

Interpretation of Legislation Post-Brexit

Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019

Most relevant to

- Anyone who has to interpret Irish legislation post-Brexit



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One of the shortest and most technical parts of the legislation relates to interpretation of Irish legislation post-Brexit.

Despite its brevity, this part could have an impact across many businesses - particularly regulated businesses and those involved in international trade.

What does the Act say?

Part 15 will apply if the UK enters a 'transition' period under a withdrawal agreement. This 'transition' period is known by the UK Government as the "implementation" phase.

The Act relates to existing legislation. Where, immediately before the coming into operation of Part 15, a reference in an enactment to a Member State included a reference to the UK by virtue of that state being a Member State of the European Communities or of the EU, then, on the coming into operation of Part 15, the reference in the enactment shall, in so far as is necessary to give effect to the terms of a withdrawal agreement, continue to include a reference to the UK. This applies whenever the enactment came into operation.

The Act also relates to future legislation. A reference to a Member State in an enactment that comes into operation at the same time as, or at any time after, the coming into

operation of this Part shall, in so far as is necessary to give effect to the terms of a withdrawal agreement, include a reference to the UK.

A 'withdrawal agreement' means an agreement concluded under Article 50 of the Treaty on European Union between the UK on the one part and the EU on the other part setting out the arrangements for the withdrawal of the UK from membership of the EU.

In essence, Part 15 will enable legislation to be enacted as if the UK were still a Member State but where it is 'necessary' to give effect to the terms of the withdrawal agreement. One could anticipate some issues over whether or not it is 'necessary' (and not just desirable) to give effect to the terms of the withdrawal agreement.