approval required”.

Subsection (2) provides that regulations made under subsection (1) can do anything an Act of Tynwald might to prevent or remedy any breach.

Subsection (3) sets out a number of safeguards on the use of the power in subsection (1). Such regulations may not make retrospective provision; create a relevant criminal offence; or amend, repeal or revoke the Human Rights Act 2001.

14. *Clause 13* gives the Council of Ministers a power to make regulations for the purposes of implementing any withdrawal agreement concluded between the United Kingdom and the EU under article 50(2) of the Treaty on European Union.

Subsection (2) provides that regulations made under subsection (1) can do anything that an Act of Tynwald might to implement any withdrawal agreement.

Subsection (3) sets out a number of safeguards on the use of the power in subsection (1). Such regulations may not impose or increase taxation; make retrospective provision; create a relevant criminal offence; or amend, repeal or revoke the Human Rights Act 2001.

15. *Clause 14* gives the Council of Ministers the power to make regulations to modify —

- (a) retained direct EU legislation (including to ensure that such retained direct EU legislation keeps in step with the relevant EU law on or after exit day); and
- (b) any EU law saved under clause 8.

The Tynwald procedure for such regulations will be “approval required”.

16. *Clause 15* provides the Council of Ministers with the power (by way of regulations) to apply to the Island or to implement in the Island, any treaty provision. The Tynwald procedure for any such regulations will be “approval required”.

Subsection (2) provides that any regulations made under subsection (1) can do anything that an Act of Tynwald might to apply or implement a treaty provision.

Subsection (3) defines “treaty” as meaning any of the EU Treaties or any agreement declared to be a treaty in regulations made by the Council of Ministers. The Tynwald procedure for any such regulations will be “approval required”.

Subsection (4) provides a non-exhaustive list of the types of agreement which may be declared to be a treaty under subsection (3).

Subsection (5) clarifies that regulations made under this clause cannot come into operation until on or after exit day.

17. *Clause 16* is similar to sections 2A and 2B of the 1973 Act. Subsection (1) will enable the Council of Ministers (by way of regulations) to —

- (a) voluntarily apply any EU instrument (whether it is operative before, on or after exit day) to the Island (subject to modifications) and to make any necessary provisions to implement such instruments;
- (b) implement any other EU law (whether operative before, on or after exit day) into Manx law and to deal with any matters arising out of such implementation.

The Tynwald procedure for any such regulations will be “approval required”.

Subsection (2) provides that any regulations made under subsection (1) can do anything that an Act of Tynwald may do.

Subsections (3) to (6) contain provisions relating to the production of texts of the applied instrument.

Subsection (7) provides that any regulations made under subsection (1) cannot come into operation until on or after exit day.

18. *Clause 17* provides the Council of Ministers with the power (by way of regulations) to —

- (a) apply certain EU regulations, EU decisions or EU tertiary legislation to the Island retrospectively (see subsection (3)) and to make any necessary provisions to implement such instruments;
- (b) implement certain EU laws into Manx law retrospectively (see subsection (3)) and to deal with any matters arising out of such implementation.

The Tynwald procedure for any such regulations will be “approval required”.

Subsection (2) provides that any regulations under subsection (1) can do anything that an Act of Tynwald may do.

Subsection (3) provides that any regulations made under this clause may be made retrospective.

Subsection (4) contains safeguards on the use of the power in subsection (1). Any such regulations may not impose or increase taxation or impose any civil or criminal liability before the day on which the regulations themselves come into operation. Subsection (7) further provides that any such regulations may not amend, repeal or revoke the Human Rights Act 2001.

Subsection (5) requires any regulations made under subsection (1)(a) to have a text of the applied instrument annexed to it.

Subsection (6) gives the Council of Ministers the power to include a provision in the regulations providing that the applied legislation is to be treated as “retained direct EU legislation” or “retained EU law”.

Subsection (8) provides that any regulations made under subsection (1) cannot themselves come into operation until on or after exit day.

19. *Clause 18* provides the Council of Ministers with the power to apply certain Parliamentary enactments to the Island (subject to modifications) by way of regulations. The Tynwald procedure for any such regulations will be “approval required”.

Subsection (2) provides that any regulations made under subsection (1) can do anything that an Act of Tynwald may do.

Subsection (3) provides that the power in subsection (1) may be exercised in relation to any Parliamentary enactment relating to —

- (a) the withdrawal of the United Kingdom from the EU;
- (b) the approval or implementation of any withdrawal agreement; or
- (c) the future relationship between the United Kingdom and the EU or any member State.

Subsection (4) enables the Council of Ministers to amend subsection (3) by adding or deleting any Parliamentary enactment or any description of a Parliamentary enactment. The Tynwald procedure for any such regulations will be “approval required”.

Subsection (5) enables Parliamentary enactments to be applied to the Island on an ambulatory basis i.e. as amended from time to time.

Subsections (6) to (8) contain provisions relating to the text of any applied Parliamentary enactment.

20. *Clause 19* enables statutory documents made under clauses 12 to 18 or 21 to refer to EU instruments on an ambulatory basis i.e. as amended from time to time.

Subsection (3) gives the Council of Ministers the power to prescribe by way of regulations statutory documents made under other provisions of Manx legislation as statutory documents which may refer to EU instruments on an ambulatory basis. The Tynwald procedure for such any such regulations will be “negative”. Subsection (4) provides that any regulations made under subsection (3) cannot come into operation until on or after exit day.

21. *Clause 20* enables the Council of Ministers to make regulations to apply to the Island, and implement in the Island, the WTO Agreement. The Tynwald procedure for any such regulations will be “approval required”.

Subsection (2) provides that any regulations made under subsection (1) can do anything that an Act of Tynwald may do.

Subsection (3) defines the “WTO Agreement”.

22. *Clause 21* enables the Council of Ministers, by regulations, to implement into Manx law an international trade agreement entered into by the Island or entered into by the United Kingdom and which has been extended to the Island. The Tynwald procedure for any such regulations will be “approval required”.

Subsection (2) provides that any regulations made under subsection (1) can do anything that an Act of Tynwald may do.

Subsection (3) defines certain terms for the purposes of this clause.

23. *Clause 22* provides the Treasury with an enabling power to make regulations for the purposes of obtaining information in relation to the export of goods and services from the Island. The Tynwald procedure for any such regulations will be “approval required”.

Subsection (2) provides that any regulations made under subsection (1) can do anything that an Act of Tynwald may do.

Subsection (3) sets out a non-exhaustive list of what may be included in any such regulations.

24. *Clause 23* provides the Treasury with an enabling power to make regulations in relation to the disclosure of information for the purpose of facilitating the Treasury’s functions relating to trade or for the purpose of facilitating an international organisation or authority’s public functions relating to trade. The Tynwald procedure for any such regulations will be “approval required”.

Subsection (2) provides that any regulations made under subsection (1) can do anything that an Act of Tynwald may do.

Subsection (3) sets out a non-exhaustive list of what may be included in any such regulations.

25. *Clause 24* gives effect to Schedule 3 on the rules of evidence for retained EU law.

26. *Clause 25* gives effect to Schedule 4 which contains general provisions about the powers to make statutory documents under the Bill.

27. *Clause 26* contains consequential and transitional provisions. Subsection (1) allows the Council of Ministers to make regulations which are appropriate as a consequence of the Bill. The Tynwald procedure for any such regulations will be “approval required”.

Subsection (2) provides that any regulations made under subsection (1) can do anything that an Act of Tynwald may do.

Subsection (3) provides that any regulations made under subsection (1) cannot amend Acts of Tynwald passed after the end of the parliamentary session in which the Bill is passed.

Subsection (4) gives the Council of Ministers the power, by way of regulations, to make incidental, supplemental, transitional, transitory or saving provisions in connection with the coming into operation of any provision of the resulting Act (including its operation in connection with exit day). The Tynwald procedure for any such regulations will be “affirmative”.

Subsection (5) gives effect to Schedule 5 which contains general consequential provisions.

Subsection (6) gives effect to Schedule 6 which contains transitional, transitory and saving provisions.

Subsection (7) gives effect to Schedule 7 which contains specific consequential amendments.

Subsection (8) gives effect to Schedule 8 which sets out repeals not made elsewhere in the Bill.

28. *Schedule 1* defines certain terms used in the Bill.

Subsection (4) provides that any reference in the Bill to former Article 34(2)(c) of the Treaty on European Union is a reference to that Article as it applied before the Lisbon Treaty. It is necessary to include these references in the Bill to ensure that it accurately reflects the legal basis for these measures.

Subsection (5) provides that references in the Bill to certain provisions of the Treaty on European Union or the Treaty on the Functioning of the European Union include references to those provisions as they apply to the Euratom Treaty.

29. *Schedule 2* sets out further exceptions to the saving and retention of EU law provided for under clauses 6, 7 and 8. This schedule should be read together with paragraphs 2 and 3 of Schedule 6 which make transitional, transitory and saving provisions.

Paragraph (1) provides that on or after exit day, there is no right to challenge any retained EU law on the grounds that immediately before exit day —

- (a) an EU instrument was invalid; or
- (b) an EU instrument did not have legal effect in the Island by virtue of section 2(1) of the 1973 Act.

However paragraph (1) is subject to the following two exceptions set out in paragraph (2) —

- (a) the European Court has decided before exit day that the EU instrument is invalid; or
- (b) the challenge is of a kind described or provided for in regulations made by the Council of Ministers. The Tynwald procedure for any such regulations will be “approval required”.

Paragraph 2(1) provides that only EU general principles that have been recognised in European Court cases decided before exit day, will form part of Manx law on or after exit day.

Paragraph 2(2) provides that there is no right of action in Manx law on or after exit day based on failure to comply with EU general principles.

Paragraph 2(3) provides that courts cannot dis-apply Manx law on or after exit day on the basis that it is incompatible with EU general principles. In addition, courts will not be able to quash any conduct or decide that it is unlawful on the basis that it was not compatible with the general principles. Courts will

however be required under clause 10 to interpret retained EU law in accordance with retained general principles of EU law.

Paragraph 3 provides that the right to claim damages against the state for breaches of EU law will not be available on or after exit day.

Paragraph 4 clarifies that the references in clause 9 and Schedule 2 to the Charter of Fundamental Rights, any general principle of EU law or the rule in *Francovich* are to be read as references to that Charter, principle or rule as they stand at exit day, not as they will operate in EU law in the future.

30. *Schedule 3* deals with rules of evidence. Section 3(1) of the 1973 Act provides that for the purposes of all legal proceedings any question as to the meaning or effect of any of the provisions of the Treaties having effect in the Island, or as to the validity, meaning or effect of any EU instrument having effect in the Island, shall be treated as a question of law.

Some EU law will not become retained EU law, but may still be relevant to the interpretation of the retained EU law. Paragraph 1 therefore provides that, to the extent that determining the meaning or effect of EU law is necessary for a court to interpret retained EU law, judges will continue to determine that meaning or effect themselves as a question of law, rather than treat it as a question of fact.

Matters which are “judicially noticed” are deemed to already be within the knowledge of the court, and so are not required to be “proved” to the court. Paragraph 2 provides that the Council of Ministers may make regulations which provide for judicial notice to be taken of a relevant matter, and for the admissibility in legal proceedings of evidence of both a relevant matter and instruments or documents issued by or in the custody of an EU entity. This will ensure that appropriate evidential rules can be put in place to reflect the new legal landscape after exit day. The Tynwald procedure for any such regulations will be “affirmative”.

31. *Schedule 4* contains general provisions about the powers to make statutory documents in the Bill.

Paragraph 1 applies to all powers in the Bill to make a statutory document. It provides that any power in the Bill to make a statutory document —

- (a) may be exercised to modify retained EU law or other Manx legislation;
- (b) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision; to permit a person to exercise a discretion; and to require compliance with standards or the adoption of practices recommended by a specified person or body.

Paragraph 1(2) provides that a power in the Bill to make a statutory document does not affect the extent of any other power in the Bill, in retained EU law or in other Manx legislation to make a statutory document.

Paragraph 2(1) provides that the law saved and retained by clauses 6 to 10 may be modified by the power to make consequential provision under clause 26(1).

Paragraph 2(2) clarifies that the consequential power in the Bill can, for example, be used to modify retained EU law if the changes are consequential on repeal of the 1973 Act.

Paragraph 2(3) clarifies that the power to make statutory documents under clauses 2(3) and 26(4) includes the power to make consequential, incidental, supplemental, transitional, transitory or saving provision in connection with the repeal of the 1973 Act or the withdrawal of the UK from the EU which is additional to that made by the clauses in the Bill that deal with the saving, retention and interpretation of EU law, or which alters their effect in particular cases or descriptions of cases.

Paragraph 2(4) clarifies that the power to make regulations under clause 26(1) includes the power to make transitional or saving provision which is —

- (a) in connection with any repeal made by such regulations of any Manx legislation which is consequential upon the repeal of the 1973 Act or the withdrawal of the UK from the EU; and
- (b) is additional to that made by the clauses of the Bill that deal with saving, retention and interpretation of EU law or alters their effect in particular cases or descriptions of cases.

Paragraph 2(5) provides that such provisions can be treated as retained EU law.

Paragraph 3 provides that any power of the Council of Ministers to appoint a day, includes a power to appoint a time on that day.

Paragraph 4 provides that the powers in the Bill may be used to make different provision, in particular cases, from the changes made by Schedule 5 and amendments made to the *Interpretation Act 2015* and the *Legislation Act 2015* by paragraphs 2 and 3 of Schedule 7.

Paragraph 5 provides that where an instrument modifies certain earlier statutory documents made under the Bill, the rules for choosing the Tynwald procedure apply afresh.

Paragraph 6 applies to a statutory document made under this Bill which will be subject to the “approval required” Tynwald procedure. If the statutory document contains a declaration that the Council of Ministers is satisfied that, by reasons of urgency, the “affirmative” Tynwald procedure should apply, the “affirmative” Tynwald procedure will apply instead.

32. *Schedule 5* contains general consequential provisions.

Paragraphs 1 and 2 set out what happens with existing ambulatory reference on and after exit day. Ambulatory references are cross references to EU instruments as they may be amended from time to time in the future.

Paragraph 3(1) provides that any existing powers to make statutory documents in pre-exit legislation are capable of amending retained direct EU legislation.

Paragraph 3(3) provides that any exiting powers to make statutory documents in pre-exit legislation and which include a power to modify Manx legislation are capable of amending retained direct EU legislation.

Paragraph 3(4) provides that any pre-exit day powers do not have any implied EU law restriction on or after exit day.

Paragraph 4 provides that power to make statutory documents in Acts passed on or after exit day are capable of amending retained direct EU legislation, unless otherwise provided.

Paragraph 5 provides that retained direct EU legislation is to be treated as primary legislation for the purposes of the Human Rights Act 2001. This means that any retained direct EU legislation is to be treated as primary legislation for the purposes of challenges under the Human Rights Act 2001, meaning that if the legislation is found to breach that Act, a court may issue a declaration of incompatibility but may not strike down the legislation.

33. *Schedule 6* contains transitional, transitory and saving provisions.

Paragraph 1 provides that anything done or in operation before exit day (or in the process of being done), and which relates to any element of retained EU law is preserved.

Paragraph 2 provides that rights etc which are recognised under EU directives and are recognised by a court or tribunal in the Island or the United Kingdom in cases which have begun before exit day but are decided on or after exit day are saved by clause 8 and are not excluded under subsection (3) of that clause.

Paragraph 3 makes further provision about the exceptions to the saving and retention of EU law set out in clause 9 and Schedule 2.

Paragraph 3(1) provides that the exceptions in Schedule 2 apply in relation to anything occurring before exit day as well as anything occurring after exit day. However this is subject to any provisions made under clauses 2(3) or 26(4) and to the remaining provisions of paragraph 3.

Paragraph 3(2) provides that the exceptions for claims in respect of validity, general principles and Francovich do not apply in relation to cases decided before exit day.

Paragraph 3(3) provides that the exceptions in paragraphs 2(2) and (3) and 3 of Schedule 2 (for general principles and Francovich claims) will not apply in respect of proceedings which have begun before exit day but are not decided until on or after exit day.

Paragraph 3(4) provides that the exceptions for claims in respect of validity, general principles and Francovich will not apply in relation to any criminal conduct which occurred prior to exit day.

Paragraph 3(5) provides that the restriction on challenges based on incompatibility with any of the general principles of EU law (set out in paragraphs 2(2) and (3) of Schedule 2) does not apply in respect of certain

proceedings begun up to three months after exit day. In order to fall within the scope of this sub-paragraph, any challenge must relate to something that occurred before exit day and may be made against either administrative action or Manx legislation other than Acts of Tynwald or rules of law.

Paragraph 3(6) provides that a court, tribunal or other public authority will, on or after exit day, still be able to disapply any Manx legislation or rule of law, or quash any conduct on the basis of incompatibility with the general principles where it is a necessary consequence of a decision made by a court or tribunal made before exit day, or decision in proceedings commenced during the three month period after exit day provided for under paragraph 3(5).

34. *Schedule 7 makes specific consequential amendments to the Customs and Excise Act 1993, the Interpretation Act 2015, the Legislation Act 2015 and the European Communities (Amendment) Act 1994.*
35. *Schedule 8 lists further Acts of Tynwald which are repealed, either in whole or in part, by the Bill.*
36. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



EUROPEAN UNION (WITHDRAWAL) BILL 2018

Index

Section	Page
<i>Introductory</i>	17
1 Short title	17
2 Commencement	17
3 Interpretation.....	18
<i>Exit day</i>	18
4 Exit day.....	18
<i>Repeal of the European Communities (Isle of Man) Act 1973</i>	18
5 Repeal of the European Communities (Isle of Man) Act 1973	18
<i>Retention of existing EU law</i>	19
6 Saving for statutory documents made under the European Communities (Isle of Man) Act 1973.....	19
7 Retention of direct EU legislation.....	19
8 Saving for rights etc. under section 2(1) of the European Communities (Isle of Man) Act 1973.....	20
9 Exceptions to savings and retention	21
10 Interpretation of retained EU law	21
<i>Powers in connection with withdrawal</i>	22
11 Dealing with deficiencies arising from withdrawal	22
12 Complying with international obligations.....	24
13 Implementing the withdrawal agreement	25
<i>Further powers operable on or after exit day</i>	25
14 Amendment of retained direct EU legislation and other rights etc.....	25
15 Application and implementation of Treaty provisions.....	25
16 Application and implementation of EU instruments and law	26
17 Application and implementation of previous direct EU legislation and EU law.....	27
18 Application to the Island of Parliamentary enactments.....	28
19 Ambulatory references to EU instruments	29
<i>Trade Agreements</i>	30
20 Application and implementation of WTO Agreement	30
21 Implementation of international trade agreements	30
22 Trade information.....	31

23	Disclosure of information by the Treasury.....	31
	<i>General and final provisions</i>	32
24	Rules of evidence.....	32
25	Statutory documents.....	32
26	Consequential and transitional provisions.....	32
SCHEDULE 1		35
INTERPRETATION.....		35
SCHEDULE 2		40
FURTHER PROVISION ABOUT EXCEPTIONS TO SAVINGS AND RETENTION.....		40
SCHEDULE 3		42
RULES OF EVIDENCE.....		42
SCHEDULE 4		44
STATUTORY DOCUMENTS.....		44
SCHEDULE 5		47
GENERAL CONSEQUENTIAL PROVISIONS.....		47
SCHEDULE 6		50
TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS.....		50
SCHEDULE 7		52
SPECIFIC CONSEQUENTIAL AMENDMENTS.....		52
SCHEDULE 8		61
ADDITIONAL REPEALS.....		61



EUROPEAN UNION (WITHDRAWAL) BILL 2018

A BILL to repeal the European Communities (Isle of Man) Act 1973; to make provision consequent upon the withdrawal of the United Kingdom from the EU and the resultant cessation of Protocol No. 3 to the Act annexed to the Treaty relating to the Accession of the United Kingdom to the European Economic Community and to the European Atomic Energy Community signed at Brussels on the 22 January 1972; to make provision to apply EU law to, and to implement EU law in, the Island after exit day; to make provision to apply to the Island Parliamentary enactments relating to the United Kingdom's withdrawal from the EU and the United Kingdom's future relationship with the EU; to make provisions in relation to trade and trade agreements; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

Introductory

1 Short title

The short title of this Act is the European Union (Withdrawal) Act 2018.

2 Commencement

- (1) This section and the following provisions of this Act—
- (a) section 1;
 - (b) section 3 (including Schedule 1) (interpretation);
 - (c) section 4 (appointment of exit day);
 - (d) sections 11 to 13 (powers in connection with withdrawal);
 - (e) sections 14 to 19 (further powers operable on or after exit day);
 - (f) sections 20 to 23 (trade agreements);
 - (g) section 25 (including Schedule 4) (statutory documents); and
 - (h) section 26(1) to (4) (consequential and transitional provisions),
- come into operation on the day on which this Act is passed.

- (2) The remaining provisions of this Act come into operation on such day or days as the Council of Ministers may by order appoint.

Tynwald procedure – laying only.

- (3) An order under subsection (2) may make such consequential, incidental, supplemental, transitional, transitory or saving provisions as the Council of Ministers considers necessary or expedient in connection with the coming into operation of any provision of this Act (including its operation in connection with exit day).

3 Interpretation

[P2018/?/14]

Schedule 1 (interpretation) has effect.

Exit day

4 Exit day

[P2018/?/14(2)-(5)]

- (1) 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.
- (2) Subsection (3) 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 Schedule 1.
- (3) The Council of Ministers may by regulations —
- (a) amend the definition of “exit day” in Schedule 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 (1) in consequence of any such amendment.

Tynwald procedure – laying only.

- (4) In subsections (2) and (3) “the Treaties” means the Treaty on European Union and the Treaty on the Functioning of the European Union.

Repeal of the European Communities (Isle of Man) Act 1973

5 Repeal of the European Communities (Isle of Man) Act 1973

[P2018/?/1]

The *European Communities (Isle of Man) Act 1973* is repealed on exit day.

*Retention of existing EU law***6 Saving for statutory documents made under the European Communities (Isle of Man) Act 1973**

[P2018/?/2]

- (1) Any statutory document made under section 2A or 2B of the *European Communities (Isle of Man) Act 1973*, as it has effect immediately before exit day, continues to have effect in Manx law on and after exit day.
- (2) On or after exit day, the Council of Ministers may by order or regulations (as appropriate) modify any statutory document saved under subsection (1).
Tynwald procedure – approval required.
- (3) This section is subject to section 9 and Schedule 2 (exceptions to savings and retention).

7 Retention of direct EU legislation

[P2018/?/3 and drafting]

- (1) Any EU regulation, EU decision or EU tertiary legislation, as it has effect in EU law immediately before exit day, which –
 - (a) has legal effect in Manx law by virtue of section 2(1) of the *European Communities (Isle of Man) Act 1973* immediately before exit day; and
 - (b) is prescribed by regulations made by the Council of Ministers for the purposes of this subsection.forms part of Manx law on and after exit day.
Tynwald procedure – approval required.
- (2) The power to prescribe under subsection (1)(b) includes the power to prescribe –
 - (a) specific EU regulations, EU decisions or EU tertiary legislation either in their entirety or in part;
 - (b) a generic description or class of EU regulations, EU decisions or EU tertiary legislation;
 - (c) all EU regulations, EU decisions or EU tertiary legislation which have legal effect in Manx law by virtue of section 2(1) of the *European Communities (Isle of Man) Act 1973* immediately before exit day;
 - (d) any exemptions, exceptions or exclusions (whether specific or generic) from any prescribed EU regulations, EU decisions or EU tertiary legislation.

- (3) Any EU regulation, EU decision or EU tertiary legislation which has legal effect in Manx law by virtue of section 2(1) of the *European Communities (Isle of Man) Act 1973* immediately before exit day, but which does not fall within subsection (1), ceases to have effect in Manx law on and after exit day.
- (4) No regulations may be made under subsection (1) after exit day.
- (5) This section brings into Manx law any EU regulation, EU decision or EU tertiary legislation only in the form of the English language version of that legislation but this does not affect the use of the other language versions of that legislation for the purposes of interpreting it.
- (6) A certificate issued by or under the authority of the Attorney General stating that any EU regulation, EU decision or EU tertiary legislation did or did not have legal effect in Manx law by virtue of section 2(1) of the *European Communities (Isle of Man) Act 1973* immediately before exit day is evidence of that fact.
- (7) This section is subject to section 9 and Schedule 2 (exceptions to savings and retention).

8 Saving for rights etc. under section 2(1) of the European Communities (Isle of Man) Act 1973

[P2018/?/4 and drafting]

- (1) Subject to subsection (2), any rights, powers, liabilities, obligations, restrictions, remedies and procedures which immediately before exit day —
 - (a) are recognised and available in Manx law by virtue of section 2(1) of the *European Communities (Isle of Man) Act 1973*; and
 - (b) are enforced, allowed and followed accordingly,continue on and after exit day to be recognised and available in Manx law (and to be enforced, allowed and followed accordingly).
- (2) Subsection (1) only applies to such rights, powers, liabilities, obligations, restrictions, remedies and procedures so far as they pertain to any statutory document saved under section 6 and any EU legislation retained under section 7.
- (3) Subsection (1) does not apply to any rights, powers, liabilities, obligations, restrictions, remedies or procedures so far as they —
 - (a) form part of Manx law by virtue of section 7; 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 Island or the United Kingdom in a case decided before exit day (whether or not as an essential part of the decision in the case).

- (4) To avoid doubt, subsection (1) does not save any rights, powers, liabilities, obligations, restrictions, remedies and procedures pertaining to any EU regulation, EU decision or EU tertiary legislation which has legal effect in Manx law by virtue of section 2(1) of the *European Communities (Isle of Man) Act 1973* immediately before exit day, but which has not been prescribed under section 7(1).
- (5) This section is subject to section 9 and Schedule 2 (exceptions to savings and retention).

9 Exceptions to savings and retention

[P2018/?/5]

- (1) On and after exit day —
 - (a) any retained EU law is to be construed and have effect subject to any Manx legislation or rule of law passed or made on or after exit day; and
 - (b) any Manx legislation or rule of law passed or made before exit day is to be construed and have effect subject to any retained EU law.
- (2) Subsection (1)(b) does not apply to any Manx legislation passed or made before exit day and which is expressed to be as a result of the withdrawal of the United Kingdom from the EU.
- (3) The Charter of Fundamental Rights is not part of Manx law on or after exit day.
- (4) Subsection (3) does not affect the retention in Manx 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).
- (5) Schedule 2 (which makes further provision about exceptions to savings and retention) has effect.

10 Interpretation of retained EU law

[P2018/?/6]

- (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) A court or tribunal need not have regard to anything done on or after exit day by the European Court, another EU entity or the EU but may do so if it considers it appropriate to do so.
- (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 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 in relation to the Island.
- (4) But—
 - (a) the Staff of Government Division is not bound by any retained EU case law; and
 - (b) no court or tribunal is bound by any retained Manx case law that would not otherwise bind that body.
- (5) In deciding whether to depart from any retained EU case law, the Staff of Government Division 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 the modification expressly so provides.

Powers in connection with withdrawal

11 Dealing with deficiencies arising from withdrawal

[P2018/?/7]

- (1) The Council of Ministers may by regulations make such provision as it considers appropriate to prevent, remedy or mitigate—
 - (a) any failure of retained EU law or other Manx legislation to operate effectively; or
 - (b) any other deficiency in retained EU law or other Manx legislation, arising from the withdrawal of the United Kingdom from the EU.Tynwald procedure – approval required.
- (2) Deficiencies in retained EU law or other Manx legislation are where the Council of Ministers considers that retained EU law or other Manx legislation—
 - (a) contains anything which has no practical application in relation to the Island 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 Island or the United Kingdom (or any part of it);
 - (c) makes provision for, or in connection with, reciprocal arrangements between—
 - (i) the Island or the United Kingdom (or any part of it) or a public authority in the Island or 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 as a result of the withdrawal of the United Kingdom from the EU;
 - (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 Island's or the United Kingdom's relationship with 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 withdrawal of the United Kingdom from the EU;
 - (f) does not contain any functions or restrictions which —
 - (i) were in an EU directive and in operation 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 or other Manx legislation where the Council of Ministers considers that there is —
- (a) anything in retained EU law or other Manx legislation which is of a similar kind to any deficiency which falls within subsection (2); or
 - (b) a deficiency in retained EU law or other Manx legislation of a kind described, or provided for, in regulations made by the Council of Ministers.
- Tynwald procedure – approval required.
- (4) But retained EU law and other Manx legislation is not deficient merely because it does not contain any modification of EU law which is adopted or notified, comes into operation 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 Tynwald.
- (6) Regulations under subsection (1) may (among other things)—
 - (a) 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—
 - (i) exercisable instead by a public authority (whether or not newly established or established for the purpose) in the Island or the United Kingdom; or
 - (ii) replaced, abolished or otherwise modified;
 - (b) provide for the establishment of public authorities in the Island to carry out functions provided for by regulations under subsection (1); or
 - (c) provide for the modification of any retained EU law or other Manx legislation.
- (7) But regulations under subsection (1) may not—
 - (a) impose or increase taxation;
 - (b) make retrospective provision;
 - (c) create a relevant criminal offence; or
 - (d) amend, repeal or revoke the *Human Rights Act 2001* or any statutory document made under it.
- (8) 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) The power of the Council of Ministers to make regulations under this section is in addition to any power of the Council of Ministers to make regulations under sections 6(2) or 14.

12 Complying with international obligations

[P2018/?/8]

- (1) The Council of Ministers may by regulations make such provision as it considers appropriate to prevent or remedy any breach, arising from the withdrawal of the United Kingdom from the EU, of an international obligation that applies or extends to the Island.

Tynwald procedure – approval required.
- (2) Regulations under this section may make any provision that could be made by an Act of Tynwald.
- (3) But regulations under this section may not—

- (a) make retrospective provision;
- (b) create a relevant criminal offence; or
- (c) amend, repeal or revoke the *Human Rights Act 2001* or any statutory document made under it.

13 Implementing the withdrawal agreement

[P2018/?/9]

- (1) The Council of Ministers may by regulations make such provision as it considers appropriate for the purposes of implementing any withdrawal agreement.

Tynwald procedure – approval required.

- (2) Regulations under this section may make any provision that could be made by an Act of Tynwald (including modifying this Act).
- (3) But regulations under this section may not—
 - (a) impose or increase taxation;
 - (b) make retrospective provision;
 - (c) create a relevant criminal offence; or
 - (d) amend, repeal or revoke the *Human Rights Act 2001* or any statutory document made under it.

Further powers operable on or after exit day

14 Amendment of retained direct EU legislation and other rights etc.

On or after exit day, the Council of Ministers may by regulations modify, as it considers appropriate —

- (a) any retained direct EU legislation, including so that it contains any modification of EU law which is adopted or notified, comes into operation or applies on or after exit day; and
- (b) any rights, powers, liabilities, obligations, restrictions, remedies and procedures which continue to be recognised and available in Manx law by virtue of section 8 (saving for rights etc. under section 2(1) of the *European Communities (Isle of Man) Act 1973*).

Tynwald procedure – approval required.

15 Application and implementation of Treaty provisions

- (1) The Council of Ministers may by regulations —
 - (a) apply to the Island as part of the law of the Island, to such extent and subject to such exceptions, adaptations and modifications as may be specified in the regulations; or

- (b) implement into Manx law and make such provisions as it considers appropriate to deal with any matters arising out of or related to any such implementation,
any provision contained in or arising under a treaty.
Tynwald procedure – approval required.
- (2) Regulations under this section may make any provision that could be made by an Act of Tynwald.
- (3) For the purposes of this section, “treaty” means –
 - (a) any of the EU Treaties; and
 - (b) any agreement declared, in regulations made by the Council of Ministers, to be a treaty for the purposes of this section.
Tynwald procedure – approval required.
- (4) An agreement which may be declared by the Council of Ministers to be a treaty under subsection (3)(b) includes (but is not limited to) –
 - (a) an agreement entered into between the United Kingdom and the EU in connection with the relationship between the United Kingdom and the EU on or after exit day;
 - (b) an agreement entered into by the Island or extended to the Island in connection with the withdrawal of the United Kingdom from the EU and any future relationship between the United Kingdom and the EU;
 - (c) an agreement amending any of the EU Treaties;
 - (d) an agreement entered into by the EU or by all of the member States and which relates to the EU.
- (5) Any regulations made under this section must not come into operation until on or after exit day.

16 Application and implementation of EU instruments and law

[1973/14/2A and 2B and drafting]

- (1) The Council of Ministers may by regulations –
 - (a) apply to the Island as part of the law of the Island, to such extent and subject to such exceptions, adaptations and modifications as may be specified in the regulations, any EU instrument (whether it is operative before, on or after exit day);
 - (b) implement any EU instrument applied to the Island under paragraph (a) and make such provisions as it considers appropriate to deal with any matters arising out of or related to any such implementation; or
 - (c) implement any other EU law (whether operative before, on or after exit day) into Manx law and make such provisions as it

considers appropriate to deal with any matters arising out of or related to any such implementation.

Tynwald procedure – approval required.

- (2) Regulations under this section may make any provision that could be made by an Act of Tynwald.
- (3) Regulations made under subsection (1)(a) must have annexed to them a text of the instrument applied by the regulations, incorporating the exceptions, adaptations and modifications specified in the regulations.
- (4) Subsections (5) and (6) apply if regulations made under subsection (1)(a) provide that a reference in the regulations to an EU instrument (or a provision of an EU instrument) is to be construed as a reference to the instrument or provision as amended from time to time (see section 19 (ambulatory references to EU instruments)).
- (5) To avoid doubt, the text to be annexed under subsection (3) is the text of the instrument at the time the regulations are made.
- (6) However, the Council of Ministers –
 - (a) may update the text annexed under subsection (3) to reflect any amendment made to the EU instrument or provision after the making of the regulations; and
 - (b) must update the text if a person requests an updated text of the instrument applied by the regulations.
- (7) Any regulations made under this section must not come into operation until on or after exit day.

17 Application and implementation of previous direct EU legislation and EU law

- (1) The Council of Ministers may by regulations –
 - (a) apply to the Island as part of the law of the Island, to such extent and subject to such exceptions, adaptations and modifications as may be specified in the regulations, any EU regulation, EU decision or EU tertiary legislation which –
 - (i) had legal effect in Manx law by virtue of section 2(1) of the *European Communities (Isle of Man) Act 1973* immediately before exit day; and
 - (ii) did not form part of Manx law on and after exit day by virtue of section 7;
 - (b) implement any instrument applied to the Island under paragraph (a) and make such provisions as it considers appropriate to deal with any matters arising out of or related to any such implementation;

- (c) implement into Manx law any EU law which had legal effect in Manx law by virtue of section 2(1) of the *European Communities (Isle of Man) Act 1973* immediately before exit day and make such provisions as it considers appropriate to deal with any matters arising out of or related to any such implementation.

Tynwald procedure – approval required.

- (2) Regulations under this section may make any provision that could be made by an Act of Tynwald.
- (3) Any regulations under this section may be made retrospective and be deemed to have come into operation from such day or days as may be specified in the regulations.
- (4) But a provision made by such regulations may not —
 - (a) impose or increase taxation; or
 - (b) impose any civil or criminal liability,before the day on which the regulations themselves come into operation.
- (5) Any regulations made under subsection (1)(a) must have annexed to them a text of the instrument applied by the regulations, incorporating the exceptions, adaptations and modifications specified in the regulations.
- (6) Any regulations made under this section may provide that any provision applied to the Island or implemented into Manx law is to be treated as “retained direct EU legislation” or “retained EU law”.
- (7) Any regulations made under this section may not amend, repeal or revoke the *Human Rights Act 2001* or any statutory document made under it.
- (8) Any regulations made under this section must not themselves come into operation until on or after exit day.

18 Application to the Island of Parliamentary enactments

- (1) The Council of Ministers may by regulations apply to the Island as part of the law of the Island, subject to such exceptions, adaptations and modifications as may be specified in the regulations, any Parliamentary enactment to which this section applies.

Tynwald procedure – approval required.

- (2) Regulations under this section may make any provision that could be made by an Act of Tynwald.
- (3) This section applies to —
 - (a) any Parliamentary enactment which relates, directly or indirectly, to the withdrawal of the United Kingdom from the EU (as in operation from time to time);

- (b) any Parliamentary enactment which relates to the approval or implementation of any withdrawal agreement (as in operation from time to time); or
 - (c) any Parliamentary enactment which relates to the future relationship between the United Kingdom and the EU or any member State (as in operation from time to time).
- (4) The Council of Ministers may by regulations amend subsection (3) —
 - (a) by adding to it (with or without qualification) any Parliamentary enactment or any description of a Parliamentary enactment; and
 - (b) deleting from it any Parliamentary enactment or any description of a Parliamentary enactment (including any such enactment or description added to it by previous regulations under this subsection).

Tynwald procedure – approval required.

- (5) Any regulations under subsection (1) may apply to the Island any Parliamentary enactment as in operation from time to time in the United Kingdom.
- (6) Any regulations under subsection (1) must —
 - (a) specify the exceptions, adaptations and modifications subject to which the Parliamentary enactment applies to the Island;
 - (b) have annexed to it a text of the Parliamentary enactment applied by the regulations, incorporating the exceptions, adaptations and modifications specified in the regulations; and
 - (c) in the case of regulations applying a Parliamentary enactment which amends a previous Parliamentary enactment applied to the Island, have annexed to it a text of the previous legislation so applied as amended, incorporating the exceptions, adaptations and modifications specified in the regulations.
- (7) If subsection (5) applies, the regulations must set out the Parliamentary enactment at the time the regulations are made.
- (8) However, the Council of Ministers —
 - (a) may update the text of the Parliamentary enactment applied to the Island to reflect any amendment made to it after the making of the regulations ; and
 - (b) must update the text if a person requests an updated text of the Parliamentary enactment applied by the regulations.

19 Ambulatory references to EU instruments

[1973/14/2C]

- (1) A statutory document to which this section applies may provide that a reference in it to an EU instrument or a provision of an EU instrument is

to be construed as a reference to the instrument as amended from time to time.

- (2) This section applies to —
- (a) a statutory document made under sections 12 to 18 or 21; or
 - (b) any statutory document made under any other provision of Manx legislation which is prescribed for the purposes of this section by regulations made under subsection (3).
- (3) The Council of Ministers may by regulations prescribe any Manx legislation or any provision of Manx legislation in respect of which a statutory document made under the prescribed Manx legislation or provision is a statutory document to which subsection (2) applies.
- Tynwald procedure – negative.
- (4) Any regulations made under subsection (3) must not come into operation until on or after exit day.

Trade Agreements

20 Application and implementation of WTO Agreement

- (1) The Council of Ministers may by regulations —
- (a) apply to the Island as part of the law of the Island, to such extent and subject to such exceptions, adaptations and modifications as may be specified in the regulations; and
 - (b) implement into Manx law and make such provisions as it considers appropriate to deal with any matters arising out of or related to any such implementation,
- the WTO Agreement.
- Tynwald procedure – approval required.
- (2) Regulations under this section may make any provision that could be made by an Act of Tynwald.

21 Implementation of international trade agreements

[P2018/?/2 and drafting]

- (1) The Council of Ministers may by regulations make such provision as it considers appropriate for the purpose of implementing into Manx law an international trade agreement —
- (a) entered into by the Island; or
 - (b) entered into by the United Kingdom and which has been extended to the Island.

Tynwald procedure – approval required.

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

(3) In this section —

“international trade agreement” means —

- (a) a free trade agreement; or
- (b) an international agreement that mainly relates to trade, other than a free trade agreement;

“free trade agreement” means an agreement that is or was notifiable under —

- (a) paragraph 7(a) of Article XXIV of GATT; or
- (b) paragraph 7(a) of Article V of GATS;

“GATS” means the General Agreement on Trade in Services, part of Annex 1B to the WTO Agreement (as modified from time to time);

“GATT” means the General Agreement on Tariffs and Trade, part of Annex 1A to the WTO Agreement (as modified from time to time).

22 Trade information

(1) The Treasury may by regulations make such provision as it considers appropriate for the purpose of obtaining information in relation to the export of goods and services from the Island in the course of a trade, business or profession.

Tynwald procedure – approval required.

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

(3) Such regulations may make provision about —

- (a) when goods and services are exported from the Island;
- (b) the type of information that may be requested;
- (c) to whom a request for information may be made; and
- (d) how a request may be made.

23 Disclosure of information by the Treasury

(1) The Treasury may by regulations make such provision as it considers appropriate in relation to the disclosure of information for the purpose of —

- (a) facilitating the exercise by the Treasury of the Treasury’s functions relating to trade; or
- (b) facilitating the exercise by an international organisation or authority, or by any other body, of its public functions relating to trade.

Tynwald procedure – approval required.

- (2) Regulations under this section may make any provision that could be made by an Act of Tynwald.
- (3) Regulations under this section may —
 - (a) make provision about the use of any information disclosed;
 - (b) make provision about the further disclosure of information;
 - (c) provide for any contravention of the regulations to be an offence and prescribe a penalty for the commission of the offence.

General and final provisions

24 Rules of evidence

[P2018/?/13]

Schedule 3 (which makes provision about rules of evidence) has effect.

25 Statutory documents

[P2018/?/16]

Schedule 4 (which contains general provision about statutory documents) has effect.

26 Consequential and transitional provisions

[P2018/?/17]

- (1) The Council of Ministers may by regulations make such provision as it considers appropriate in consequence of this Act.

Tynwald procedure – approval required.

- (2) Regulations under subsection (1) may make any provision that could be made by an Act of Tynwald.
- (3) Regulations under subsection (1) may not modify an Act of Tynwald passed after the end of the Session in which this Act is passed.
- (4) The Council of Ministers may by regulations make such incidental, supplemental, transitional, transitory or saving provisions as it considers appropriate in connection with the coming into operation of any provision of this Act (including its operation in connection with exit day).

Tynwald procedure – affirmative.

- (5) Schedule 5 (which contains general consequential provisions) has effect.
- (6) Schedule 6 (which contains transitional, transitory and saving provisions) has effect.
- (7) Schedule 7 (which contains specific consequential amendments) has effect.

- (8) The Manx legislation mentioned in Schedule 8 (which contains repeals not made elsewhere in this Act) is repealed to the extent specified.

Draft

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SCHEDULE 1

[Section 3]

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;

“**the EEA**” means the European Economic Area;

“**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 it has effect in relation to the Island having regard to the provisions of Articles 25, 26 and 27 annexed to the Treaty of Accession and to the provisions of Protocol No. 3;

“**the EU**” has the meaning given in the *Interpretation Act 2015*;

“**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,
together with any adaptations made to that decision under the EEA agreement immediately before exit day;

“**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 institution**” has the meaning given in the *Interpretation Act 2015*;

“**EU instrument**” has the meaning given in the *Interpretation Act 2015*;

“**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, together with any adaptations made to that regulation under the EEA agreement immediately before exit day;

“**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),

and includes any such provision or measure as adapted under the EEA agreement immediately before exit day but does not include any such provision or measure which is an EU directive;

“EU Treaties” has the meaning given in the *Interpretation Act 2015*;

“Euratom Treaty” means the Treaty establishing the European Atomic Energy Community, signed at Rome on 25 March 1957;

“European Court” has the meaning given in the *Interpretation Act 2015*;

“exit day” means 29 March 2019 at 11.00 p.m. (and see section 4 (exit day));

“Manx legislation” includes, except where there is otherwise a contrary intention, any retained direct EU legislation;

“member” in the expression **“member States”** refers to membership of the EU;

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

“Parliamentary enactment” has the meaning given in section 13 of the *Interpretation Act 2015*;

“primary legislation” means an Act of Tynwald;

“Protocol 3” means Protocol No. 3 to the Act annexed to the Treaty of Accession;

“public authority” means a public authority within the meaning of section 6 of the *Human Rights Act 2001*;

“relevant criminal offence” means an offence for which an individual who has reached the age of 18 is capable of being sentenced to custody for a term exceeding 2 years;

“retained case law” means —

- (a) retained Manx case law; and
- (b) retained EU case law;

“retained direct EU legislation” means any EU regulation, EU decision or EU tertiary legislation which forms part of Manx law by virtue of section 7

(as modified by or under this Act or by other Manx law from time to time, and including any instruments made under it on or after exit day);

“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 —
 - (i) anything to which section 6, 7 or 8 applies; or
 - (ii) any Manx legislation passed or made or operating before exit day for a purpose mentioned in section 2B(1)(a) or (b) of the *European Communities (Isle of Man) Act 1973*;
- (b) fall within the limits of EU competences in relation to the Island; and
- (c) are not excluded by section 9 or Schedule 2,

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

“retained EU law” means —

- (a) any statutory document made under section 2B of the *European Communities (Isle of Man) Act 1973* and saved by virtue of section 6;
- (b) any retained direct EU legislation;
- (c) any rights, powers, liabilities, obligations, restrictions, remedies and procedures which continue to be recognised in Manx law by virtue of section 8;
- (d) anything which on or after exit day continues to be, or forms part of, Manx law by virtue of section 10(3) or (6); and
- (e) any Manx legislation passed or made or operating before exit day for a purpose mentioned in section 2B(1)(a) or (b) of the *European Communities (Isle of Man) Act 1973*,

(as that body of law is added to or otherwise modified by or under this Act or by other Manx 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 —
 - (i) anything to which section 6, 7 or 8 applies; or
 - (ii) any Manx legislation passed or made or operating before exit day for a purpose mentioned in section 2B(1)(a) or (b) of the *European Communities (Isle of Man) Act 1973*;
- (b) fall within the limits of EU competences in relation to the Island; and

(c) are not excluded by section 9 or Schedule 2,

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

“retained Manx case law” means any principles laid down by, and any decisions of, a court or tribunal in the Island, as they have effect immediately before exit day and so far as they —

(a) relate to —

(i) anything to which section 6, 7 or 8 applies; or

(ii) any Manx legislation passed or made or operating before exit day for a purpose mentioned in section 2B(1)(a) or (b) of the *European Communities (Isle of Man) Act 1973*; and

(b) are not excluded by section 9 or Schedule 2,

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

“retrospective provision”, in relation to provision made by a statutory document, means provision taking effect from a date earlier than the date on which the statutory document comes into operation;

“Treaty of Accession” means the Treaty relating to the accession of the United Kingdom to the European Economic Community and to the European Atomic Energy Community, signed at Brussels on 22 January 1972;

“tribunal” means any tribunal in the Island;

“WTO Agreement” means the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 and extended to the Island (as modified from time to time);

“withdrawal agreement” means any 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) For the purposes of this Act, “Manx legislation” does not include any laws that, under an Act of Tynwald, apply to the Island as contemplated by section 9(1)(c) of the *Interpretation Act 2015*.

(3) To avoid doubt, references in this Act to the withdrawal of the United Kingdom from the EU include a reference to the cessation of Protocol 3.

(4) 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.

(5) Any other reference in this Act to an Article of the Treaty on European Union or the Treaty on the Functioning of the European Union includes a reference to that Article as applied by Article 106a of the Euratom Treaty.

- (6) See paragraph 2 of Schedule 7 for amendments made by this Act to the Schedule to the *Interpretation Act 2015*.

Draft

SCHEDULE 2

[Section 9(5)]

FURTHER PROVISION ABOUT EXCEPTIONS TO SAVINGS AND RETENTION**1 Challenges to validity of retained EU law**

- (1) There is no right in Manx law on or after exit day to challenge any retained EU law on the basis that, immediately before exit day —
 - (a) an EU instrument was invalid; or
 - (b) an EU instrument did not have legal effect in Manx law by virtue of section 2(1) of the *European Communities (Isle of Man) Act 1973* immediately before exit day.
- (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 the Council of Ministers.
Tynwald procedure – approval required.
- (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 Island.

2 General principles of EU law

- (1) No general principle of EU law is part of Manx 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).
- (2) There is no right of action in Manx law on or after exit day based on a failure to comply with any of the general principles of EU law.
- (3) No court or tribunal or other public authority may, on or after exit day —
 - (a) disapply or quash any Manx legislation 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.

3 Rule in Francovich

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

4 Interpretation

References in section 9 and this Schedule to the Charter of Fundamental Rights, any general principle of EU law or the rule in Francovich are to be read as references to that Charter, principle or rule so far as it would otherwise continue to be, or form part of, Manx law on or after exit day in accordance with this Act.

Draft

SCHEDULE 3

[Section 24]

RULES OF EVIDENCE**1 Questions as to meaning of EU law**

- (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; and
- “treaty” includes—
- (a) any international agreement; and
 - (b) any protocol or annex to a treaty or international agreement.

2 Power to make provision about judicial notice and admissibility

- (1) The Council of Ministers 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.

Tynwald procedure – affirmative.

- (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 a provision of Manx legislation.
- (4) In sub-paragraph (3) “Manx legislation” 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).

Draft

SCHEDULE 4

[Section 25]

STATUTORY DOCUMENTS**1 Scope and nature of powers: general**

- (1) Any power to make a statutory document under this Act—
- (a) may be exercised so as to modify retained EU law or other Manx legislation; and
 - (b) includes power —
 - (i) to make supplementary, incidental, consequential, transitional, transitory or saving provision (including provision restating any retained EU law in a clearer or more accessible way);
 - (ii) to permit a person to exercise a discretion in respect of any matters specified in the statutory document; and
 - (iii) to require compliance with standards or the adoption of practices recommended or specified from time to time (whether before or after the making of the statutory document) by a person or body specified in the statutory document.
- (2) The fact that a power to make a statutory document is conferred by this Act does not affect the extent of any other power to make a statutory document under this Act or under any other provision of retained EU law or Manx legislation.

2 Scope of consequential and transitional powers

- (1) The fact that anything continues to be, or forms part of, Manx law by virtue of any provision of sections 6 to 10 or Schedule 2 does not prevent it from being modified by regulations made under section 26(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 26(1) in consequence of the repeal of any provision of the *European Communities (Isle of Man) Act 1973*.
- (3) The power to make a statutory document under sections 2(2) or 26(4) includes the power to make consequential, incidental, supplemental, transitional, transitory or saving provision in connection with—
- (a) the repeal of any provision of the *European Communities (Isle of Man) Act 1973*; or
 - (b) the withdrawal of the United Kingdom from the EU,

which is additional to that made by any provision of sections 6 to 10, or Schedule 2 or alters its effect in particular cases or descriptions of cases.

- (4) The power to make regulations under section 26(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 any provision of Manx legislation in consequence of—
 - (i) the repeal of any provision of the *European Communities (Isle of Man) 1973*; or
 - (ii) the withdrawal of the United Kingdom from the EU; and
 - (b) is additional to that made by any provision of sections 6 to 10 or Schedule 2 or alters its effect in particular cases or descriptions of cases.
- (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.

3 Scope of appointed day powers

Any power of the Council of Ministers under this Act to appoint a day includes a power to appoint a time on that day if it considers it appropriate to do so.

4 Effect of certain provisions in Schedule 5 and 7 on scope of powers

The modifications made by Schedule 5 (general consequential provisions) and paragraphs 2 and 3 of Schedule 7 (amendments to the *Interpretation Act 2015* and the *Legislation Act 2015*) do not prevent or otherwise limit the making of different provision, in particular cases or descriptions of cases, in regulations under section 26(1) or in any other statutory document made under this Act.

5 Procedure on re-exercise of certain powers

A statutory document which repeals, amends or re-enacts any other statutory document made under this Act may (despite section 93 of the *Interpretation Act 2015*) be subject to a different Tynwald procedure from the procedure to which the original statutory document was subject.

6 Tynwald procedure in certain urgent cases

- (1) This paragraph applies to a statutory document to which section 30 of the *Legislation Act 2015* (“approval required”) applies by virtue of any provision of this Act.
- (2) If the statutory document contains a declaration that the Council of Ministers is of the opinion that, by reason of urgency, it is necessary to make the statutory document subject to the Tynwald procedure set out in

section 31 of the *Legislation Act 2015* (“affirmative”), that procedure applies to the statutory document instead.

Draft

SCHEDULE 5

[Section 26(4)]

GENERAL CONSEQUENTIAL PROVISIONS**1 Existing ambulatory references to retained direct EU legislation**

- (1) Any reference which, immediately before exit day—
- (a) exists in—
 - (i) any provision of Manx legislation;
 - (ii) any EU regulation, EU decision or EU tertiary legislation (including as adapted under the EEA agreement) which is to form part of Manx law by virtue of section 7; 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 or EU tertiary legislation (including as adapted under the EEA agreement) which is to form part of Manx law by virtue of section 7,

is to be read, on or after exit day, as a reference to the EU regulation, EU decision or EU tertiary legislation (including as adapted under the EEA agreement) as it forms part of Manx law by virtue of section 7 and, unless the contrary intention appears, as modified by Manx law from time to time.

- (2) Sub-paragraph (1) does not apply to any reference which forms part of a power to make a statutory document so far as the power to make the statutory document is —
- (a) contained in Manx legislation; and
 - (b) subject to a procedure before Tynwald.
- (3) Sub-paragraphs (1) and (2) are subject to any other provision made by or under this Act or any other provision of Manx legislation.

2 Other existing ambulatory references

- (1) Any reference which—
- (a) exists, immediately before exit day, in—
 - (i) any provision of Manx legislation;
 - (ii) any EU regulation, EU decision, EU tertiary legislation (including as adapted under the EEA agreement) which is to form part of Manx law by virtue of section 7; 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 a statutory document so far as the power to make the statutory document is —
 - (a) contained in Manx legislation; and
 - (b) subject to a procedure before Tynwald.
- (3) Sub-paragraphs (1) and (2) are subject to any other provision made by or under this Act or any other provision of Manx legislation.

3 Existing powers to make statutory documents

- (1) Any power to make a statutory document which was conferred before exit day is to be read, on or after exit day and 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.
- (2) Any statutory document modifying any retained direct EU legislation which is made by virtue of sub-paragraph (1) is subject to the same Tynwald procedure (if any) as would be the case for that statutory document if it was modifying another statutory document.
- (3) Any power to make a statutory document which was conferred before exit day and which includes a power to modify Manx legislation is to be read, on or after exit day, as being capable of being exercised to modify any retained direct EU legislation.
- (4) Any power to make a statutory document 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.
- (5) Sub-paragraphs (1) to (4) are subject to any other provision made by or under this Act or any other provision of Manx legislation.

4 Future powers to make statutory documents

Any power to make a statutory document which is conferred on or after exit day may, so far as applicable and unless the contrary intention appears, be exercised so as to modify (or, as the case may be, result in the modification of) any retained direct EU legislation.

5 Human Rights Act 2001

- (1) For the purposes of the *Human Rights Act 2001*, any retained direct EU legislation is to be treated as primary legislation and not subordinate legislation.
- (2) In sub-paragraph (1) “primary legislation” and “subordinate legislation” have the same meaning as in the *Human Rights Act 2001*.

Draft

SCHEDULE 6

[Section 26(6)]

TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS**1 Continuation of existing acts etc**

- (1) Anything done—
- (a) in connection with anything which continues to be, or forms part of, Manx law by virtue of section 6, 7, 8 or 10(3) or (6); or
 - (b) for a purpose mentioned in section 2B(1) of the *European Communities (Isle of Man) Act 1973* or otherwise related to the EU or the EEA,
- if in operation or effective immediately before exit day, continues to be in operation or effective on and after exit day.
- (2) Anything done—
- (a) in connection with anything which continues to be, or forms part of, Manx law by virtue of section 6, 7, 8 or 10(3) or (6); or
 - (b) for a purpose mentioned in section 2B(1) of the *European Communities (Isle of Man) Act 1973* 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 5 and the withdrawal of the United Kingdom from the EU;
 - (b) sections 6 to 10 and Schedule 2;
 - (c) any provision made under sections 2(2) or 26(4); and
 - (d) any other provision made by or under this Act or any other provision of Manx legislation.
- (4) References in this paragraph to anything done include references to anything omitted to be done.

2 Retention of existing EU law

Section 8(3)(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 Island or 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).

3 Further provision relating to section 9 and Schedule 2

- (1) Subject as follows and subject to any provision made under sections 2(3) or 26(4), paragraphs 1 to 3 of Schedule 2 apply in relation to anything occurring before exit day (as well as anything occurring on or after exit day).
- (2) Paragraphs 1 to 3 of Schedule 2 do not affect any decision of a court or tribunal made before exit day.
- (3) Paragraphs 2(2) and (3) and 3 of Schedule 2 do not apply in relation to any proceedings begun, but not finally decided, before a court or tribunal in the Island before exit day.
- (4) Paragraphs 1 to 3 of Schedule 2 do not apply in relation to any conduct which occurred before exit day which gives rise to any criminal liability.
- (5) Paragraph 2(2) and (3) of Schedule 2 does not apply in relation to any proceedings begun within the period of 3 months 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 Tynwald or a rule of law which is not Manx legislation; or
 - (ii) any Manx legislation, 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 2(3) of Schedule 2 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.

SCHEDULE 7

[Section 26(7)]

SPECIFIC CONSEQUENTIAL AMENDMENTS

1 Customs and Excise Act 1993

- (1) The *Customs and Excise Act 1993* is amended as follows.
- (2) In section 1 (application to the Island of certain enactments relating to customs and excise etc) —
 - (a) in subsection (2), after “(other than an enactment in this Act)” insert **2A**, including any retained EU law, **2A**;
 - (b) after subsection (2) insert —

2A(2A) An order under this section may make any provision that could be made by an Act of Tynwald. **2A**
 - (c) in subsection (3)(aa), after “(an Act of Parliament)” insert **2A**, as amended from time to time **2A**;
 - (d) after subsection (3)(aa), insert —

2A(ab) any Parliamentary enactment imposing and regulating a duty of customs by reference to the importation or exportation of goods into or from the United Kingdom and making any other provision in relation to any duty of customs, excise duty and value added tax in connection with the withdrawal of the United Kingdom from the EU; **2A**;
 - (e) in subsection (3)(b), for “paragraph (a) or (aa)” substitute **2A** paragraphs (a), (aa) or (ab) **2A**;
 - (f) for subsection (3)(f) substitute —

2A(f) any instrument of a legislative character (including, for the avoidance of doubt, any notice or public notice) made, issued, given or published, or having effect as if made, issued, given or published, under any of the enactments mentioned in paragraphs (a) to (e); or **2A**;
 - (g) after subsection (3) insert —

2A(3A) The Treasury may by order amend subsection (3) by —

 - (a) adding to it (with or without qualification) any instrument; or
 - (b) deleting from it any instrument (including any instrument added to it by a previous order under this subsection).

Tynwald procedure – approval required. **2A**.

- (3) In section 3 (public documents) —
- (a) after subsection (3), insert —
- “(3A) An order under section 1 may provide that a reference in it to an instrument referred to in section 1(3) or to a provision of such an instrument is to be construed as a reference to the instrument or provision as amended from time to time.”;
- (b) in subsection (4), for “any legislation” substitute “any instrument”;
- (c) after subsection (4), insert —
- “(4A) If subsection (3A) applies, the text to be annexed under subsection (4) is the text of the instrument at the time the order is made.
- (4B) However, the Treasury —
- (a) may update the text to reflect any amendment made to the instrument after the making of the order; and
- (b) must update the text if a person requests an updated text of the instrument applied by the order.”.

2 Interpretation Act 2015

- (1) The *Interpretation Act 2015* is amended as follows.
- (2) In section 5 (combined operation of this Act and the *Legislation Act 2015*) —
- (a) in subsection (2), for “Both Acts apply” substitute “Subject to section 5A of this Act and section 4A of the *Legislation Act 2015*, both Acts apply”;
- (b) in subsection (3), for “Subject to sections 6 and 7” substitute “Subject to sections 5A, 6 and 7 of this Act and section 4A of the *Legislation Act 2015*”.
- (3) After section 5 (combined operation of the *Interpretation Act 2015* and the *Legislation Act 2015*) insert —

5A Retained direct EU legislation

- (1) The provisions of this Act (except sections 69(4), 71 and 99 to 102) apply, so far as applicable and unless the contrary intention appears, to any retained direct EU legislation, which is not subordinate legislation, but only so far as it is amended by an Act or subordinate legislation.
- (2) In their application by virtue of subsection (1) —
- (a) section 32 (references to the Sovereign) has effect as if the reference to the legislation commencing was a reference to the corresponding time;

- (b) section 43 (application to all of the Island) has effect as if the reference to Manx legislation 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);
 - (c) section 44 (Manx legislation is always speaking) has effect as if the reference to Manx legislation 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).
- (3) The provisions of this Act apply to retained direct EU legislation which is subordinate legislation in the same way as it applies to subordinate legislation which is not retained direct EU legislation.
- (4) In this section, “corresponding time” means the time when the amending Act or subordinate legislation was passed or (as the case may be) made. **22**.
- (4) In section 9(1) (“Manx legislation” and “statutory provision”), after paragraph (aa) insert —
 - 23**(ab) retained direct EU legislation; **22**.
- (5) In section 11 (“Manx enactment”) —
 - (a) for subsection (1), substitute —
 - 24**(1) A “**Manx enactment**” is an Act, a Measure, any retained direct EU legislation or a provision of an Act, a Measure or any retained direct EU legislation. **22**.
 - (b) after subsection (4) insert —
 - 25**(5) In subsection (3)(a) the reference to “originally enacted”, in relation to retained direct EU legislation, is a reference to the retained direct EU legislation in the form in which it was in on exit day. **22**.
- (6) In section 14 (references in Manx enactments to EU instruments) —
 - (a) for subsection (1)(a) substitute —
 - 26**(a) a Manx enactment passed —
 - (i) after section 1B of the repealed Interpretation Act commenced; but
 - (ii) before exit day,
 refers to an EU instrument (the “original instrument”); and **22**.
 - (b) for subsection (2) (and its associated note) substitute —
 - 27**(2) If the reference is to an EU instrument which forms part of Manx law by virtue of section 7 of the *European Union (Withdrawal) Act 2018*, the reference is to be read, on or after exit day, as a reference

- to the EU instrument as it forms part of Manx law by virtue of section 7 and, unless the contrary intention appears, as modified by Manx law from time to time.
- Note:*
For public documents, see section 89 (public document may apply other laws or documents).
- (3) If the reference is to an EU instrument which does not form part of Manx law by virtue of section 7 of the *European Union (Withdrawal) Act 2018*, the reference is to be read, on or after exit day, as a reference to the EU instrument as it has effect immediately before exit day. **22**.
- (7) In section 15 (“public document”) —
- (a) in subsection (1), after “made under an Act or a Measure” insert **23** or made on or after exit day under any retained direct EU legislation **22**.
- (b) in subsection (2) —
- (i) after “made under an Act or a Measure” insert **23** or any retained direct EU legislation **22**;
- (ii) in paragraph (a), after “the Act or Measure” insert **23** or retained direct EU legislation **22**.
- (8) In section 16 (“statutory document” and its “responsible authority”) —
- (a) in subsection (1)(a), after “any of the following made under an Act or a Measure” insert **23** or made on or after exit day under any retained direct EU legislation **22**;
- (b) in subsection (3)(ba), after “issued under an Act” insert **23** or any retained direct EU legislation **22**.
- (9) In section 18 (“Authorising legislation”), after paragraph (b) insert —
- 23**(c) retained direct EU legislation, that retained direct EU legislation. **22**.
- (10) In section 82 (matter for which general fee power may be exercised), for paragraph (c) substitute —
- 23**(c) a matter for which —
- (i) an Act; or
- (ii) any retained direct EU legislation which is not subordinate legislation,
- provides that a fee is to be prescribed under the general fee power; and **22**.
- (11) In the Schedule (defined terms) —

- (a) in paragraph 1, in the definition of “subordinate legislation”, after “an Act or Measure” insert **“or made on or after exit day under any retained direct EU legislation”**.
- (b) in paragraph 1, omit the following definitions —
 - “enforceable EU right”;
 - “the EU”;
 - “EU customs duty”;
 - “EU institution”;
 - “EU instrument”;
 - “EU obligation”;
 - “EU provision”;
 - “the European Court”;
 - “the EU treaties”;
 - “European Communities Act”.
- (c) after paragraph 1, insert —

1A Definitions relating to the EU and the United Kingdom’s withdrawal from the EU

In all Manx legislation, except where express provision to the contrary is made —

“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 it had effect in relation to the Island having regard to the provisions of Articles 25, 26 and 27 of the Act annexed to the Treaty of Accession and to the provisions of the Protocol, as modified or supplemented from time to time, but does not include any retained direct EU legislation;

“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;

“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 4 of, and Schedule 1 to, that Act);

“**member**”, in the expression “**member State**”, refers to membership of the EU;

“**Protocol 3**” means Protocol No. 3 to the Act annexed to the Treaty relating to the Accession of the United Kingdom to the European Economic Community and to the European Atomic Energy Community, signed at Brussels on 22 January 1972;

“**retained EU law**” has the same meaning as in the *European Union (Withdrawal) Act 2018* (see Schedule 1 to that Act);

“**retained direct EU legislation**” has the same meaning as in the *European Union (Withdrawal) Act 2018* (see Schedule 1 to 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(1) of the *European Communities (Isle of Man) Act 1973* as that Act had effect

immediately before its repeal by section 5 of the *European Union (Withdrawal) Act 2018*, as at immediately before exit day. ²².

3 **Legislation Act 2015**

- (1) The *Legislation Act 2015* is amended as follows.
- (2) In section 4 (combined operation of this Act and the Interpretation Act) —
 - (a) in subsection (2), for “Both Acts apply” substitute ²³Subject to section 4A of this Act and section 5A of the *Interpretation Act 2015*, both Acts apply ²²;
 - (b) in subsection (3), for “Manx legislation” substitute ²³Subject to section 4A of this Act and section 5A of the *Interpretation Act 2015*, Manx legislation ²².
- (3) After section 4 (combined operation of this Act and the Interpretation Act), insert —

²³4A **Retained direct EU legislation**

- (1) The provisions of this Act (except sections 46, 54, 55, 59 and paragraph 1 of Schedule 1) apply, so far as applicable and unless the contrary intention appears, to any retained direct EU legislation, which is not subordinate legislation.
- (2) In their application by virtue of subsection (1) —
 - (a) section 67 (transition of references in other legislation) has effect as if the reference to Manx legislation includes only a reference to retained direct EU legislation so far as it has been amended by an Act or subordinate legislation;
 - (b) section 68 (transition of specific references for things happening after repeal) has effect as if the reference to Manx legislation includes only a reference to retained direct EU legislation so far as it has been amended by an Act or subordinate legislation.
- (3) The provisions of this Act apply to retained direct EU legislation which is subordinate legislation in the same way as it applies to subordinate legislation which is not retained direct EU legislation. ²².
- (4) Section 6 (relationship with European Communities Act) is repealed.

4 **European Communities (Amendment) Act 1994**

- (1) The *European Communities (Amendment) Act 1994* is amended as follows.
- (2) Omit section 1 (Treaty on European Union).

- (3) Omit section 2 (Agreement on European Economic Area).
- (4) In section 3(3) (consistent application of law to the whole of the EEA) —
 - (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.
- (5) After section 3(3) insert —

(3A) This section is subject to any amendment, repeal, revocation or other modification of retained EU law or Manx legislation on or after exit day.
- (6) Omit sections 3(4) to (6).
- (7) In Section 4(3) (general implementation of EEA agreement) —
 - (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.
- (8) After section 4(4) insert —

(4A) This section is subject to any amendment, repeal, revocation or other modification of retained EU law or Manx legislation on or after exit day.
- (9) Omit section 5 (amendment of section 3 of the European Communities (Isle of Man) Act 1973).
- (10) In section 7 (interpretation), in subsection (1) —
 - (a) for the definition of “the 1973 Act” substitute —

“the 1973 Act” means the *European Communities (Isle of Man) Act 1973* (before its repeal by section 5 of the *European Union (Withdrawal) Act 2018*);
 - (b) for the definition of “the Agreement” substitute —

“the 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 it has effect in relation to the Island having regard to the provisions of Articles 25, 26 and 27 of the Act annexed to the Treaty of Accession and to the provisions of the Protocol;

“the Protocol” means Protocol No. 3 to the Act annexed to the Treaty of Accession;
 - (c) in the definition of “relevant provision”, in paragraph (b), for “that date” substitute **the date on which the Agreement comes into force**;

(d) after the definition of “relevant provision” insert —

“**Treaty of Accession**” means the Treaty relating to the Accession of the United Kingdom to the European Economic Community and to the European Atomic Energy Community, signed at Brussels on the 22 January 1972.”

Draft

SCHEDULE 8

[Section 26(8)]

ADDITIONAL REPEALS

Short title	Extent of repeal
European Communities (Implementation of Article 3 of Regulation 706/73) Act 1979	The whole Act.
European Communities (Greek Accession) Act 1981	The whole Act.
European Communities (Spanish and Portuguese Accession) Act 1985	The whole Act.
European Communities (Amendment) Act 1988	The whole Act.
European Communities (Amendment) Act 1991	The whole Act.
European Communities (Amendment) (No.2) Act 1992	The whole Act.
European Communities (Amendment) Act 1995	The whole Act.
European Communities (Amendment) Act 1999	The whole Act.
European Communities (Amendment) Act 2000	The whole Act.
European Communities (Amendment) Act 2003	The whole Act.
European Union (Accessions) Act 2004	The whole Act.
European Communities (Amendment) Act 2007	The whole Act.
European Union (Amendment) Act 2011	The whole Act.
European Union (Amendment) Act 2014	The whole Act.



European Union (Withdrawal) Bill 2018

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Hon Howard Quayle MHK.

INTRODUCTION

1. These explanatory notes relate to the European Union (Withdrawal) Bill 2018 ("the Bill"). They have been prepared by the Cabinet Office in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

BACKGROUND

3. The Isle of Man's Protocol 3¹ relationship with the European Union (EU) is dependent upon the United Kingdom's (UK's) membership of the EU. The UK's decision to withdraw from the EU, commonly known as "Brexit", means that the Island's relationship with the EU, in its current form at least, will end when the UK's membership of the EU comes to an end at 11pm on 29 March 2019. As in the UK, this event will have an unprecedented effect on the Island's legislative framework.
4. Like many international events, this is beyond the control of the Isle of Man, but the Island must ensure that it can respond appropriately in a timely manner.
5. At the time of the publication of this document negotiations between the UK and the EU have been underway for some time. Whilst the provisions within the draft Withdrawal Agreement dealing with a transitional status quo period, or "implementation period", have been agreed by the UK and the EU, the Withdrawal Agreement as a whole has not yet been formally agreed, with the question of the border between Northern Ireland and the Republic of Ireland being a significant outstanding issue. And, as had been said by the EU's chief negotiator "nothing is agreed until everything is agreed". There is still a great deal of uncertainty about the future relationship that will exist between the UK and the EU after exit day or the end of the implementation period, if there is one.
6. The changes to Manx legislation as a direct or indirect result of Brexit will be wide-ranging and substantial but in the current period of uncertainty about the Island's future relationship (through the UK) with the EU it is not possible to predict exactly what those changes will be or make the necessary amendments to the Island's

¹ <https://www.gov.im/media/624101/protocol3relationshipwiththeeu.pdf>

legislation. A substantial amount of preparatory work has been carried out, however, and it is known that the size of the task is very large. Given that and also the fact that by the time there is clarity the Island is likely to only have a limited period to complete the task, the Bill is necessarily largely enabling in nature.

OVERVIEW

7. The Bill took the UK's European Union (Withdrawal) Bill² ("the UK Withdrawal Bill") as its starting point but provisions in other UK Brexit-related Bills have also been considered during the drafting process, in particular the UK's Trade Bill³, as have the provisions of the Island's [European Communities \(Isle of Man\) Act 1973](#) ("the 1973 Act") and the Brexit Law that has been adopted by Jersey⁴.
8. The Bill:
 - deals with the repeal of the 1973 Act, the preservation (subject to modification) of EU instruments which fall within the scope of Protocol 3, saves existing statutory documents made under the 1973 Act and continues to allow EU instruments to be voluntarily applied to, or implemented in, the Island where useful to do so.
 - makes provision by way of enabling powers for effect to be given to the Withdrawal Agreement (which will include the provisions governing the Implementation Period during which, it is proposed, Protocol 3 will in effect remain in place) in Manx law, so far as possible; and
 - provides enabling powers to allow for continued effect to be given to certain international agreements which currently apply to the Isle of Man by virtue of Protocol 3, or which may be extended to the Island in the future, including certain WTO and free trade agreements;
9. The Bill consists of 26 clauses and 8 Schedules.
10. Clauses 1 to 3 are introductory.
11. Clause 4 deals with "exit day" from the EU, which has to be same for the Island as for the UK.
12. Clause 5 deals with the repeal of the 1973 Act, the Island's main legislative vehicle for giving effect to its Protocol 3 relationship with the EU.
13. Clauses 6 to 10 concern the retention of certain EU law after exit day.
14. Clauses 11 to 13 contain enabling powers in connection with the UK's withdrawal from the EU.
15. Clauses 14 to 19 contain powers that can be exercised on or after exit day.
16. Clauses 20 to 23 deal with the implementation of, and compliance with, trade agreements.

² <https://services.parliament.uk/Bills/2017-19/europeanunionwithdrawal.html>

³ <https://services.parliament.uk/Bills/2017-19/trade.html>

⁴ European Union (Repeal and Amendment) (Jersey) Law 201-: http://www.statesassembly.gov.je/assemblypropositions/2018/p.16-2018_with_corrigendum.pdf

This Law was approved by the States of Jersey on 6 March 2018 and is awaiting Royal Assent.

17. Clauses 24 to 26 are general and final provisions.
18. The Schedules contain provisions which supplement certain of the clauses of the Bill, for example by providing for interpretation and exceptions.
19. A more detailed description of the Bill's provisions is provided in the following paragraphs.

NOTES ON CLAUSES

Clause 1

20. Clause 1 gives the short title that the Act will have if the Bill is passed.

Clause 2

21. Clause 2 provides for commencement of the Bill. Certain provisions will come into operation immediately when Royal Assent is announced in Tynwald and the remaining provisions will be brought into operation by one or more Appointed Day Orders made by the Council of Ministers. Such orders can make consequential, incidental, supplemental, transitional, transitory or saving provisions as are necessary or expedient in connection with the coming into operation of any provision of the Bill.

Clause 3

22. Clause 3 gives effect to Schedule 1, which defines the meaning of terms that are used in the Bill.

Clause 4

23. Clause 4 establishes the day and time of "exit day", i.e. when the UK officially leaves the EU. Unless there are exceptional and unforeseen circumstances this will be 11.00pm on 29 March 2019⁵. On this date the EU Treaties⁶ are due to cease to apply to the United Kingdom in accordance with Article 50(3) of the Treaty on European Union (TEU), being two years following the date on which the UK submitted its formal notification to the EU under Article 50 of its intention to leave the EU.
24. Under Article 50 TEU the two year period referred to above can only be extended with the unanimous agreement of the UK and the other 27 EU Member States. It is not expected that this will happen. Nevertheless, the UK Withdrawal Bill does include a power to amend the definition of "exit day" to ensure that the day and time specified in the definition are the day and time that the EU Treaties are to cease to apply to the United Kingdom if necessary.
25. Because the Isle of Man's Protocol 3 relationship with the EU is through the UK's membership of the Union the Island cannot have a different exit day to that of the UK, so this clause allows the definition of "exit day" to be amended by the Council of Ministers if the definition of "exit day" in the UK Withdrawal Bill is amended.

Clause 5

26. This clause repeals the 1973 Act on exit day. The 1973 Act is the Island's main legislative vehicle to give effect to the Island's Protocol 3 relationship with the EU. Under section 2(1) of the 1973 Act directly applicable EU legislation (i.e. EU

⁵ However, if the Withdrawal Agreement is agreed, notwithstanding that the UK will leave the EU on 29 March 2019, there will be a status quo implementation period until 31 December 2020.

⁶ The Treaty on European Union and the Treaty on the Functioning of the European Union.

Regulations and relevant EU Decisions) which falls within the scope of Protocol 3 has direct effect as part of the law of the Island (without the need for any further Manx legislation). The Act also includes enabling powers to implement such directly applicable EU legislation (by, for example, providing for offences and penalties), to transpose EU Directives that fall within the scope of Protocol 3, and to voluntarily apply and implement EU legislation which is outside the scope of Protocol 3 where useful to do so (in particular the application and implementation of EU sanctions measures).

27. Whilst there may still be circumstances in the future where it will be useful to voluntarily apply and implement certain EU legislation in the Island (see clause 16), the main purpose of the 1973 Act becomes redundant when the Island's Protocol 3 relationship with the EU comes to an end.

Clause 6

28. Clause 6 preserves in effect all orders made by the Council of Ministers under section 2A of the 1973 Act before exit day and all regulations made by the Council of Ministers under section 2B of that Act before exit day.
29. Normally when an Act of Tynwald is repealed the statutory documents made under that Act automatically cease to have effect. However, since the intention is that the transition from immediately before exit day to immediately following exit day should be as seamless as possible, the statutory documents made under the 1973 Act are preserved in operation.
30. There is a power under this clause for the Council of Ministers to subsequently modify (including repeal) such saved statutory documents with the approval of Tynwald. This is in addition to the power in clause 11 to make amendments to Manx legislation to specifically deal with deficiencies arising from the UK's withdrawal from the EU.
31. This clause is subject to the provisions of clause 9 and Schedule 2 which deal with exceptions to savings and retention.

Clause 7

32. Clause 7 preserves as part of the law of the Island certain EU legislation that is currently considered to apply directly to the Isle of Man under Protocol 3 and section 2(1) of the 1973 Act.
33. To avoid a potential legislation cliff-edge immediately following exit day, the UK's Withdrawal Bill will incorporate all "direct EU legislation"⁷ which applies in the UK immediately before exit day as part of UK domestic law.
34. The UK's position in relation to direct EU legislation is clear; except in certain limited and well-defined cases the whole body of direct EU legislation applies to the UK. The position of the Isle of Man (and the other Crown Dependencies) in relation to direct EU legislation is not, and never has been, as clear. Whilst the broad scope of Protocol 3, as supplemented by Council Regulation 706/73⁸, is well-known, which EU instruments are covered by Protocol 3, in whole or in part, has never been explicitly defined. Although work has been undertaken, within the limits of resources and time available,

⁷ This means EU Regulations; EU Decisions which are addressed to the UK and EU; and implementing or delegated measures made under those instruments, or under EU Directives, by the European Commission ("EU tertiary legislation").

⁸ Regulation (EEC) No 706/73 of the Council of 12 March 1973 concerning the Community arrangements applicable to the Channel Islands and the Isle of Man for trade in agricultural products – <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1521646367502&uri=CELEX:01973R0706-19860424>

to identify the majority of EU Regulations and Decisions that are likely to be within the scope of Protocol 3⁹, ultimately only the European Court of Justice could provide a definitive opinion on the applicability or otherwise of a particular EU instrument to the Island by virtue of Protocol 3.

35. Therefore, with a view to providing greater legal certainty after exit day, only such direct EU legislation which is believed to fall within the scope of Protocol 3 before exit day and which is prescribed in regulations made by the Council of Ministers before exit day will continue to form part of Manx law after exit day. Although this power is broad enough that it would allow the category of all direct EU legislation that falls within Protocol 3 to be prescribed for the purpose of these regulations, if such should be required, it also allows a list of specific EU Regulations and Decisions that are retained as part of Manx law to be established. The current intention is that there will be a defined list of direct EU legislation rather than retaining broad categories of direct EU legislation. Any direct EU legislation that is not prescribed under this clause will cease to have effect in Manx law on exit day (but see clause 17). Regulations under this clause cannot be made after exit day.
36. Only the English language version of such prescribed EU legislation will form part of Manx law.
37. Again with a view to providing legal certainty, in any question as to whether any particular EU regulation, EU decision or EU tertiary legislation did or did not have legal effect in Manx law by virtue of section 2(1) of the 1973 Act immediately before exit day, a certificate issued by or under the authority of HM Attorney General stating that it did or did not have such effect is to be treated as evidence of that fact.
38. This clause is subject to the provisions of clause 9 and Schedule 2 which deal with exceptions to savings and retention.
39. Retained direct EU legislation can be amended by the Council of Ministers to deal with deficiencies arising from the UK's withdrawal from the EU (see clause 11) and also in any way considered appropriate by the Council of Ministers, including to mirror changes made to the legislation as it has effect in the EU after exit day (see clause 14), in each case subject to Tynwald approval.

Clause 8

40. Clause 8 provides that any rights, powers, liabilities, obligations, restrictions, remedies and procedures which are available and recognised in Manx law immediately before exit day by virtue of section 2(1) of 1973 Act (i.e. those rights, powers, etc that fall within the scope of Protocol 3) continue to be available and recognised in the Island on and after exit day. But this saving only applies so far as such rights, powers, etc relate to any statutory document saved under clause 6 or to direct EU legislation that is retained under clause 7.
41. Clause 8 will apply to directly effective rights within the EU treaties (within the meaning of section 1 of the 1973 Act). Directly effective rights are those provisions of the EU treaties which are sufficiently clear, precise and unconditional to confer rights directly on individuals which can be relied on national law without the need for implementing measures.
42. The clause provides for certain exceptions to the retention of directly effective rights.

⁹ And so directly applicable as part of the law of the Island by virtue of section 2(1) of the 1973 Act.

43. Any directly effective rights converted into Manx law as a result of this clause are capable of amendment under clauses 11 and 14.
44. As with the provision in the UK Withdrawal Bill on which it is based, this clause is something of a safety net provision to ensure that anything which may be important is not lost inadvertently.
45. This clause is subject to the provisions of clause 9 and Schedule 2 which deal with exceptions to savings and retention.

Clause 9

46. Clause 9 deals with certain exceptions to the saving and retention of EU law by the Bill. The clause confirms that “retained EU law” (as defined in Schedule 1 to the Bill) is subject to Manx legislation that is passed after exit day. But this clause also confirms that, except for legislation relating to the UK’s withdrawal from the EU, Manx legislation passed or made before exit day is subject to retained EU law; this reflects the fact that currently, by virtue of section 2(1) of the 1973 Act, other laws in the Island must be read in accordance with EU legislation which falls within the scope of Protocol 3.
47. Clause 9 confirms, for the avoidance of doubt, in line with the position under the UK Withdrawal Bill, that the Charter of Fundamental Rights of the European Union¹⁰ does not apply as part of Manx law on or after exit day but this does not affect the continuation of rights under the Charter which exist separately from the Charter – any rights or principles codified by the Charter and which exist in any EU law saved and retained under clauses 6, 7 and 8 will be retained as Manx law¹¹.
48. This clause also gives effect to Schedule 2 which includes some further limited exceptions to the saving and retention of EU law by the Bill.

Clause 10

49. Clause 10 deals with how retained EU law is to be interpreted by courts and tribunals in the Island after exit day.
50. Firstly, the clause confirms that courts and tribunals in the Island are not bound by EU case law and cannot refer any matters to the Court of Justice of the European Union¹², but they may have regard to a decision of the European Court, another EU entity or the EU if they consider it appropriate to do so.
51. Secondly, the clause provides that for retained EU law which has not been modified on or after exit day, any question as to its validity or meaning will be decided in accordance with any relevant pre-exit EU or Manx case law and any relevant pre-exit general principles of EU law. Any such retained EU law will also be interpreted by reference to the limits of EU competences in relation to the Island immediately before

¹⁰ The Charter may currently apply to the Island but only to extent that it relates to the EU Treaties and EU legislation which applies to the Isle of Man by virtue of the Island’s Protocol 3 relationship with EU. The Charter is largely a restatement for the EU of rights that exist under other international instruments such as the European Convention on Human Rights and a number of United Nations human rights conventions.

¹¹ In addition, many of the rights set out in the Charter are similar to rights under international treaties which apply to the Isle of Man and are given effect in Manx law – for example, rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms, which are given effect in Manx law by the Human Rights Act 2001.

¹² At present the Island’s courts can refer questions relating to EU issues that fall within the scope of Protocol 3 to the European Court and judgments of the European Courts on such issues are binding on the Island.

exit day, i.e. within the scope of Protocol 3. But retained EU law which has been amended on or after exit day can be determined in accordance with pre-exit EU or Manx case law and the pre-exit general principles where the amendments to the retained EU law so provide.

52. Thirdly, the clause provides that the Staff of Government Division (i.e. the Island's Court of Appeal) is not bound by any pre-exit EU case law and in deciding whether to depart from such pre-exit EU case law, the Staff of Government Division must apply the same test as it would apply in deciding whether to depart from its own case law. In addition, no Manx court or tribunal is bound by any relevant retained Manx case law (see definition in Schedule 1) that it would not otherwise be bound by.

Clause 11

53. Clause 11 gives the Council of Ministers the power, subject to the approval of Tynwald, to make regulations to prevent, remedy or mitigate any failure of, or other deficiency in, retained EU law or other Manx legislation arising from the withdrawal of the UK from the EU. What constitutes a deficiency for the purpose of this clause is defined.
54. The Council of Ministers can make regulations to provide for other things to be treated as deficiencies for the purpose of this clause but only with the approval of Tynwald.
55. The clause confirms that retained EU law and other Manx legislation is not deficient only because it does not include any modification to EU law which is adopted or notified, comes into operation or only applies on or after exit day.
56. The clause provides that the power to deal with deficiencies can make the same provision as an Act of Tynwald, including amendments to Acts of Tynwald. The clause gives examples of the types of thing that can be done and lists a number of restrictions on the power – it cannot:
- impose or increase taxation;
 - make provision that comes into operation before the date on which the power is exercised ("retrospective provision");
 - create a criminal offence that has a maximum penalty of greater than 2 years' custody ("a relevant criminal offence"); or
 - amend, repeal or revoke the Human Rights Act 2001 or any statutory document made under it.

Clause 12

57. Clause 12 gives the Council of Ministers the power to make regulations to prevent or remedy any breach of an existing international obligation that applies or extends to the Island and which arises from the withdrawal of the UK from the EU. Tynwald approval will be required for any such regulations to come into operation.
58. Regulations made under this clause can do anything an Act of Tynwald can do to prevent or remedy any breach of an international obligation. However, regulations under this clause cannot make retrospective provision; create a relevant criminal offence; or amend, repeal or revoke the Human Rights Act 2001¹³.

¹³ It may be noted that unlike the powers in clauses 11 and 13, this clause does not include a restriction in respect of taxation. This is in line with the position in the equivalent clauses of the UK Withdrawal Bill. The UK leaving the EU, the customs union and the single market may alter the way in which the UK and the IOM complies with its international obligations in relation to taxation. For example, there may be obligations in respect of the treatment of WTO most favoured nation status. It is considered that a restriction in relation to

Clause 13

- 59. Clause 13 gives the Council of Ministers a power to make regulations, with the approval of Tynwald, for the purposes of implementing any withdrawal agreement concluded between the UK and the EU.
- 60. Regulations under this clause can do anything that an Act of Tynwald might to implement any withdrawal agreement. However, such regulations may not impose or increase taxation; make retrospective provision; create a relevant criminal offence; or amend, repeal or revoke the Human Rights Act 2001.

Clause 14

- 61. Under clause 14 the Council of Ministers can amend retained direct EU legislation (see clause 7) as it considers appropriate on or after exit day. For example, if it considered appropriate, the retained direct EU legislation could be amended to keep it in line with changes that are made by the European Union to the legislation as it has effect in the EU. The clause also allows for any rights, powers, liabilities, etc preserved under clause 8 to be amended on or after exit day. In both cases the approval of Tynwald will be required.

Clause 15

- 62. Clause 15 allows the Council of Ministers to make regulations, with the approval of Tynwald, to apply to the Island or to implement in the Island, certain treaty provisions. This clause applies to the EU Treaties (within the meaning of section 1(1) of the 1973 Act). This clause may also be applied to other agreements by the Council of Ministers with the approval of Tynwald. Examples of the types of additional agreements that this clause may be applied to are provided, including future agreements between the UK and EU after exit day. Regulations under this clause cannot come into operation until after exit day.
- 63. This clause is based on a provision in the European Union (Repeal and Amendment) (Jersey) Law.

Clause 16

- 64. Clause 16 is similar to existing sections 2A and 2B of the 1973 Act. It will allow the Council of Ministers, with the approval of Tynwald, to:
 - (a) voluntarily apply any EU instrument (whether it is operative before, on or after exit day) to the Island (subject to modifications) and to make any necessary provisions to implement such instruments;
 - (b) implement any other EU law (whether operative before, on or after exit day) into Manx law and to deal with any matters arising out of such implementation.
- 65. Regulations under this clause can do anything that an Act of Tynwald may do but cannot come into operation until on or after exit day.
- 66. Regulations must have annexed to them a text of an EU instrument applied by the regulations, incorporating the exceptions, adaptations and modifications specified in the regulations.

taxation under this clause might, in some circumstances, prevent important changes to comply with international arrangements from being made and this power is needed to be prepared for all eventualities.

Clause 17

67. Clause 17 provides the Council of Ministers with the power, with the approval of Tynwald, to retrospectively apply and implement certain EU legislation.
68. This clause is a safeguard provision. Its purpose is to deal with the possible circumstances where a piece of EU legislation is currently directly applicable to the Island by virtue of the Protocol 3 relationship with the EU and section 2(1) of the 1973 Act but it is not retained using the power in clause 7 and it is later found to be important. In most cases it is likely that the powers in clause 16 could be used to re-apply the EU legislation to the Island with any necessary modifications but there may be cases where it is important for the law to be treated as having had unbroken effect rather than it ceasing to have effect on exit day. This clause allows for that possibility. EU legislation applied to the Island using this clause can be treated as if it had been retained using the power in clause 7.
69. This enabling power could also be used to implement into Manx law an EU directive which applied to the Island via section 2(1) of the 1973 Act before exit day, but which had not been transposed into Manx law.
70. Regulations under this clause in general can do anything that an Act of Tynwald may do but with certain restrictions. Such regulations may not impose or increase taxation; impose any civil or criminal liability before the day on which the regulations themselves come into operation; or amend, repeal or revoke the Human Rights Act 2001.
71. Regulations made under this clause which apply an EU instrument to the Island must have the text of the applied instrument annexed to them.

Clause 18

72. Clause 18 provides the Council of Ministers with the power, with the approval of Tynwald, to apply certain UK Parliamentary enactments to the Island (subject to modifications) by way of regulations.
73. The power in this clause may be exercised in relation to a UK Parliamentary enactment relating to —
 - (a) the withdrawal of the United Kingdom from the EU;
 - (b) the approval or implementation of any withdrawal agreement; or
 - (c) the future relationship between the United Kingdom and the EU or any member State.
74. The Council of Ministers can amend the list above by adding or deleting any UK Parliamentary enactment or any description of a UK Parliamentary enactment but only with the approval of Tynwald.
75. This clause will allow relevant UK legislation relating to Brexit to be applied to the Island if useful or expedient to do so.
76. Regulations under this clause can apply Parliamentary enactments as amended from time to time and can do anything that an Act of Tynwald may do. Regulations under this clause applying UK legislation to the Island must have the text of that UK legislation as modified in its application to the Island attached to them.

Clause 19

77. Clause 19 enables statutory documents made under clauses 12 to 18 or 21 to refer to EU instruments as amended from time to time.
78. The Council of Ministers has the power under this clause to prescribe by way of regulations statutory documents made under other provisions of Manx legislation as statutory documents which may refer to EU instruments as amended from time to time. This clause cannot create new powers to apply EU legislation; it can only extend powers. For example, there are existing powers in the Airports and Civil Aviation Act 1987 for the Department for Enterprise to apply relevant EU instruments to the Island with any necessary modifications; if it was considered desirable that power could be extended so that an EU instrument (or certain parts of an EU instrument) could be applied to the Island as amended by the EU from time to time. Regulations made under this clause cannot come into operation until on or after exit day and are subject to the “negative” Tynwald procedure.
79. The powers in this clause are derived from the existing section 2C of the 1973 Act.

Clause 20

80. Clause 20 enables the Council of Ministers to make regulations to apply to the Island, and implement in the Island, with the approval of Tynwald, the WTO Agreement.
81. The WTO Agreement means the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 and extended to the Island as modified from time to time; this includes the agreements and associated legal instruments (GATT, GATS, TRIPs, etc) included in Annexes 1, 2 and 3 to the Agreement which are integral parts of this Agreement, which are binding on all WTO Members¹⁴.
82. Regulations made under this clause can do anything that an Act of Tynwald may do.
83. This is a contingency power. Much of the Island’s compliance with WTO obligations will be through other legislation. For example, in the case of TRIPs¹⁵ the Island largely complies through UK intellectual property (IP) legislation which applies to the Island and IP legislation passed or made by the Department for Enterprise.
84. Although the Isle of Man has been included in the UK’s membership of the WTO for 20 years, as a result of Brexit and the UK becoming a member of the WTO in its own right rather than as a Member State of the EU, compliance with WTO obligations, both for the UK and the IOM, is under greater scrutiny than previously. It is important that if any deficiencies are identified the Island can address them in a timely manner.

Clause 21

85. Clause 21 enables the Council of Ministers, with the approval of Tynwald, to implement into Manx law an international trade agreement entered into by the Island or entered into by the United Kingdom and which has been extended to the Island. Regulations made under this clause can do anything that an Act of Tynwald may do.
86. This clause is based on clause 2 of the UK’s Trade Bill but, unlike the clause in the UK Trade Bill, the power is not limited to the implementation only of international trade agreements entered into between the EU and the other signatory(ies) before exit day.

¹⁴ The UK’s ratification of the WTO Agreement was extended to the Isle of Man with effect from 3 March 1997. The legal texts can be found at: https://www.wto.org/english/docs_e/legal_e/final_e.htm

¹⁵ Agreement on Trade-Related aspects of Intellectual Property Rights.

Clause 22

87. Clause 22 provides the Treasury with a power, subject to Tynwald approval, to make regulations for the purposes of obtaining information in relation to the export of goods and services from the Island. Regulations made under this clause can do anything that an Act of Tynwald may do.
88. The clause includes examples of what may be included in any such regulations.
89. This clause is based on clause 7 of the UK's Trade Bill.

Clause 23

90. Clause 23 gives the Treasury a power, subject to Tynwald approval, to make regulations in relation to the disclosure of information for the purpose of facilitating the Treasury's functions relating to trade or for the purpose of facilitating an international organisation or authority's public functions relating to trade. Regulations made under this clause can do anything that an Act of Tynwald may do.
91. The clause includes examples of what may be included in any such regulations.
92. This clause is based on clause 8 of the UK's Trade Bill.

Clause 24

93. Clause 24 gives effect to Schedule 3 on the rules of evidence for retained EU law.

Clause 25

94. Clause 25 gives effect to Schedule 4 which contains general provisions about the powers to make statutory documents under the Bill.

Clause 26

95. Clause 26 contains enabling powers in relation to any consequential and transitional provisions that may be required and it gives effect to:
 - Schedule 5 (which contains general consequential provisions);
 - Schedule 6 (which contains transitional, transitory and saving provisions);
 - Schedule 7 (which contains specific consequential amendments); and
 - Schedule 8 (which contains repeals not made elsewhere in this Act).
96. The clause allows Council of Ministers to make regulations, subject to the approval of Tynwald, which are appropriate as a consequence of the Bill. Such regulations can do anything that an Act of Tynwald may do but they cannot amend Acts of Tynwald passed after the end of the parliamentary session in which the Bill is passed.
97. The clause also gives the Council of Ministers the power to make regulations to make incidental, supplemental, transitional, transitory or saving provisions in connection with the coming into operation of any provision of the resulting Act (including its operation in connection with exit day). Tynwald approval must be sought for any such regulations after they have been made i.e. the Tynwald procedure will be "affirmative".

Schedule 1

98. Schedule 1 defines certain terms used in the Bill.
99. It provides that any reference in the Bill to former Article 34(2)(c) of the Treaty on European Union (such references appear in certain of the defined terms) is a reference to that Article as it applied before the Lisbon Treaty. It is necessary to include these references in the Bill to ensure that it accurately reflects the legal basis for these measures.
100. Any other references in the Bill to certain provisions of the Treaty on European Union or the Treaty on the Functioning of the European Union include references to those provisions as they apply to the Euratom Treaty.

Schedule 2

101. Schedule 2 sets out further exceptions to the saving and retention of EU law provided for under clauses 6, 7 and 8. This schedule should be read together with paragraphs 2 and 3 of Schedule 6 which make transitional, transitory and saving provisions.
102. Paragraph 1 of this Schedule deals with challenges to the validity of retained EU law.
103. It provides that on or after exit day, there is no right to challenge any retained EU law on the grounds that immediately before exit day —
- (a) an EU instrument was invalid; or
 - (b) an EU instrument did not have legal effect in the Island by virtue of section 2(1) of the 1973 Act.
104. However, this restriction is subject to the following two exceptions —
- (a) the European Court has decided before exit day that the EU instrument is invalid; or
 - (b) the challenge is of a kind described or provided for in regulations (which require the approval of Tynwald) made by the Council of Ministers.
105. Paragraph 2 of this Schedule deals with general principles of EU law.
106. It provides that only EU general principles that have been recognised in European Court cases decided before exit day will form part of Manx law on or after exit day and there is no right of action in Manx law on or after exit day based on failure to comply with EU general principles. In addition, the Island's courts cannot dis-apply Manx law on or after exit day on the basis that it is incompatible with EU general principles and courts will not be able to quash any conduct or decide that it is unlawful on the basis that it was not compatible with the EU general principles. Courts will, however, be required under clause 10 to interpret retained EU law in accordance with retained general principles of EU law.
107. Paragraph 3 of Schedule 2 deals with what is known as the rule in Francovich. Francovich v Italy was a decision of the Court of Justice of the European Union¹⁶ which established that European Union member states could be liable to pay compensation to individuals who suffered a loss by reason of the member state's failure to transpose an EU Directive into national law. It is sometimes known as the principle of state liability in European Union law. To the extent that an EU Directive falls within the scope of

¹⁶ <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:61990CJ0006>

Protocol 3, at present the Isle of Man Government could potentially be liable for compensation if an Island resident suffered loss because the Directive had not been transposed into Manx law. In line with the position in the UK Withdrawal Bill, there will be no right to claim damages on this ground on and after exit day.

108. Paragraph 4 of Schedule 2 clarifies that the references in clause 9 and this Schedule to the Charter of Fundamental Rights, any general principle of EU law or the rule in Francovich are to be read as references to that Charter, principle or rule as they stand at exit day, not as they will operate in EU law in the future.

Schedule 3

109. Schedule 3 deals with rules of evidence.
110. Section 3(1) of the 1973 Act provides that for the purposes of all legal proceedings any question as to the meaning or effect of any of the provisions of the EU Treaties having effect in the Island, or as to the validity, meaning or effect of any EU instrument having effect in the Island, shall be treated as a question of law.
111. Some EU law will not become retained EU law under this Bill, but it may still be relevant to the interpretation of the retained EU law. Paragraph 1 therefore provides that, to the extent that determining the meaning or effect of EU law is necessary for a court to interpret retained EU law, judges will continue to determine that meaning or effect themselves as a question of law, rather than treat it as a question of fact.
112. Matters which are “judicially noticed” are deemed to already be within the knowledge of the court, and so are not required to be “proved” to the court.
113. Paragraph 2 of this Schedule provides that the Council of Ministers may make regulations which provide for judicial notice to be taken of a relevant matter, and for the admissibility in legal proceedings of evidence of both a relevant matter and instruments or documents issued by or in the custody of an EU entity. This will ensure that appropriate evidential rules can be put in place to reflect the new legal landscape after exit day. The Tynwald procedure for any such regulations will be “affirmative”.

Schedule 4

114. Schedule 4 contains general provisions about the powers to make statutory documents in the Bill.
115. Paragraph 1 applies to all powers in the Bill to make a statutory document. It provides that any power in the Bill to make a statutory document —
- (a) may be exercised to modify retained EU law or other Manx legislation;
 - (b) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision; to permit a person to exercise a discretion; and to require compliance with standards or the adoption of practices recommended by a specified person or body.
116. This paragraph also confirms that a power in the Bill to make a statutory document does not affect the extent of any other power in the Bill, in retained EU law or in other Manx legislation to make a statutory document.
117. Paragraph 2 of this Schedule deals with the scope of consequential and transition powers.

118. It provides that the law saved and retained by clauses 6 to 10 may be modified by the power to make consequential provision.
119. It also clarifies that:
- the consequential power in the Bill can, for example, be used to modify retained EU law if the changes are consequential on repeal of the 1973 Act;
 - the power to make statutory documents under clauses 2(3) or 26(4) includes the power to make consequential, incidental, supplemental, transitional, transitory or saving provision in connection with the repeal of the 1973 Act or the withdrawal of the UK from the EU which is additional to that made by the clauses in the Bill that deal with the saving, retention and interpretation of EU law, or which alters their effect in particular cases or descriptions of cases;
 - the power to make regulations under clause 26(1) includes the power to make transitional or saving provision which is —
 - (a) in connection with any repeal made by such regulations of any Manx legislation which is consequential upon the repeal of the 1973 Act or the withdrawal of the UK from the EU; and
 - (b) is additional to that made by the clauses of the Bill that deal with saving, retention and interpretation of EU law or alters their effect in particular cases or descriptions of cases.
120. Certain such provisions can be treated as retained EU law.
121. Paragraph 3 of Schedule 4 confirms that the power of the Council of Ministers to appoint a day for any provision of this Bill to come into operation (see clause 2) includes a power to appoint a time on that day.
122. Paragraph 4 provides that the powers in the Bill may be used to make different provision, in particular cases, from the changes made by Schedule 5 (which contains general consequential provisions) and the amendments made to the Interpretation Act 2015 and the Legislation Act 2015 by paragraphs 2 and 3 of Schedule 7.
123. Paragraph 5 provides that where a statutory document modifies earlier statutory documents made under the Bill, the rules for choosing the Tynwald procedure apply afresh¹⁷.
124. Paragraph 6 applies to a statutory document made under this Bill which will be subject to the “approval required” Tynwald procedure. If the Council of Ministers is satisfied that the need to make the statutory document is urgent, the “affirmative” Tynwald procedure can apply rather than the “approval required” procedure. Under the “affirmative” procedure a statutory document must be laid before Tynwald as soon as practicable after it is made and if Tynwald approval is not obtained at that sitting or

¹⁷ This paragraph makes reference to section 93 of the Interpretation Act 2015, which provides that the power to make a public document includes the power to amend or repeal and gives rules for how the amendment or repealing power may operate:

93 Power to make public document includes power to amend or repeal

(1) A power to make a public document includes the power to amend or repeal it.

(2) The power to amend or repeal is exercisable in the same way, and subject to the same conditions, as the power to make the public document.

(3) However, despite subsection (2), a statutory document may, after consultation with the Legislation Consolidation Board under the Legislation Act, be repealed by an order of the Council of Ministers (a “repeal order”) without complying with the conditions.

(4) A repeal order may be made for more than one statutory document and for statutory documents that have different authorising legislation.

(5) Tynwald procedure - negative.

the next sitting the statutory document ceases to have effect. Any statutory document made in reliance on this provision must include a declaration that the Council of Ministers considers the matter to be urgent and therefore that the affirmative procedure should apply. It will be possible for Tynwald to question the need for urgency when such a statutory document is subsequently moved for approval.

Schedule 5

125. Schedule 5 contains general consequential provisions.
126. Paragraphs 1 and 2 deal with what happens to existing ambulatory references after exit day. Ambulatory references are cross references to EU instruments as amended from time to time in the future.
127. The effect of paragraph 1 is that existing ambulatory references to EU regulations, decisions and tertiary legislation which are to be retained as Manx law under clause 7 will, on exit day, become references to the retained versions of those instruments as they are modified from time to time by Manx law.
128. Paragraph 2 provides that any existing ambulatory references (which do not fall within paragraph 1) to any of the EU Treaties, other EU instruments (e.g. directives) or to any other document of an EU entity, do not continue to update after exit day. In such cases the references are to be treated as references to the EU legislation, Treaties or document as they had effect immediately before exit day.
129. Paragraph 3 of Schedule 5 deals with the effect of the Bill on existing powers to make statutory documents.
130. Paragraph 3(1) provides that any existing powers to make statutory documents in pre-exit legislation are capable of amending retained direct EU legislation. For example, a power in the Animal Health Act 1996 to make statutory documents in respect of certain animal health matters could amend retained direct EU legislation dealing with animal health matters; and, under paragraph 3(2), the Tynwald procedure would be the same as that set out in that Act.
131. Paragraph 3(3) provides that any existing powers to make statutory documents in pre-exit legislation and which include a power to modify Manx legislation are to be read on and after exit day as being capable of amending retained direct EU legislation. This is a belt and braces provision which has been included for the avoidance of any doubt. Its purpose is to make it clear that any pre-exit enabling powers which enable secondary legislation to amend any enactment which is inconsistent with, or unnecessary in consequence of, that secondary legislation, is to be read on and after exit day as also enabling any retained direct EU legislation to be amended.
132. Paragraph 3(4) provides that any pre-exit day powers do not have any implied EU law restriction on or after exit day. The means the powers can be used to legislate in a way that would not have been compatible with directly applicable EU law pre-exit day, as long as the power would be capable of being used in that way on a plain reading.
133. Paragraph 4 of Schedule 5 provides that powers to make statutory documents in Acts of Tynwald passed on or after exit day are capable of amending retained direct EU legislation, unless otherwise provided.
134. Paragraph 5 of this Schedule provides that retained direct EU legislation is to be treated as primary legislation for the purposes of the Human Rights Act 2001. This

means that any retained direct EU legislation is to be treated as primary legislation for the purposes of challenges under the Human Rights Act 2001, so that if the legislation is found to breach that Act, a court may issue a declaration of incompatibility but may not strike down the legislation.

Schedule 6

135. Schedule 6 contains transitional, transitory and saving provisions.
136. Paragraph 1 provides that anything done or in operation before exit day (or in the process of being done), and which relates to any element of retained EU law is preserved. For example, licences lawfully issued before exit day would continue to have effect after exit day.
137. Paragraph 2 provides that rights etc which are recognised under EU directives and are recognised by a court or tribunal in the Island or the United Kingdom in cases which have begun before exit day but are decided on or after exit day are saved by clause 8 (saving for rights etc. under section 2(1) of the European Communities (Isle of Man) Act 1973) and are not excluded under subsection (3) of that clause.
138. Paragraph 3 makes further provision about the exceptions to the saving and retention of EU law set out in clause 9 and Schedule 2.
139. Under paragraph 3(1) the exceptions to the saving and retention of EU law set out in Schedule 2 to the Bill apply in relation to anything occurring before exit day as well as anything occurring after exit. However, this is subject to the remaining provisions of paragraph 3 and also to any provision made by the Council of Ministers under clause 2(3) or 26(4) – both of which deal with incidental, supplemental, transitional, transitory or saving provisions in connection with the Bill coming into operation.
140. Paragraph 3(2) provides that the exceptions for claims in respect of validity, general principles and Francovich do not apply in relation to cases decided before exit day.
141. Paragraph 3(3) provides that the exceptions in paragraphs 2(2) and (3) and 3 of Schedule 2 (for general principles and Francovich claims) will not apply in respect of proceedings which have begun before exit day but are not decided until on or after exit day.
142. Paragraph 3(4) provides that the exceptions for claims in respect of validity, general principles and Francovich will not apply in relation to any criminal conduct which occurred prior to exit day.
143. Paragraph 3(5) provides that the restriction on challenges based on incompatibility with any of the general principles of EU law (set out in paragraphs 2(2) and (3) of Schedule 2) does not apply in respect of certain proceedings begun up to three months after exit day. In order to fall within the scope of this sub-paragraph, any challenge must relate to something that occurred before exit day and may be made against either administrative action or Manx legislation other than Acts of Tynwald or rules of law.
144. Paragraph 3(6) provides that a court, tribunal or other public authority will, on or after exit day, still be able to disapply any Manx legislation or rule of law, or quash any conduct on the basis of incompatibility with the general principles where it is a necessary consequence of a decision made by a court or tribunal made before exit day,

or decision in proceedings commenced during the three month period after exit day provided for under paragraph 3(5).

Schedule 7

145. Schedule 7 makes specific consequential amendments to certain Acts of Tynwald.
146. Paragraph 1 amends the Customs and Excise Act 1993. These amendments are to ensure that the Treasury has sufficient powers to deal with all possible scenarios when the UK leaves the EU and all EU customs legislation, which currently applies directly and automatically to the both the UK and the Isle of Man, no longer applies.
147. Paragraphs 2 and 3 amend the Interpretation Act 2015 and the Legislation Act 2015 respectively consequential to the Bill and the repeal of the 1973 Act.
148. Paragraph 4 amends the European Communities (Amendment) Act 1994, which gave effect to the European Economic Area Agreement (to the extent that its provisions are within the scope of Protocol 3) in the Isle of Man. Although the UK will leave the EEA Agreement when it leaves the EU, the remaining provisions of this Act will deal with the correct interpretation of related matters after exit day.

Schedule 8

149. Schedule 8 lists further Acts of Tynwald which are repealed by the Bill. These Acts are largely amending Acts which amended the 1973 Act.
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STANDARD TEMPLATE

DEPARTMENT: Cabinet Office		
IMPACT ASSESSMENT OF: European Union (Withdrawal) Bill		
Stage:	Version: 1.0	Date: 14/3/18
Related Publications:		
Responsible Officer: Anne Shimmin		
Email Address: anne.shimmin@gov.im		Telephone: 685202

SUMMARY: INTERVENTION AND OPTIONS

Briefly summarise the proposal's purpose and the intended effects

The main purpose of this Bill is to deal with the consequences for the Isle of Man of the United Kingdom's decision to withdraw from the European Union, resulting in the termination of the Island's Protocol 3 relationship with the EU.

The Bill:

- will repeal the European Communities (Isle of Man) Act 1973 ("the 1973 Act") (whilst saving existing secondary legislation made under that Act);
- contains powers for Tynwald to:
 - provide that certain EU legislation which currently applies to the Island under Protocol 3 can continue to apply to the Island after exit day;
 - address deficiencies in retained EU legislation and other Manx legislation that arise from the withdrawal of the UK from the EU;
 - address any breaches in the Island's international obligations that may result from the UK's withdrawal from the EU;
 - implement any withdrawal agreement between the UK and EU so far as relevant to the IOM;
 - implement any agreement on the future relationship between UK and EU to the extent that it applies to the Island, together with certain other trade related agreements that may extend, or in future be extended, to the Island;
 - apply Brexit related legislation made under the UK's European Union (Withdrawal) Act 2018 to the Island; and
- replicates with modifications powers under the 1973 Act to voluntarily apply EU legislation to the Island where expedient or desirable to do so.

What are the options that have been considered

Option 1: Do nothing. This is not a viable option. It is impossible for the Island to maintain the status quo when the UK leaves EU as this will end the Island's current Protocol 3 relationship. At that point, if the Island does not take action, there will be significant gaps in the Island's legislative framework and other legislation will not work correctly.

Option 2: Wait for the final outcome of the UK's negotiations with the EU on the withdrawal agreement/implementation period and the future relationship between the UK and EU (and extent to which that agreement may apply to the Island) and then bring forward one or several Bills to deal with the new circumstances. This is also not a viable option as it would still be likely to result in gaps in the Island's legislation for a period which would lead to difficulties for the Island's trading relationship with the UK and jeopardise the Island's inclusion in the proposed implementation period. It would also create a period of significant uncertainty for local businesses.

Option 3: Bring forward a Bill now with sufficient enabling powers to allow the Island to deal effectively and expeditiously with a wide range of outcomes from the UK's negotiations with the EU.

This is the preferred option. The UK's European Union (Withdrawal) Bill provides a useful starting point for the Island's Bill.

Link to the Programme for Government

BREXIT - Potential need for amendment Bills and possible primary legislation following the triggering of Article 50 by the UK Government

Responsible Departmental Member

Chief Minister

Ministerial sign off [Note B]

I have read the Impact Assessment and I am satisfied that the balance between the benefit and any costs is the right one in the circumstances.

Signed by the Responsible Minister

_____ Date:

SUMMARY: ANALYSIS AND EVIDENCE
IMPACT OF PROPOSAL
Resource Issues - Financial (including manpower)
<p>Statement</p> <p>The process of dealing with the impact on the Isle of Man of the Brexit process has had, and continues to have, very significant resource implications across Isle of Man Government.</p> <p>The Bill itself has the usual drafting resource implications for the Attorney General's Chambers, as for any Bill, and policy input from the lead Department, in this case the Cabinet Office.</p> <p>The statements below in respect of financial costs and benefits relate solely to the Bill itself rather than the Brexit process, as those costs and benefits for the Island are impossible to predict as, to a very large degree, they are dependent on the outcome of the UK's negotiations with the EU.</p>
<p>Likely Financial Costs</p> <p>One Off: None</p> <p>Average Annual (excluding one off): None</p>
<p>Likely Financial Benefits</p> <p>One Off: None</p> <p>Average Annual (excluding one off): None</p>
<p>If the proposal introduces provisions that will require another Department, Board, Office or Body to take on additional work or responsibility please ensure that they have been consulted with early on in your considerations. Please provide a brief statement as to who they are and the consultation that has taken place.</p> <p>The Brexit project as a whole is unprecedented cross-Government exercise being coordinated and supported by the Cabinet Office. Relevant Departments have already been invited to consider legislative issues arising from Brexit. There are significant implications for DEFA and the Customs & Excise Division of Treasury in particular in respect of subordinate legislation that will be required under the Bill and they are aware of this.</p>
<p>Are there any costs or benefits that are not financial i.e. social</p> <p>N/A</p>
<p>Which Business sectors/organisations will be impacted, if any, and has any direct consultation taken place?</p> <p>The Brexit process is likely to have implications businesses and organisations in the Island across a range of sectors. The aim with the Bill, as in the UK, is to provide as much certainty as possible in inherently uncertain circumstances and provide as smooth a transition as possible.</p>
<p>Does the proposal comply with privacy law? Please provide a brief statement as to any issue of privacy or security of personal information.</p> <p>N/A</p>

Has Treasury Concurrence been given for the preferred option
N/A
Date of Treasury Concurrence
<p>Key Assumptions / Sensitivities / Risks</p> <p>Key assumptions are that Brexit will happen on 29 March 2019, there will be a status quo transitional period (or "implementation period") following Brexit, and in due course there will be some form of agreement between the UK and the EU on the relationship after the implementation period. However, the Bill can deal with changes to any of these assumptions.</p> <p>Another key assumption is that Brexit will not, and should not, change the relationship between the IOM and the UK.</p> <p>It is vital that the Island is equipped to make timely corrections to Manx law to reflect Island's changing relationship with the EU. The Bill therefore requires broad enabling powers relating to Brexit but the use of those powers will be subject to the approval of Tynwald.</p>
Approximate date for legislation to be implemented if known
The target is for Bill to have completed its passage by the end of 2018.

SUMMARY: CONSULTATION	
Consultation in line with Government standard consultation process	Yes/No
Date 1 st Consultation 2 nd Consultation	
Summary of Responses:	

EVIDENCE BASE

Use this space to set out any further evidence, analysis and detailed narrative from which you have generated your policy options or proposal.

European Union (Withdrawal) Bill (of Parliament):

<https://services.parliament.uk/bills/2017-19/europeanunionwithdrawal.html>

Trade Bill (of Parliament):

<https://services.parliament.uk/bills/2017-19/trade.html>

UK Parliament Brexit research and analysis:

<http://www.parliament.uk/business/publications/research/eu-referendum/>

European Communities (Isle of Man) Act 1973:

https://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1973/1973-0014/EuropeanCommunitiesIsleofManAct1973_4.pdf

European Union (Repeal and Amendment) (Jersey) Law 201-:

http://www.statesassembly.gov.je/assemblypropositions/2018/p.16-2018_with_corrigendum.pdf

Department for Exiting the European Union (DExEU) publications:

<https://www.gov.uk/government/publications?departments%5B%5D=department-for-exiting-the-european-union>

European Commission Brexit documents:

https://ec.europa.eu/commission/brexit-negotiations/negotiating-documents-article-50-negotiations-united-kingdom_en



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<https://www.gov.im/brexit>

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