

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 Thursday 19 December and passed Second Reading on the following day. The Bill can be found at: <https://publications.parliament.uk/pa/bills/cbill/58-01/0001/20001.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 for the UK’s future relationship with the EU.

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 in the UK 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 the European

Union (Withdrawal) Act 2018 ('EUWA') and ancillary fee charging power), clause 29 (review of EU legislation during implementation period) and clause 36 (repeal of unnecessary or spent enactments).

- Part 5 – clauses 38-42, Schedules 4 and 5 (general and final provisions).

Provisions in the Bill for which consent is required

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

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 save the European Communities Act 1972 (ECA) for the purpose of the implementation period during which the majority of EU law will continue to apply. They also provide for interpretative glosses to apply to EU derived domestic legislation, as defined by the new section 1B. They also provide 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 clauses 1 and 2 would require the Assembly's consent as they modify the legislative competence of the Assembly.
9. These clauses will become protected enactments (see paragraph 31 of Schedule 5 to the Bill). Any additional protected enactments will consequently change the restrictions on the Assembly's legislative competence by virtue of expanding the scope of the protected enactments. 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 from 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 within the European 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, co-ordination 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 been conferred on the devolved authorities to make provision within areas of devolved competence².

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

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

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.
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.

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

Northern Ireland

³ As defined in the clause.

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 Devolved Administrations 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 and makes other provision about the interpretation of retained EU law including defining 'relevant separation agreement law'. It also allows for a Minister of the Crown, acting after consultation, to provide regulations on how UK courts can interpret retained EU law, including providing for the circumstances under which relevant courts or tribunals are not bound by retained EU case law. The regulations may also set the test that is to be applied in deciding whether to depart from such retained EU case law. The regulations may, however, provide that the test may be determined by a given list of members of the judiciary.
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.

Clause 36 – Repeal of unnecessary or spent enactments

41. This clause repeals certain unnecessary or spent enactments. The provisions of EUWA that are being repealed are protected enactments. Where the subject matter of the provision being repealed is within the competence of the Assembly, the repeal of the provision will modify the competence of the Assembly by virtue of the provision no longer being a protected enactment and therefore increasing the competence of the Assembly.

42. The consent of the Assembly would be required on the basis that this provision modifies the assembly's legislative competence by reducing the scope of protected enactments.

Part 5 – General and Final Provision

Clause 39 – Interpretation

43. These clauses make provision about the interpretation of 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 40 and Schedule 4 – Regulations

45. Clause 40 and Schedule 4 make provision about the regulation-making powers in the Bill.

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

Clause 41 and Schedule 5 - Consequential Provisions

47. Clause 41 makes provision in respect of consequential amendments and introduces Schedule 5, which makes consequential provisions. Paragraph 1 of Schedule 5 makes provision that 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 exempt SIs which do not require deferral and need to come into force on exit day. An appropriate authority includes the Welsh Ministers.

48. 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 Bill

49. 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 such legislation is best made by Parliament, for the UK as a whole, as this offers the greatest degree of clarity and certainty for citizens and businesses.

50. In terms of substance, we welcome the fact that the Bill would provide the much needed implementation (or transition) period and agree with the approach taken in the 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.

51. In the Legislative Consent Memorandum we published for the Bill as it was introduced in October we said that we could not endorse the overall withdrawal 'deal' as advocated by the UK Government because the associated Political Declaration provided little assurance that the future relationship with the EU would be the very close partnership set out in our White Paper *Securing Wales Future*, a position that had been repeatedly endorsed by the National Assembly. We were also dissatisfied that the Withdrawal Agreement did not end the possibility of a no-deal exit at the end of the implementation period, and did not provide the protections we seek for workers' rights. These concerns with the deal remain.

52. The Welsh Government has a number of further concerns regarding the Bill as now introduced. Firstly, the removal, from the October version of the Bill, of the clause giving Parliament a role in the oversight of the negotiations on the future relationship with the EU is a step in the wrong

direction and should be re-inserted and, moreover, strengthened with a role for the devolved institutions as this is essential for us to be able to protect devolved competence.

53. Secondly, in another unwelcome change to the October version of the Bill, the prohibition on seeking an extension to the transition period further raises the possibility, at the end of the transition period, of either no deal for the future trade relationship with the EU or a rushed and therefore inadequate deal, with all the damage that this would do to Wales.
54. Thirdly, the regulation-making powers for the implementation of the Ireland/Northern Ireland Protocol have no restrictions placed upon them, meaning that the powers of the Secretary of State could be used to amend the Government of Wales Act 2006 (GoWA) and therefore modify the legislative competence of the Assembly without the Assembly's consent. If any changes were to be needed to modify the legislative competence of the Assembly, there is an established mechanism to modify Schedules 7A and 7B of GoWA provided for under section 109, which, importantly, requires the Assembly's consent.
55. Fourthly, clause 38, asserting Parliamentary sovereignty, should also contain references to the Acts of Parliament establishing the devolution settlements and to the UK Parliament not normally legislating with regard to devolved matters without the consent of the Devolved Legislatures.
56. We also have concerns about two of the more technical developments in the Bill as introduced in December. The new clause 26 on the interpretation of retained EU law and relevant separation agreement law should include the Welsh Ministers as statutory consultees for regulations to be made by UK Government Ministers providing for which courts or tribunals are not to be bound by any retained EU case law.
57. Finally, the Bill now enables the transfer of the functions of the Independent Monitoring Authority (IMA) for citizens' rights to other public bodies. We had secured, through negotiations with the UK Government, improvements in early drafts of the Bill to provide a means for the Welsh Ministers to protect Welsh interests with a role in the appointment of the non-executive member of the IMA with knowledge of conditions in Wales relating to the relevant matters. However, it will not be a requirement that this safeguard will be extended to the arrangements for any other public bodies taking on the functions of the IMA.

Financial implications

58. 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 the withdrawal of the UK from the EU, both in its overall economic effect and in areas of funding currently derived from the EU, as set out in *Securing Wales' Future*.

Conclusion

59. 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. But, for the reasons set out above, the Welsh Government cannot recommend that the National Assembly gives its consent to this Bill.

Mark Drakeford AM
First Minister
3 January 2020

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 51 of Schedule 5 to the Bill.</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 qualifications).</p>	<p>Where the Welsh Ministers make regulations acting alone which amend, repeal or revoke—</p> <p>(a) primary legislation, or</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 Bill.</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 4 to the Bill.</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 Bill.</p>	<p>Where the Welsh Ministers, acting alone, make regulations 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 a Minister of the Crown.</p>

		See paragraphs 3 and 4 of Schedule 4 to the Bill.
Clause 12(3) Recognition of professional qualifications (Swiss citizens' rights agreement)	<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 Bill.</p>	<p>Where the Welsh Ministers, acting alone, make regulations 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 a Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 5 to the Bill.</p>
Clause 13(1) Co-ordination of social security systems	<p>The Welsh Ministers may by regulations make provision as they consider appropriate to implement Title III of Part 2 of the Withdrawal Agreement (co-ordination 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</p>	<p>Where the Welsh Ministers, acting alone, make regulations 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</p>

	<p>regulations under Part 3 of the Bill.</p>	<p>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 a Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 4 to the Bill.</p>
<p>Clause 13(2) Co-ordination 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 (co-ordination 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 Bill.</p>	<p>Where the Welsh Ministers, acting alone, make regulations 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 a Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 4 to the Bill.</p>
<p>Clause 13(3) Co-ordination of social security systems (Swiss citizens' rights agreement)</p>	<p>The Welsh Ministers may by regulations make provision as they consider appropriate to implement social security co-ordination provisions of the Swiss citizens' rights agreement.</p>	<p>Where the Welsh Ministers, acting alone, make regulations acting alone which amend, repeal or revoke—</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 Bill.</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 a Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 4 to the Bill.</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, acting alone, make regulations which amend, repeal or revoke—</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 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 a Minister of the</p>

	See also clause 16 for supplementary provision about regulations under Part 3 of the Bill.	Crown. See paragraphs 3 and 4 of Schedule 4 to the Bill.
Clause 14(2) Non-discrimination, equal treatment and rights of workers etc. (EEA EFTA separation agreement)	<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 Bill.</p>	<p>Where the Welsh Ministers, acting alone, make regulations 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 a Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 4 to the Bill.</p>
Clause 14(3) Non-discrimination, equal treatment and rights of workers etc. (Swiss citizens' rights agreement)	<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 or self-employed persons etc.);</p> <p>(d) Article 20(1) (rights of frontier</p>	<p>Where the Welsh Ministers, acting alone, make regulations 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</p>

	<p>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 Bill.</p>	<p>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 a Minister of the Crown.</p> <p>See paragraphs 3 and 4 of Schedule 4 to the Bill.</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, acting alone, make regulations 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 a Minister of the Crown.</p> <p>See paragraphs 8D and 8E of Part 1A of Schedule 7 to EUWA as inserted by paragraph 51 of Schedule 5 to the Bill.</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(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, acting alone, make regulations 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 a Minister of the Crown.</p> <p>See paragraphs 8D and 8E of Part 1A of Schedule 7 to EUWA as inserted by paragraph 51 of Schedule 5 to the Bill.</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>Paragraph 11M power in connection with</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) amend, repeal or revoke primary legislation or retained direct principal EU legislation,</p> <p>(b) establish a public authority,</p> <p>(c) relate to a fee in respect of a function exercisable by a public authority in the</p>

<p>Protocol on Ireland/Northern Ireland</p>		<p>United Kingdom, (d) create, or widen the scope of, a criminal offence, (e) creates or amends a power to legislate or (f) facilitate access to the market within Great Britain of qualifying Northern Ireland goods; are subject to the affirmative procedure</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 a Minister of the Crown.</p> <p>See paragraphs 8F and 8G of Part 1A of Schedule 7 to EUWA as inserted by paragraph 51 of Schedule 5 to the Bill.</p>
<p>Paragraph 1(3) of Schedule 5 Consequential and transitional provision etc.</p>	<p>Paragraph 1 of Schedule 5 to the Bill 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 which come into force with reference to exit day.</p> <p>Paragraph 1(3) of Schedule 6 provides the Welsh Ministers may by regulations provide for the</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>deferral in sub-paragraph (1) not to apply to any extent in particular cases or descriptions of case, or make different provision in particular cases or description of case.</p>	<p>The same principle applies to regulations made acting jointly with a Minister of the Crown.</p> <p>See paragraphs 8 and 9 of Schedule 4 to the Bill.</p>
<p>Paragraph 3(2) of Schedule 5 devolved preparatory legislation of a kind mentioned in paragraph 41(3) to (5) of Schedule 8 to EUWA</p>	<p>Paragraph 3(1) of Schedule 5 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 3(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 under paragraph 3(2) of Schedule 5, made by the Welsh Ministers 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 10 of Schedule 4 to the Bill.</p>