



**An Bille um Tharraingt Siar na Ríochta Aontaithe as an
Aontas Eorpach (Forálacha Iarmhartacha), 2019
Withdrawal of the United Kingdom from the
European Union (Consequential Provisions) Bill 2019**

*Meabhrán Mínitheach
Explanatory Memorandum*



**AN BILLE UM THARRAINGT SIAR NA RÍOCHTA AONTAITHE
AS AN AONTAS EORPACH (FORÁLACHA IARMHARTACHA),
2019**

**WITHDRAWAL OF THE UNITED KINGDOM FROM
THE EUROPEAN UNION (CONSEQUENTIAL PROVISIONS)
BILL 2019**

EXPLANATORY MEMORANDUM

Introduction

While the Government remains focused on securing an orderly and agreed Brexit through the ratification of the Withdrawal Agreement between the European Union (EU) and the United Kingdom (UK), the Government's Contingency Action Plan, published on 19 December 2018, recognised that a no deal Brexit would pose unprecedented challenges for the UK, as well as for the EU, including Ireland. It would be impossible in a no deal scenario to maintain the current seamless arrangements between the EU and UK across a full range of sectors, which is currently facilitated by our common EU membership.

As part of the Government's no deal preparations, the Tánaiste and Minister for Foreign Affairs and Trade has received Government approval for the publication of the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019.

This single omnibus Bill is made up of 15 Parts relating to matters within the remits of 9 Ministers. It is focused on measures protecting our citizens and supporting the economy, enterprise and jobs, particularly in key economic sectors. Each Part will be commenced by the individual Minister at the appropriate time.

The Bill is intended to be consistent with, and complementary to the steps currently underway at EU level to prepare for the UK's withdrawal, notably as regards the implementation of the European Commission's Contingency Action Plan and the associated legislative measures.

A no deal Brexit means that the UK would no longer be part of the framework of EU law, becoming a 'third country', and outside the Single Market and Customs Union. A number of proposed measures are focused on the need to address this change in the UK's status.

Protecting the Good Friday Agreement in all its parts, supporting North-South cooperation and the all island economy, are key underpinnings to the Government's approach in a number of provisions of this Bill. In regard to North-South cooperation arrangements, this cooperation brings tangible benefits to the daily lives of people in the border region on the island of Ireland, and contributes to economic opportunity and development. It is also a very practical outworking of the peace process and of the Good

Friday Agreement, which allows for the normalisation of relationships between people across the island, to mutual benefit.

In addition, a key part of Ireland's planning and preparations is protecting and maintaining the Common Travel Area (CTA) and the associated rights and privileges. Both the Irish and British Governments are committed to maintaining the CTA in all circumstances, and have committed to undertaking all the work necessary, including through legislative provision, to ensure that the CTA rights and privileges are protected.

The Bill prioritises those issues that need to be addressed urgently and immediately through primary legislation at national level. Many other issues continue to be addressed at a national level, through secondary legislation, policy and economic responses, on an administrative basis and through targeted Brexit related resources, as well as at EU level. In respect of certain legislative measures being dealt with at EU level, negotiations are ongoing.

In recognition of the importance, breadth and scope of the Bill, the Government will work closely with all members of the Oireachtas to ensure the Bill will pass through the Houses of the Oireachtas in a timely fashion and be ready for commencement by 29 March 2019. The draft General Scheme of the Bill was published on 24 January 2019 and all nine Government Ministers have appeared, or will shortly appear, before the relevant Houses of the Oireachtas Committees to outline and discuss the contents of the Bill. The Tánaiste also briefed the Working Group of Committee Chairmen on the Bill on 13 February 2019 and a meeting of the Foreign Affairs and Trade Committee, attended by members of the European Affairs Committee, on 14 February 2019.

Part 1 – Preliminary and General

Section 1 provides in standard form for the short title and collective citation and construction of the Bill.

Section 2 provides for the Minister for Foreign Affairs and Trade to commence the Bill and for other Ministers to commence their Part or Parts of the Bill, as appropriate.

Section 3 is a standard provision that provides the authority for any expenses incurred by the Minister in the administration of the Act to be met out of funds provided by the Oireachtas.

Part 2 – Arrangements in relation to Health Services

Section 4, in order to support the maintenance of existing Common Travel Area arrangements gives the Minister for Health the power to make an Order, or Orders, and Regulations under the Bill to enable necessary healthcare arrangements to be maintained between Ireland and the UK. This includes continuing existing arrangements in relation to health services which are currently in operation between the State and the UK, for example, access to health services in the UK for persons in the State, access to health services in the State by persons from the UK, and reimbursement arrangements. Such an Order may specify the category of persons to whom the Order applies and the category of health services to which it applies.

Part 3 – Amendment to Industrial Development Act 1986 to 2014

Section 5 defines terms.

Section 6 aims to give Enterprise Ireland the powers to offer enhanced support to companies involved in research and development. Allowing Enterprise Ireland the flexibility to offer enhanced RD&I supports will

allow the development of new or substantially improved products, services or processes, and will allow businesses to grow and increase employment by remaining competitive.

Section 7 aims to permit Enterprise Ireland to lend, participate in certain types of follow-on investments and ensure they apply for Government approval for individual investment amounts or loans in excess of €7.5 million. Providing Enterprise Ireland with the powers to facilitate additional lending/investment instruments in certain circumstances, increases the flexibility to support enterprise development and to manage its investments on a par with private sector investors. Such additional powers will help to preserve the value of the State's investments in these businesses and will assist companies through restructuring or re-development programmes.

Part 4 – Amendment of Electricity Regulation Act 1999

Section 8 will allow the Commission for the Regulation of Utilities to amend the licences of electricity market participants for a period of one year, as described in section 14 of the Electricity Regulation Act 1999, without recourse to the normal modification and appeal process of the Electricity Regulation Act 1999 for the purpose of modifying licences in an expeditious manner, to facilitate the continuing operation of the Single Electricity Market.

Part 5 – Amendment of Student Support Act 2011

Section 9 defines the “*Principal Act*” i.e. the Student Support Act 2011.

Section 10 defines what a “*relevant specified jurisdiction*” means.

Section 11 defines what an approved institution is for the purposes of the scheme. Publicly funded higher education institutions in all extant Member States are recognised. The amendment allows for the recognition of institutions in a prescribed third country such as the UK after their departure from the EU.

Section 12 defines what an approved course is for the purposes of the scheme. The Principal Act allows the Minister to prescribe a course in accordance with certain policies and principles set out in the Act. With regard to the recognition of qualifications awarded following the successful completion of an approved course, these are limited to recognition within the State or another Member State. An amendment is included to cover arrangements, systems and procedures in a prescribed third country such as the UK after their departure from the European Union.

Section 13 defines what an approved student is for the purposes of the scheme. The amendment provides for the Minister to prescribe students in a third country such as the UK after their departure from the European Union.

Section 14 defines the policies and principles that the Minister shall have regard to when prescribing a class of person as an approved class for student grant purposes.

Part 6: Taxation

Chapter 1 - Definitions

Section 15 is a standard legislative provision to provide for the inclusion of additional definitions.

Chapter 2 – Income Tax

The purpose of this chapter is to amend various sections of the Taxes Consolidation Act (TCA) 1997, to seek to ensure that income tax measures continue to apply to existing beneficiaries in the event that the UK is no longer an EU Member State or EEA State. This includes changes to measures dealing with: income tax exemption for interest payable on savings certificates or similar securities issued by the UK Government; abatement from income tax on restricted shares; the Key Employee Engagement Programme; taxation treatment of Hepatitis C compensation payments; Foster Care; exemption of certain earnings of writers, composers and artists; tax exemptions for charities; mortgage interest relief; relief for insurance against expenses of illness; Seafarer Allowance; Fishers Tax Credit; relief for fees paid for third level undergraduate education; sportspersons' relief; relief for investments in corporate trades; pension-related income tax reliefs; and, anti-avoidance provisions. The sections extend relevant legislative definitions to include the UK in order to allow for the continuation of existing arrangements in the immediate future for beneficiaries of the measures.

Section 16 amends section 42 of the Taxes Consolidation Act 1997. That section provides an exemption from income tax for interest payable on savings certificates issued by the Minister for Finance, or savings certificates or similar securities issued by the government of an EU or EEA Member State. The amendment allows retention of the exemption for savings certificates or other similar securities issued by the government of the UK.

Section 17 amends section 128D of the Taxes Consolidation Act 1997 which provides for an abatement from the charge to income tax if certain shares are held in trust for a period of more than 5 years. This measure currently has restrictions related to entities established in EEA states and it is proposed to extend the relevant definitions to ensure that entities established in the UK remain included.

Section 18 amends section 128F of the Taxes Consolidation Act 1997 which provides for the Key Employee Engagement Programme. This measure currently has restrictions related to entities established in EEA states and it is proposed to extend the relevant definitions to ensure that entities established in the UK remain included.

Section 19 amends section 191 of the Taxes Consolidation Act 1997 to extend the relevant definitions to ensure that recurring compensation payments from Hepatitis C/HIV public compensation schemes in the UK remain exempt from Irish income tax.

Section 20 amends section 192B of the Taxes Consolidation Act 1997 to extend the relevant definitions to ensure that payments made by UK authorities in respect of the fostering of children remain exempt from Irish income tax.

Section 21 amends section 195 of the Taxes Consolidation Act 1997 which provides for the exemption of certain earnings of writers, composers and artists from income tax. This measure is currently restricted to certain residents of EEA states and it is proposed to extend the relevant definitions to ensure that UK residents remain included.

Sections 22 and 23 amend sections 208A and 208B of the Taxes Consolidation Act 1997 to ensure that certain tax exemptions continue to apply to charities and donations established in the UK.

Sections 24 and 25 amend sections 244 and 244A of the Taxes Consolidation Act 1997 to ensure that certain properties situated in the UK remain eligible for mortgage interest relief.

Section 26 amends sections 470 of the Taxes Consolidation Act 1997 to ensure that income tax relief remains available for certain health insurance policies granted by insurers established in the UK.

Section 27 amends section 472B of the Taxes Consolidation Act 1997 to ensure that the Seafarer Allowance remains available for work undertaken on certain sea-going ships that are registered on UK registers.

Section 28 amends section 472BA of the Taxes Consolidation Act 1997 to ensure that the Fisher Tax Credit remains available for work undertaken on certain fishing vessels that are registered on UK registers.

Section 29 amends section 473A of the Taxes Consolidation Act 1997 to ensure that tax relief for fees paid for third level undergraduate education continues to apply in respect of UK-based institutions.

Section 30 amends section 480A of the Taxes Consolidation Act 1997 to ensure that sportspersons relief may continue to UK residents.

Sections 31 and 32 amend section 489 and 490 of the Taxes Consolidation Act 1997 which provides relief for investments in corporate trades. This measure currently has restrictions related to entities established in EEA states and it is proposed to extend the relevant definitions to ensure that entities established in the UK remain included.

Sections 33 to 40 amend sections 770, 772, 772A, 784, 784A, 785, 787M, and 790B of the Taxes Consolidation Act 1997 to ensure that Irish taxpayers may continue to avail of the various pension-related income tax reliefs. The amendments also ensure that UK occupational pension schemes and other retirement plans may continue to operate in the State and avail of the appropriate tax reliefs.

Sections 33 and 34 provide that UK occupational pension schemes may continue to obtain “exempt approved” status under the Taxes Consolidation Act 1997. This is required for the purposes of tax relief on contributions to schemes and the exemption of scheme income.

Sections 35, 36 and 38 provide that UK annuity providers may continue to obtain tax approval under the Taxes Consolidation Act 1997 for their retirement products. Policyholders can avail of tax relief for premiums paid in respect of approved policies.

Section 37 provides that UK entities can continue to act as qualifying fund managers for the purposes of the Approved Retirement Fund regime.

Section 39 provides that UK employees or self-employed individuals who come, or return, to Ireland may continue to obtain tax relief for contributions to pension plans with UK pension or EU (excluding Ireland) providers.

Section 40 provides that an Irish pension scheme may accept contributions from a UK undertaking and obtain tax exemptions in respect of scheme income.

Section 41 amends section 806(11)(a) of the Taxes Consolidation Act 1997 to include reference to the United Kingdom to maintain the existing position for anti-avoidance provisions relating to income tax in section 806 and specific capital gains tax anti-avoidance provisions in sections 579, 579A and 590 of the Act.

Chapter 3 – Corporation Tax

Section 42 concerns charges on income for corporation tax purposes and will amend Taxes Consolidation Act 1997 Section 243(4) to include banks, stock exchanges and discount houses in the UK. If the UK leaves the EU without a deal, a company would not be able to avail of relief from corporation tax under section 243 in respect of non-yearly interest paid to recognised banks, stock exchange members or discount houses carrying on business in the UK. It is proposed to extend the references to include the UK to allow for the continuation of existing arrangements in the immediate future.

Section 43 concerns group loss relief provisions and will amend Taxes Consolidation Act 1997 Sections 410 and 411 to include the UK within the definition of ‘relevant Member State’ where used.

Section 44 concerns loans to participators and will amend Taxes Consolidation Act 1997 Section 438 to include the UK within the definition of Member State of the European Communities. This will allow for the continuation of existing arrangements in the short term and allow time to examine any potential impact on bona-fide business transactions.

Section 45 concerns relief from tax for certain start-up companies and will amend Taxes Consolidation Act 1997 Section 486C to extend the provisions applying to EEA States to include the UK.

Section 46 concerns relief from Capital Gains Tax (CGT) on a transfer of assets under a scheme of reconstruction or amalgamation of companies. It will amend Taxes Consolidation Act 1997 Section 615 to extend the provisions currently applying to a relevant member state to include the UK.

Section 47 concerns tax credit for R&D expenditure and will amend Taxes Consolidation Act 1997 Section 766 to include the UK within the definition of relevant Member State. This will allow for the continuation of existing arrangements in the immediate future, pending further research on the potential consequences for established R&D activities in the State.

Chapter 4 – Capital Gains Tax

Section 48 amends section 541C of the Taxes Consolidation Act 1997. That section provides relief from capital gains tax for fund managers in respect of investments of a venture capital fund. The section is amended so that investments made in the UK can be taken into account in the calculation of the amount of the relief.

Section 49 amends section 604A of the Taxes Consolidation Act 1997. That section gives relief from capital gains tax in respect of property purchased in any State in the EEA between 7 December, 2011 and 31 December, 2014 on a disposal of such property where that property is held for a minimum period of time. The current position, whereby the relief applies to the UK, is being maintained.

Chapter 5 – Value-Added Tax

Section 50 amends Section 53 of the VAT Consolidation Act 2010. This is a referential amendment consequent to the introduction of postponed accounting in Section 51.

Section 51 introduces a new Section 53A of the VAT Consolidation Act. This change introduces postponed accounting for VAT for all importers registered for VAT in Ireland. It also introduces a modification of the postponed accounting scheme at a later date, to be agreed, which will make authorisation for the scheme subject to criteria and conditions.

Section 52 amends Section 56 of the VAT Consolidation Act. This concerns Section 56 VAT Authorisations, which entitles authorised taxable

persons to receive qualifying goods and services at the zero rate of VAT. This amendment makes participation in the scheme subject to a number of conditions, including compliance with customs legislation and tax rules. The amendment also gives the Revenue Commissioners the power to cancel an authorisation where there are reasonable grounds to do so, and to provide for a penalty for failure to adhere to conditions of the scheme.

Section 53 amends Section 120 of the VAT Consolidation Act to provide regulation making powers with regard to postponed accounting (Section 51) and Section 56 VAT Authorisations (Section 52).

Chapter 6 – Stamp Duties

Section 54 amends section 75 of the Stamp Duties Consolidation Act 1999 which provides a relief from stamp duty for brokers purchasing stocks or marketable securities of Irish incorporated companies on behalf of clients. Without this relief such transactions would be subject to a 1% stamp duty. If this section is not amended, this relief would not apply for purchases made by UK-based intermediaries on behalf of their clients.

Section 55 amends section 75A of the Stamp Duties Consolidation Act 1999 which provides counterparty relief for share transfers. This is a stamp duty exemption for each transferee so long as that transferee transfers title to the securities concerned to another person under a matching contract. Without amendment, all purchases in a chain of transactions by UK-based counterparties would be subject to the 1% stamp duty.

Section 56 amends section 80 of the Stamp Duties Consolidation Act 1999 which concerns the reconstructions or amalgamations of companies to include UK-based companies where they merge with or acquire Irish-based companies.

Section 57 amends section 80A of the Stamp Duties Consolidation Act 1999 which concerns the demutualisation of assurance companies to allow that instruments (shares, stock etc.) issued by acquiring companies incorporated in the UK are covered by the stamp duty exemption currently available under such circumstances.

Section 58 amends section 124B of the Stamp Duties Consolidation Act 1999 which concerns certain premiums of life assurance so that UK-based assurers will be liable to the current 1% levy on life assurance premiums on their Irish business.

Section 59 amends section 125 of the Stamp Duties Consolidation Act 1999 which concerns certain premiums of non-life insurance so that UK-based insurers will be liable to the current 3% levy on certain non-life insurance premiums on their Irish business

Chapter 7 Capital Acquisitions Tax

Section 60 amends section 89 of the Capital Acquisitions Tax Consolidation Act, 2003 which provides for a reduction in the inheritance tax or gift tax to be paid in respect of agricultural property. The existing arrangements are being retained to enable the relief to continue to apply to agricultural property situated in the United Kingdom and so that such property is to be taken into account in calculating the value of agricultural property owned by a farmer for the purposes of establishing entitlement to this relief.

Part 7: Financial Services: Settlement Finality

The purpose of this Part is to complement and support the European Commission's decision of 19 December 2018, as part of its Contingency Action Plan, to grant temporary equivalence in European legislation to Central Securities Depositories (CSDs) and Central Counterparties (CCPs) based in the UK. This Part introduces a temporary designation for UK systems to avoid a cliff edge scenario (Section 62) and a mechanism to grant conditional ongoing designation to UK systems (Section 63) implementing Recital 7 of the Settlement Finality Directive (98/26EC).

Section 61 is a standard legislative provision to provide for the inclusion of additional definitions.

Section 62 provides for the temporary designation of settlement systems already designated by the Bank of England under their domestic Settlement Finality legislation. Within three months of a UK withdrawal from the EU, the operator of a relevant arrangement must notify the Minister and Central Bank of Ireland of its intention to avail of temporary designation up to a maximum period of nine months after that date. This will allow the protection of the Settlement Finality Regulations (SI 624/2010) to be extended to Irish participants of UK systems for the time period specified or until they have acquired designation under Section 63.

Section 63 provides for the Minister of Finance to designate a UK-based system ("relevant arrangement") for the purposes of the Settlement Finality Regulations (SI 624/2010). This will extend the protections of the regulations to Irish firms in the UK. The legislation protects payments and transfers of securities made by Irish participants by ensuring that trades entered into a system fully settle even if one of the participants attempts to revoke the trade or becomes insolvent. This will be required for Irish firms to continue using systems in the UK when it becomes a third country. The Central Bank of Ireland is required to carry out a technical equivalence assessment of the UK national laws governing the system for its equivalence with relevant Irish laws and an assessment of the rules of the system itself to ensure its compliance with the conditions set out in Regulation 7 of the Irish Settlement Finality Regulations (SI 624/2010).

Section 64 provides for the necessary amendment of certain definitions in the existing Irish Settlement Finality Regulations (SI 624/2010) when those regulations are applied to a system designated under *Section 62* or *63*.

Part 8: Financial Services: Amendment to the European Union (Insurance and Reinsurance) Regulations 2015 and the European Union (Insurance Distribution) Regulations 2018

Section 65 is a standard legislative provision to provide for the inclusion of additional definitions.

Section 66 adds a new regulation to the European Union (Insurance and Reinsurance) Regulations 2015 that will establish a temporary domestic run-off regime for certain insurance undertakings for three years. In that respect, it provides that insurance undertakings which meet certain conditions shall be deemed to be authorised for three years following the withdrawal of the UK for the purposes of running off their existing portfolio.

Section 67 adds a new regulation to the European Union (Insurance Distribution) Regulations 2018 that will establish a temporary domestic run-off regime for certain insurance intermediaries for three years. In that respect, it provides that intermediaries which meet certain conditions shall be deemed to be authorised for three years following the withdrawal of the UK for the purposes of running off their existing portfolio.

Part 9 – Amendment of Harbours Act 1996

Section 68 provides a definition for the purposes of this Part.

Section 69 will provide for an extension of the period of validity of Pilot Exemption Certificates issued by Harbour companies from the existing maximum one year period to a maximum of three years. It will also provide that existing holders of Pilot Exemption Certificates may apply for new certificates in the period leading up to 29 March, notwithstanding the fact that their existing Pilot Exemption Certificates may not have expired.

Section 70 will provide for an amendment of the Pilotage Bye-Laws powers of harbour companies to enable the relevant harbour company to require the holder of a Pilotage exemption certificate of more than one year's duration to undergo a periodic review to ensure that they continue to have the skills, experience, and local knowledge of the relevant harbour pilotage district to enable the holder to pilot the ship within that pilotage district.

Part 10 – Third Country Bus Services

Section 71 provides a definition for the purposes of this Part.

Section 72 gives a new power to the Minister to make regulations under the Road Transport Act 1978 with new provisions related to bus operator licensing documentation issued in a third country, should this be necessary.

Section 73 is a standard provision to provide for additional definitions and to update existing definitions and terminology in the Dublin Transport Authority Act 2008. An additional function for the regulation of third country bus services will now also be given to the National Transport Authority under that Act.

Section 74 is a standard provision to amend the definition of international service in the Public Transport Regulation Act 2009.

Section 75 provides for the insertion of a new Part 2A of the Public Transport Regulation Act 2009. The new provisions will allow for the licensing by the National Transport Authority of third country bus services, and provide for offences where an operator provides services which do not comply with those provisions. Administrative arrangements are set out for different categories of bus services, including regular scheduled services, special regular services (e.g. school bus services which occur regularly Monday to Friday), occasional services (e.g. sports club buses used for their members only) and closed-door tours (tour buses). The licences will be known as third country authorisations or as third country journey forms. In the context of a bilateral arrangement with a third country, the section also provides for the Minister to make an order in relation to third country bus services. These provisions were developed as a precautionary measure and may not need to be activated, depending on alternative measures which may be agreed at EU level or in another international context.

Part 11 – Amendments to the Social Welfare Consolidation Act 2005

Section 76 is a definition provision.

Section 77 is an amendment to section 287 of the Social Welfare (Consolidation) Act 2005 with regard to reciprocal arrangements with other states. The amendments provide for the Minister for Employment Affairs and Social Protection to make an order with regard to the way in which arrangements under this section interact. Such arrangements may cover a number of issues such as the recognition of contributions paid in other countries such as the UK. This section further provides that an arrangement under section 287 includes an agreement, in certain circumstances, which is intended to be binding on the Minister, the State or the Government, where it

has not yet become binding. This allows the Minister for Employment Affairs and Social Protection to make an order to provide for the implementation of an agreement (such as the Convention on Social Security between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland, which ensures continuity of Common Travel Areas social protection arrangements, signed on the 1st February) if that is required before the ratification process has been completed.

Section 78 amends sections 113A, 205 and Table 2 of Schedule 3 and inserts a new Part 8A to provide for references to the UK.

Part 12 – Amendments to the Protection of Employees (Employers’ Insolvency) Act 1984

Section 79 is a definition provision.

Section 80 provides updates to existing definitions.

Section 81 provides that employees who are employed or habitually employed in Ireland whose employers are made insolvent under the laws of the UK, will continue to be covered in Ireland.

Section 82 provides that the date an employer is made insolvent under the laws of the UK will continue to be the date an employer will be regarded as having become insolvent.

Section 83 provides that amounts certified by an actuary or a person performing a similar task in relation to employers made insolvent in the UK, where the employees are employed or habitually employed in Ireland, continue to be covered by the scheme.

Section 84 provides that information can be exchanged, in line with the provisions of the General Data Protection Regulation, with a relevant officer appointed to an employer which is in a state of insolvency under the laws of the UK.

Part 13 – Extradition Act 1965

Part 13 of the Act provides for amendments to the Extradition Act 1965 in the context of the application of the provisions of the Council of Europe Convention on Extradition 1957 to extradition arrangements between Ireland and the UK when the provisions of the European Arrest Warrant no longer apply.

Section 84 is a definition provision.

Section 85 provides for a technical amendment.

Section 86 amends section 14 of the Extradition Act 1965 to allow for the extradition of Irish citizens to another state where that state would extradite its own citizens to the State.

Section 87 allows the direct transmission of extradition requests to the Minister for Justice and Equality and for the transmission of such requests by modern means of communication.

Part 14 – Immigration

Sections 88 and 89 amend the Immigration Act 1999 and Immigration Act 2003 to confirm that immigration officers, in considering removing or deporting a person from the State, have, in line with EU and international obligations, the power to undertake a refoulement consideration. Section 88 also includes a provision confirming that where, in making a deportation order since 31 December 2016, consideration was actually given to non-refoulement, the deportation order concerned is valid.

Section 90 provides a legal basis for taking fingerprints of Irish visa and Irish transit visa applicants, to enable the continuance of the British-Irish Visa Scheme, pursuant to Common Travel Area arrangements.

Part 15 – Miscellaneous

Section 91 provides that the term ‘Member State’ where used in any enactment shall be interpreted as including the UK for the duration of any transition period created by an agreement on the withdrawal of the UK concluded under Article 50 of the Treaty on European Union, should such an agreement enter into force.

*An Roinn Gnóthaí Eachtracha agus Trádála,
February, 2019,*