8. The Nature and Effect of EU Law: Direct Effect and Beyond

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All books in this flagship series contain carefully selected substantial extracts from key cases, legislation, and academic debate, providing students with a stand-alone resource. This chapter discusses the doctrine of direct effect. In a broad sense direct effect means that provisions of binding EU law, which are sufficiently clear, precise, and unconditional to be considered justiciable, can be invoked and relied on by individuals before national courts. The legal effect of directives is complex. They have vertical but not horizontal direct effect. The ECJ has however crafted a growing number of qualifications to the proposition that directives do not have horizontal direct effect. The result is that directives can still have ‘legal effect’ on private parties in various ways through the principle of indirect effect/harmonious interpretation; incidental effect; fundamental rights; general principles of law; and where a regulation
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makes reference to a directive. The UK version contains a further section analysing issues concerning direct effect in relation to the UK post-Brexit.

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