

LEGISLATIVE CONSENT MEMORANDUM

European Union (Withdrawal Agreement) Bill

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the National Assembly.
2. The European Union (Withdrawal Agreement) Bill (the “Bill”) was introduced in the House of Commons on Monday 21 October 2019. The Bill can be found at: <https://publications.parliament.uk/pa/bills/cbill/2019-2020/0007/20007.pdf>

Policy Objective

3. The UK Government’s stated policy objective is to enable the UK to leave the European Union in an orderly manner, with an implementation period to enable new arrangements to be put in place.

Summary of the Bill

4. The Bill is sponsored by the Department for Exiting the European Union.
5. The Bill makes provision for the implementation of the Withdrawal Agreement by incorporating it into UK law and providing powers for further implementation where required. The Bill will also implement the separation agreements reached with the European Economic Area and European Free Trade Area (EEA EFTA) states and Switzerland in a similar way. It makes provision for citizens’ rights after leaving the EU, and establishes an Independent Monitoring Authority for those rights. The Bill makes provision for Ministers of the Crown and Ministers in Devolved Administrations to have the necessary powers to implement the Withdrawal Agreement and for the transition to any future arrangements.
6. The clauses with particular relevance to matters within the legislative competence of the Assembly are:
 - Part 1 – Implementation Period;
 - Part 2 – Remaining implementation of withdrawal agreement etc. general;
 - Part 3 – clauses 12-14, 16-17 and Schedule 1 (implementation of Part 2 of the Withdrawal Agreement relating to Citizens’ rights where devolved application) and clause 15 and Schedule 2 (relating to the Independent Monitoring Authority);
 - Part 4 – clauses 18-19 (other separation issues), clauses 21-22 (Northern Ireland), clauses 25-28 (relationship to EUWA and

ancillary fee charging power), and clause 29 (review of EU legislation during implementation period)

- Part 5 – clauses 37-39, Schedules 5 and 6 (general and final provisions).

Provisions in the Bill for which consent is required

The Bill confers a number of powers to make subordinate legislation on the Welsh Ministers. The relevant provisions, and the Assembly procedures, are set out at Annex 1.

The Assembly's consent would be required for the following provisions:

Part 1 – Implementation Period

Clauses 1 and 2 - Saved law for implementation period

7. These clauses insert new sections 1A and 1B into the EU (Withdrawal) Act 2018 (EUWA) and saves the European Communities Act 1972 (ECA) for the purpose of the implementation period during which the majority of EU law will continue to apply. It also provides for interpretative glosses to apply to EU derived domestic legislation, as defined by the new section 1B. It also provides that the Minister of the Crown may make additional modifications as appropriate for the purpose of Part 4 of the Withdrawal Agreement.
8. Consent would be required for these clauses because they modify the legislative competence of the National Assembly for Wales by continuing the requirement to comply with EU law. In saving the ECA so that it continues to apply in the UK this will affect the Assembly's legislative competence as the restrictions in complying with EU law will continue to apply, and the powers that return to the Assembly as a result of withdrawal will be once again constrained. Therefore clause 1 would require the Assembly's consent as it modifies the legislative competence of the Assembly.
9. The majority of these clauses will become protected enactments (see paragraph 32 of Schedule 6 to the WAB). Any additional protected enactments will consequently change the restrictions on the Assembly's legislative competence by virtue of expanding the scope of the protected enactment. This will be the case whether or not the content of that modification falls within devolved areas as the fact that a provision is classified as a protected enactment will prevent the Assembly making even consequential provision in the future. These clauses are presented for the Assembly to consider for consent as they will further modify the legislative competence of the Assembly in a different way than that explained in the preceding paragraph.

Clauses 3 and 4 - Supplementary powers

10. Clause 3 inserts section 8A into EUWA, which provides for supplementary powers in connection with the implementation period. Section 8A provides the Minister of the Crown with a power to make provision which, inter alia, the Minister considers appropriate for the purposes of, or otherwise in connection with, Part 4 of the Withdrawal Agreement. Equivalent power for the Welsh Ministers to make provision in areas of devolved competence¹ is made in clause 4 which inserts Part 1A into Schedule 2 to EUWA.
11. The powers in these clauses are wide and could be used to make provisions within devolved areas which implement the withdrawal agreement. On this basis, the Assembly's consent would be required for these provisions.

Part 2 - Remaining implementation of withdrawal agreement etc: General

Clauses 5 and 6 - General implementation of remainder of withdrawal agreement and general implementation of EEA EFTA and Swiss agreements

12. Clause 5 inserts section 7A into EUWA. Section 7A gives effect to article 4 of the Withdrawal Agreement which provides for the Withdrawal Agreement to produce the same legal effects as those which they produce within the Union and its Member States, including, for example, direct effect. Clause 6 inserts section 7B into EUWA, to achieve the same effect for the separation agreements with the EEA EFTA and Switzerland.
13. These clauses will become protected enactments. Therefore the Assembly's consent would be required on the basis that these clauses will modify the legislative competence of the Assembly by virtue of becoming protected enactments.

Part 3 – Citizens' Rights

Clauses 12 to 14 and 16-17 and Schedule 1 - Recognition of professional qualifications, coordination of social security systems and non-discrimination, equal treatment and rights of workers etc. and powers of devolved authorities under sections 12, 13 and 14

14. Part 3 of the Bill makes provision in respect of the Citizens' rights part of the Withdrawal Agreement. Clauses 12 to 14 relate to aspects of the Withdrawal Agreement that may require domestic provision to be made to implement the obligations effectively, and as these areas intersect with areas within the legislative competence of the Assembly, powers have

¹ The meaning of 'devolved competence' for the purpose of this power is also provided within the clause.

been conferred on the devolved authorities to make provision within areas of devolved competence².

15. Clause 12 provides that an appropriate authority may make regulations for the purpose of implementing chapter 3 of Title II of Part 2 of the Withdrawal Agreement which relates to professional qualifications. “Appropriate authority” includes the Welsh Ministers when acting within devolved competence.
16. Clause 13 provides that an appropriate authority may make regulations for the purpose of implementing Title III of Part 2 of the Withdrawal Agreement which relates to the co-ordination of social security systems. This includes measures relating to reciprocal healthcare which is devolved. “Appropriate authority” includes the Welsh Ministers when acting within devolved competence.
17. Clause 14 provides that an appropriate authority may make regulations for the purpose of implementing certain provisions of the Withdrawal Agreement which relate to non-discrimination, equal treatment and rights of workers etc. “Appropriate authority” includes the Welsh Ministers when acting within devolved competence.
18. Schedule 1 contains details of how these powers can be exercised by the Devolved Authorities. It sets out when the Welsh Ministers may act independently, when they require Minister of the Crown consent before making regulations, and when the regulation making powers must be exercised jointly or with consultation. These requirements are based on the legislative competence of the National Assembly and also other existing executive powers of the Welsh Ministers. Schedule 1 also imposes the same requirements for exercising regulation making powers as apply where the Welsh Ministers could make the same provision under other acts.
19. Regulations made by the Welsh Ministers made under these provisions which amend, repeal or revoke primary legislation or retained directly applicable EU law must be made by affirmative procedure. Any other regulations made under this section are to be made by the negative procedure.
20. This clause confers a power on the Welsh Ministers to make regulations relating to the implementation of Part 2 of the Withdrawal Agreement on Citizens’ rights where that implementation intersects with areas of devolved competence as set out above.
21. The Assembly’s consent would be required for clauses 12 to 14 as it is within the Assembly’s legislative competence to make provision which implements the Withdrawal Agreement in devolved areas.

² The meaning of ‘devolved competence’ for them purpose of these powers is provided in Schedule 1 to the Bill.

22. Clause 16 makes supplementary provisions in respect of certain regulation making powers in Part 2 including clause 14. Clause 17 contains the definitions relating to Part 3 of the Bill, one of the definitions is used in clause 14. As set out above, clause 14 would be within the Assembly's legislative competence and therefore the Assembly's consent would be required for that aspect of these provisions.

Clause 15 and Schedule 2 – Independent Monitoring Authority for the Citizens' Rights Agreements

23. Clause 15 establishes the Independent Monitoring Authority (IMA) which will monitor the implementation and enforcement of Part 2 of the Withdrawal Agreement relating to citizens' rights. Schedule 2 sets out the constitution of the IMA, and its functions. As reflected in clauses 12 to 14, discussed above, part of the implementation of the citizens' rights aspect of the Withdrawal Agreement will fall within the Assembly's legislative competence. It is within the Assembly's legislative competence to make provision which would monitor the implementation and enforcement of those aspects of the Withdrawal Agreement in Wales.

24. The consent of the Assembly would be required on the grounds these provisions are within the legislative competence of the Assembly.

Part 4 – Other subject areas

Clauses 18 and 19 - Main power in connection with other separation issues and corresponding power relating to devolved authorities

25. Clause 18 inserts section 8B into EUWA which provides a power for the Minister of the Crown to make such provision as the Minister considers appropriate to implement Part 3 of the Withdrawal Agreement (the separation provisions), or provision which supplements the effect of section 7A (the direct effect of the Withdrawal Agreement) in relation to that Part, or otherwise for the purposes of dealing with matters arising out of, or related to, that Part.

26. Clause 19 inserts Part 1B into Schedule 2 to EUWA to make equivalent provision for the devolved administrations.

27. Matters included in Part 3 of the Withdrawal Agreement are wide ranging, but include matters relating to procurement which would fall within the Assembly's legislative competence, and it is possible that the effective implementation of the other matters may also require provision to be made in areas of devolved competence³. Certainly, it is recognised that the implementation of Part 3 may fall in areas within the Assembly's legislative competence which is why specific provision is made in clause 19 to confer an equivalent power on Welsh Ministers.

³ As defined in the clause.

28. The consent of the Assembly would be required on the basis that these provisions are within the Assembly's legislative competence.

Northern Ireland

Clauses 21 and 22 – Main power in connection with Ireland/Northern Ireland Protocol and corresponding power involving devolved authorities.

29. Clause 21 inserts section 8C into EUWA to provide the Minister of the Crown with a power to make regulations to implement the Protocol on Ireland/Northern Ireland and make supplemental provision as required. Corresponding powers are given to the DAs to act in devolved areas by clause 22 which inserts Part 1C into Schedule 2 to EUWA.

30. The consent of the Assembly would be required on the basis that these provisions are within the Assembly's legislative competence.

Clauses 25 to 27 – Relationship to EUWA

31. Clause 25 defers the retention of saved EU law from exit day to the end of the implementation period. It does this by textual amendments to sections 2, 3, 4, and 5 of EUWA and makes extra provision by inserting a new section 5A in EUWA which provides for savings and incorporation of saved EU law. Schedule 1 of EUWA is also amended to defer the operation of the savings provision to the end of the implementation period.

32. Clause 26 amends section 6 of EUWA (interpretation of retained EU law) to replace exit day for IP completion day, i.e. the end of the implementation period. A new section 7C is also inserted into EUWA to make provision in respect of the interpretation of relevant separation agreement law.

33. Clause 27 amends section 8 of EUWA to take account of the implementation period and to extend the power so that it can be used in respect of Part 4 of the Withdrawal Agreement (the implementation period). It also makes amendments to EUWA so that references to exit day will now refer to IP completion day. These changes to section 8 of EUWA will read through to the Welsh Ministers' deficiency correcting power in paragraph 1 of Schedule 2 to EUWA.

34. These clauses will become protected enactments.

35. The consent of the Assembly would be required on the basis that these provisions modify the Assembly's legislative competence by virtue of becoming protected enactments.

Clause 28 - Ancillary fee-charging powers

36. Clause 28 amends the scope of the fee charging powers in Schedule 4 to EUWA to include, where appropriate, the new powers provided for by the Bill.
37. This clause will become a protected enactment.
38. The consent of the Assembly would be required on the basis that this provision modifies the Assembly's legislative competence by virtue of becoming a protected enactment.

Clause 29 – Review of EU legislation during implementation period

39. This clause inserts section 13A into the EUWA. It applies during the implementation period and provides a role for the European Scrutiny Select Committee in relation to EU legislation adopted by the EU during the implementation period and therefore applicable to and within the UK.
40. The Committee could consider EU legislation which relate to subject matters within the Assembly's legislative competence and therefore the Assembly's consent would be required.

Part 5 – General and Final Provision

Clause 37 – Interpretation

41. These clauses make provision about the interpretation of the Bill.
42. The consent of the Assembly would be required on the basis that these provisions are within the Assembly's legislative competence.

Clause 38 and Schedule 5 – Regulations

43. Clause 38 and Schedule 5 make provision about the regulation making powers in the Bill.
44. The consent of the Assembly would be required on the basis that these provisions are within the Assembly's legislative competence.

Clause 39 and Schedule 6 - Consequential Provisions

45. Clause 39 makes provision in respect of consequential amendments and introduces Schedule 6 which makes consequential provisions. Paragraph 1 of Schedule 6 makes provision which will defer certain SIs made in relation to exit day until the end of the implementation period. This includes a power for an appropriate authority to specify other SIs which may require deferral, or to exempt any SIs which do need to come into force on exit day. An appropriate authority includes the Welsh Ministers.

46. Consent is required for these provision because they fall within the legislative competence of the Assembly.

Reasons for making these provisions for Wales in the Withdrawal Agreement Bill

47. The Welsh Government agrees that legislation is necessary to provide clarity and certainty for citizens and businesses as we leave the EU. The Welsh Government also agrees that ideally such legislation should be made by Parliament, for the UK as a whole, as this would offer the greatest degree of consistency and certainty for citizens and businesses.

48. In terms of substance, we welcome the fact that the Bill would provide the much needed transition period and agree with the approach taken in the draft Bill in terms of broadly maintaining the status quo regarding the application of EU law in the UK during the transition period. We also welcome the fact that the Bill provides a significant degree of reassurance for EU citizens who have chosen to make their home in the UK and believe the provisions on the financial settlement reflect the appropriate commitment of the UK to meet its obligations. We have held intensive negotiations with the UK Government over the role of the devolved institutions in respect of the Independent Monitoring Authority.

49. The Welsh Government has been clear that we cannot endorse the overall withdrawal 'deal' as advocated by the UK Government because the associated Political Declaration provides too little assurance that the future relationship with the EU will be the very close partnership which was set out in our White Paper *Securing Wales Future*. This position has been repeatedly endorsed by the National Assembly.

50. The Withdrawal Agreement does not end the possibility of no deal. If no future relationship is agreed the possibility of a no-deal exit at the end of the Implementation Period remains.

51. The devolved administrations were not given the opportunity to consider or contribute to either the Withdrawal Agreement or Political Declaration, nor were we engaged in the development of the clauses to implement the revised agenda.

52. For these reasons, we cannot recommend that the National Assembly gives its consent to the Bill as currently presented.

Financial implications

53. While there are no direct financial implications for the Welsh Government or the Assembly arising from the powers under the Bill, there will be significant financial implications for Wales from withdrawing from the EU, both in its overall economic effect and in areas of funding currently deriving from the EU, as set out in *Securing Wales' Future*.

Conclusion

54. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as this will offer the greatest degree of consistency and certainty for citizens and businesses across the UK. However, the Welsh Government cannot recommend that the National Assembly give their consent to this Bill as it is currently presented.

Mark Drakeford AM
First Minister
23 October 2019

ANNEX

LEGISLATIVE CONSENT MEMORANDUM: EU (WITHDRAWAL AGREEMENT) BILL – PROVISIONS WHICH CONTAIN POWERS FOR WELSH MINISTERS TO MAKE SUBORDINATE LEGISLATION

Provision	Description of Power	Legislative Procedure
<p>Clause 4 Powers corresponding to section 3 involving devolved authorities inserts new Part 1A into Schedule 2 to the European Union (Withdrawal) Act 2018 (EUWA)</p>	<p>Provides the Welsh Ministers with a power to make supplementary provision in connection with the implementation period.</p> <p>The Welsh Ministers may act alone if provision is within devolved areas, or may act jointly with a Minister of the Crown.</p>	<p>Where the Welsh Ministers are acting alone, an SI containing regulations which amend, repeal or revoke;</p> <p>a) primary legislation, or</p> <p>b) retained direct principal EU legislation, is subject to the affirmative procedure.</p> <p>Any other regulations made under Part 1A of Schedule 2 to EUWA by the Welsh Ministers acting alone will be subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 8B and 8C of Part 1A of Schedule 7 to EUWA as inserted by paragraph 52 of Schedule 6 to the WAB.</p>
<p>Clause 12(1) Recognition of professional qualifications</p>	<p>The Welsh Ministers may by regulations make provision as they consider appropriate to implement Chapter 3 of Title II of Part 2 of the withdrawal agreement (professional</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke—</p> <p>(a) primary legislation,</p>

	<p>qualifications).</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p> <p>See also clause 16 for supplementary provision about regulations under Part 3 of the WAB.</p>	<p>or</p> <p>(b) retained direct principal EU legislation, they are subject to the affirmative procedure.</p> <p>Any other statutory instrument containing regulations under section 12 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 5 to the WAB.</p>
<p>Clause 12(2) Recognition of professional qualifications (EEA EFTA separation agreement)</p>	<p>The Welsh Ministers may by regulations make provision as they consider appropriate to implement Chapter 3 of Title II of Part 2 of the EEA EFTA Separation agreement (professional qualifications).</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p> <p>See also clause 16 for supplementary provision about regulations under Part 3 of the WAB.</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke—</p> <p>(a) primary legislation, or</p> <p>(b) retained direct principal EU legislation, they are subject to the affirmative procedure.</p> <p>Any other statutory instrument containing regulations under section 12 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the</p>

		<p>Crown.</p> <p>See paragraphs 3 and 4 of Schedule 5 to the WAB.</p>
<p>Clause 12(3) Recognition of professional qualifications (Swiss citizens' rights agreement)</p>	<p>The Welsh Ministers may by regulations make provision as they consider appropriate to implement professional qualification provisions of the Swiss citizens' rights agreement.</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p> <p>See also clause 16 for supplementary provision about regulations under Part 3 of the WAB.</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke—</p> <p>(a) primary legislation, or</p> <p>(b) retained direct principal EU legislation,</p> <p>they are subject to the affirmative procedure.</p> <p>Any other statutory instrument containing regulations under section 12 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 5 to the WAB.</p>
<p>Clause 13(1) Coordination of social security systems</p>	<p>The Welsh Ministers may by regulations make provision as they consider appropriate to implement Title III of Part 2 of the withdrawal agreement (coordination of social security systems).</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p> <p>See also clause 16 for</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke—</p> <p>(a) primary legislation, or</p> <p>(b) retained direct principal EU legislation,</p> <p>they are subject to the affirmative procedure.</p> <p>Any other statutory instrument containing</p>

	<p>supplementary provision about regulations under Part 3 of the WAB.</p>	<p>regulations under section 13 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 5 to the WAB.</p>
<p>Clause 13(2) Coordination of social security systems (EEA EFTA separation agreement)</p>	<p>The Welsh Ministers may by regulations make provision as they consider appropriate to implement Title III of Part 2 of the EEA EFTA separation agreement (coordination of social security systems).</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p> <p>See also clause 16 for supplementary provision about regulations under Part 3 of the WAB.</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke—</p> <p>(a) primary legislation, or</p> <p>(b) retained direct principal EU legislation,</p> <p>they are subject to the affirmative procedure.</p> <p>Any other statutory instrument containing regulations under section 13 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 5 to the WAB.</p>
<p>Clause 13(3) Coordination of social security systems (Swiss citizens' rights)</p>	<p>The Welsh Ministers may by regulations make provision as they consider appropriate to implement social security coordination provisions of the</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke—</p>

<p>agreement)`</p>	<p>Swiss citizens' rights agreement.</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p> <p>See also clause 16 for supplementary provision about regulations under Part 3 of the WAB.</p>	<p>(a) primary legislation, or (b) retained direct principal EU legislation, they are subject to the affirmative procedure.</p> <p>Any other statutory instrument containing regulations under section 13 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 5 to the WAB.</p>
<p>Clause 14(1) Non-discrimination, equal treatment and rights of workers etc.</p>	<p>The Welsh Ministers may by regulations make such provision as they consider appropriate for the purpose of implementing any of the following provisions of the withdrawal agreement:</p> <p>(a) Article 12 (prohibition of discrimination on grounds of nationality); (b) Article 23 (right to equal treatment); (c) Articles 24(1) and 25(1) (rights of workers and the self-employed); (d) Articles 24(3) and 25(3) (rights of employed or self-employed frontier workers) as regards rights enjoyed as workers.</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke— (a) primary legislation, or (b) retained direct principal EU legislation, they are subject to the affirmative procedure.</p> <p>Any other statutory instrument containing regulations under section 14 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the</p>

	<p>See also clause 16 for supplementary provision about regulations under Part 3 of the WAB.</p>	<p>Crown.</p> <p>See paragraphs 3 and 4 of Schedule 5 to the WAB.</p>
<p>Clause 14(2) Non-discrimination, equal treatment and rights of workers etc. (EEA EFTA separation agreement)</p>	<p>The Welsh Ministers may by regulations make such provision as they consider appropriate for the purpose of implementing any of the following provisions of the EEA EFTA separation agreement—</p> <p>(a) Article 11 (prohibition of discrimination on grounds of nationality);</p> <p>(b) Article 22 (right to equal treatment);</p> <p>(c) Articles 23(1) and 24(1) (rights of workers and the self-employed);</p> <p>(d) Articles 23(3) and 24(3) (rights of employed or self-employed frontier workers) as regards rights enjoyed as workers.</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p> <p>See also clause 16 for supplementary provision about regulations under Part 3 of the WAB.</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke—</p> <p>(a) primary legislation, or</p> <p>(b) retained direct principal EU legislation,</p> <p>they are subject to the affirmative procedure.</p> <p>Any other statutory instrument containing regulations under section 14 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 5 to the WAB.</p>
<p>Clause 14(3) Non-discrimination, equal treatment and rights of workers etc. (Swiss citizens' rights agreement)</p>	<p>The Welsh Ministers may by regulations make such provision as they consider appropriate for the purpose of implementing any of the following provisions of the Swiss citizens' rights agreement—</p> <p>(a) Article 7 (prohibition of discrimination on grounds of nationality);</p> <p>(b) Article 18 (right to take up employment etc.);</p> <p>(c) Article 19 (rights of employed</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke—</p> <p>(a) primary legislation, or</p> <p>(b) retained direct principal EU legislation,</p> <p>they are subject to the affirmative procedure.</p>

	<p>or self-employed persons etc.); (d) Article 20(1) (rights of frontier workers); (e) Article 23(1) (rights of persons providing services).</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p> <p>See also clause 16 for supplementary provision about regulations under Part 3 of the WAB.</p>	<p>Any other statutory instrument containing regulations under section 14 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 5 to the WAB.</p>
<p>Clause 19 Powers corresponding to section 18 involving devolved authorities</p> <p>Inserts new Part 1B into Schedule 2 EUWA</p> <p>Paragraph 11G(1) provision in connection with certain other separation issues</p>	<p>The Welsh Ministers may by regulations make such provision as the devolved authority considers appropriate to implement Part 3 of the withdrawal agreement (separation provisions).</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke— (a) primary legislation, or (b) retained direct principal EU legislation, They are subject to the affirmative procedure.</p> <p>Any other statutory instrument containing regulations under Part 1B of Schedule 2 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 8D and 8E of Part 1A of Schedule 7 to EUWA as inserted by paragraph 52 of</p>

		Schedule 6 to the WAB.
<p>Clause 19 Powers corresponding to section 18 involving devolved authorities</p> <p>Inserts new Part 1B into Schedule 2 EUWA</p> <p>Paragraph 11G(3) provision in connection with certain other separation issues (EEA EFTA separation agreement)</p>	<p>The Welsh Ministers may by regulations make such provision as the devolved authority considers appropriate to implement Part 3 of the EEA EFTA separation agreement (separation provisions).</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke—</p> <p>(a) primary legislation, or</p> <p>(b) retained direct principal EU legislation,</p> <p>They are subject to the affirmative procedure.</p> <p>Any other statutory instrument containing regulations under Part 1B of Schedule 2 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 8D and 8E of Part 1A of Schedule 7 to EUWA as inserted by paragraph 52 of Schedule 6 to the WAB.</p>
<p>Clause 22 Powers corresponding to section 21 involving devolved authorities</p> <p>Inserts new Part 1C into Schedule 2 to EUWA</p>	<p>The Welsh Ministers may by regulations make such provision as they consider appropriate to implement the Protocol on Ireland/Northern Ireland in the withdrawal agreement.</p> <p>The Welsh Ministers may act alone if provision is within devolved competence, or may act jointly with a Minister of the Crown.</p>	<p>Where the Welsh Ministers acting alone make regulations which contain the following:</p> <p>(a) amends, repeals or revokes primary legislation or retained direct principal EU legislation,</p> <p>(b) establishes a public authority,</p> <p>(c) relates to a fee in</p>

<p>Paragraph 11M power in connection with Protocol on Ireland/Northern Ireland</p>		<p>respect of a function exercisable by a public authority in the United Kingdom, (d) creates, or widens the scope of, a criminal offence, (e) creates or amends a power to legislate Are subject to the affirmative procedure or (f) facilitates the access to the market within Great Britain of qualifying Northern Ireland goods.</p> <p>Any other statutory instrument containing regulations under Part 1C of Schedule 2 of the Welsh Ministers acting alone is subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 8F and 8G of Part 1A of Schedule 7 to EUWA as inserted by paragraph 52 of Schedule 6 to the WAB.</p>
<p>Paragraph 1(4) of Schedule 6 Consequential and transitional provision etc.</p>	<p>Paragraph 1 of Schedule 6 to the WAB provides for a mass deferral of the coming into force of EU Exit SIs from exit day until the end of the implementation period. This mass deferral captures SIs made under specified provisions of EUWA, or “any relevant</p>	<p>Where regulations are made by the Welsh Ministers acting alone before exit day, no procedure applies.</p> <p>Where regulations are made by the Welsh</p>

	<p>enactment” and which come into force with reference to exit day.</p> <p>Paragraph 1(4) provides the Welsh Ministers may by regulations specify an enactment as a ‘relevant enactment’. This will have the effect that any EU exit SIs that have been made under powers other than EUWA will be caught by the deferral and will come into force with reference to the end of the implementation period.</p>	<p>Ministers acting alone on or after exit day, they are subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 10 and 11 of Schedule 5 to the WAB.</p>
<p>Paragraph 1(3) of Schedule 6 Consequential and transitional provision etc.</p>	<p>Paragraph 1 of Schedule 6 to the WAB provides for a mass deferral of the coming into force of EU Exit SIs from exit day until the end of the implementation period. This mass deferral captures SIs made under specified provisions of EUWA, or “any relevant enactment” and which come into force with reference to exit day.</p> <p>Paragraph 1(3) of Schedule 6 provides the Welsh Ministers may specify an enactment as a relevant enactment.</p>	<p>Where regulations are made by the Welsh Ministers acting alone before exit day, no procedure applies.</p> <p>Where regulations are made by the Welsh Ministers acting alone on or after exit day, they are subject to the negative procedure.</p> <p>The same principle applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 9 and 10 of Schedule 5 to the WAB.</p>
<p>Paragraph 1(5) of Schedule 6 Consequential and transitional provision etc.</p>	<p>Paragraph 1 of Schedule 6 to the WAB provides for a mass deferral of the coming into force of EU Exit SIs from exit day until the end of the implementation period. This mass deferral captures SIs made under specified provisions of EUWA, or “any relevant enactment” and which come into force with reference to exit day.</p> <p>Paragraph 1(5) provides the Welsh Ministers may by regulations provide for subsection</p>	<p>Where regulations are made by the Welsh Ministers acting alone before exit day, no procedure applies.</p> <p>Where regulations are made by the Welsh Ministers acting alone on or after exit day, they are subject to the negative procedure.</p> <p>The same principle</p>

	<p>(1) not to apply to any extent in particular cases or descriptions of case, or make different provision in particular cases or descriptions of case to that made by sub-paragraph (1). For example, these regulations may be used to exempt EU exit SIs from being caught by the mass deferral, and therefore they would still come into force with reference to exit day.</p>	<p>applies to regulations made acting jointly with the Minister of the Crown.</p> <p>See paragraphs 9 and 10 of Schedule 5 to the WAB.</p>
<p>Paragraph 4(2) of Schedule 6 devolved preparatory legislation of a kind mentioned in paragraph 41(3) to (5) of Schedule 8 to EUWA</p>	<p>Paragraph 4(1) of Schedule 6 provides that any provision of primary legislation which is made before exit day by virtue of sub-paragraphs (3) to (5) of paragraph 41 of Schedule 8 to EUWA and that is due to come into force by reference to exit day, shall be read as if it comes into force at the end of the implementation period.</p> <p>Paragraph 4(2) provides that the Welsh Ministers may by regulations</p> <ul style="list-style-type: none"> (a) provide for sub-paragraph (1) not to apply to any extent in particular cases or descriptions of case; (b) make different provision in particular cases or descriptions of case to that made by sub-paragraph (1) , or (c) make such provision as the Welsh Ministers consider appropriate in consequence of sub-paragraph (1) (including provision restating the effect of that sub-paragraph). 	<p>A statutory instrument containing regulations made by the Welsh Ministers under paragraph 4(2) of Schedule 6 on or after exit day is subject to the negative procedure.</p> <p>Where regulations are made before exit day, they are subject to no procedure.</p> <p>See paragraph 11 of Schedule 5 to the WAB.</p>