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## SCHEDULES

### SCHEDULE 7

Section 115.

#### PROCEDURE FOR SUBORDINATE LEGISLATION

##### *General provision*

- 1 (1) Subordinate legislation (or a statutory instrument containing it) under a provision listed in the left-hand column is subject to the type of procedure in the right-hand column.
- (2) This paragraph is subject to paragraphs 3 and 4.

<i>Provision of the Act</i>	<i>Type of procedure</i>
F1	F1
...	...
[ <sup>F2</sup> Section 2(2B)]	Type L]
Section 12(1)	[ <sup>F3</sup> Type L]
[ <sup>F4</sup> Section 12A]	Type C]
Section 15	Type D
Section 18(5)	Type J
Section 30	Type A
[ <sup>F5</sup> Section 30A]	[ <sup>F5</sup> Type C ]
Section 35	Type I
Section 38	Type J
Section 56(2)	Type G
[ <sup>F6</sup> Section 57(4)]	[ <sup>F6</sup> Type C]
Section 58	Type I
Section 60	Type G
Section 62	Type G
Section 63	Type A
Section 64(5)	Type K
[ <sup>F7</sup> Section 65A]	Type K]
[ <sup>F8</sup> Section 66(5)]	Type E]
Section 67A(2)	Type E

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Section 67(3)	Type E
Section 71(6)	Type K
Section 79	Type E
[ <sup>F9</sup> Section 80B	Type A]
[ <sup>F10</sup> Section 80G(1), (1A) or (2)	Type E
Section 80G(1B)	Type K]
Section 88	Type I
Section 89	Type F
Section 90	Type F
[ <sup>F11</sup> Section 90B	Type C]
Section 93	Type H
[ <sup>F12</sup> Section 96A	Type C]
Section 97	[ <sup>F13</sup> Type D]
<sup>F14</sup>	<sup>F14</sup>
...	...
Section 104	Type G
Section 105	Type G
Section 106	Type G
Section 107	Type G
Section 108	Type A
Section 109	Type H
Section 110(1)	Type C
Section 110(2)	Type I
Section 111	Type A
[ <sup>F15</sup> Section 113(12)	Type A]
Section 116(9)	Type G
Section 124(1)	Type G
Section 126(2)	Type B
Section 126(8)	Type H
Section 129(1)	Type G
Schedule 2, paragraph 2	Type G
Schedule 2, paragraph 7	Type H
[ <sup>F16</sup> Schedule 5, Part 3, paragraph 2A	Type A]

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*Notes*

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The entry for section 58 does not apply to an instrument containing an order merely revoking an order under subsection (1) of that section.

The entry for section 79, in relation to an instrument containing an order which makes only such provision as is mentioned in section 79(3), is to be read as referring to type K instead of type E.

#### Textual Amendments

- F1** Words in Sch. 7 para. 1(2) repealed (S.) (1.10.2020) by Scottish Elections (Reform) Act 2020 (asp 12), ss. 1(1)(b), 35; S.S.I. 2020/278, reg. 2, sch.
- F2** Words in Sch. 7 para. 1(2) inserted (18.5.2017) by Scotland Act 2016 (c. 11), ss. 5(8), 72(4)(a); S.I. 2017/608, reg. 2(1)(c)
- F3** Words in Sch. 7 para. 1 substituted (1.7.2015) by Scotland Act 2012 (c. 11), ss. 3(3)(a), 44(5); S.I. 2015/682, art. 2(b) (with saving in S.I. 2015/683, art. 2)
- F4** Words in Sch. 7 para. 1 inserted (1.7.2015) by Scotland Act 2012 (c. 11), ss. 3(3)(b), 44(5); S.I. 2015/682, art. 2(b) (with saving in S.I. 2015/683, art. 2)
- F5** Words in Sch. 7 para. 1(2) inserted (26.6.2018 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(3)(d), Sch. 3 para. 24(2) (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F6** Words in Sch. 7 para. 1(2) inserted (26.6.2018 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(3)(e), Sch. 3 para. 24(3) (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F7** Sch. 7 para. 1(2) entry inserted (1.4.2017) by Scotland Act 2016 (c. 11), ss. 67(3), 72(5); S.I. 2016/1178, reg. 2(c)
- F8** Words in Sch. 7 para. 1 inserted (12.12.2014) by Scotland Act 2012 (c. 11), ss. 32(12), 44(4)(b); S.I. 2014/3250, art. 2
- F9** Words in Sch. 7 para. 1 inserted (1.7.2012) by Scotland Act 2012 (c. 11), ss. 23(6), 44(2)(b)
- F10** Words in Sch. 7 para. 1(2) inserted (17.7.2014) by Finance Act 2014 (c. 26), Sch. 38 para. 16(10)(b)
- F11** Words in Sch. 7 para. 1(2) inserted (23.3.2016) by Scotland Act 2016 (c. 11), ss. 36(5), 72(1)(b)
- F12** Words in Sch. 7 para. 1(2) inserted (1.4.2017) by Scotland Act 2016 (c. 11), ss. 21(3), 72(5); S.I. 2016/1178, reg. 2(b)
- F13** Words in Sch. 7 para. 1 substituted (18.5.2017) by Scotland Act 2016 (c. 11), ss. 12(3), 72(4)(a); S.I. 2017/608, reg. 2(1)(j)
- F14** Sch. 7 para. 1(2) table: entry relating to section 103(3)(a) and (b) repealed (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40(4), 146, 148(1), Sch. 9 para. 107, Sch. 18 Pt. 5; S.I. 2009/1604, art. 2
- F15** Words in Sch. 7 para. 1 inserted (31.10.2012) by Scotland Act 2012 (c. 11), ss. 39(4), 44(5); S.I. 2012/2516, art. 2(e)
- F16** Words in Sch. 7 para. 1(2) inserted (23.5.2016) by Scotland Act 2016 (c. 11), ss. 39(2), 72(7)

#### Types of procedure

2

The types of procedure referred to in this Schedule are—

**Type A:** No recommendation to make the legislation is to be made to Her Majesty in Council unless a draft of the instrument —

(a) has been laid before, and approved by resolution of, each House of Parliament, and

(b) has been laid before, and approved by resolution of, the Parliament.

**Type B:** No recommendation to make the legislation is to be made to Her Majesty in Council unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.

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**Type C:** No Minister of the Crown is to make the legislation unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.

**Type D:** No recommendation to make the legislation is to be made to Her Majesty in Council unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.

**Type E:** No Minister of the Crown is to make the legislation unless a draft of the instrument has been laid before, and approved by resolution of, the House of Commons.

**Type F:** The instrument containing the legislation, if made without a draft having been approved by resolution of each House of Parliament and of the Parliament, shall be subject to annulment in pursuance of—

- (a) a resolution of either House, or
- (b) a resolution of the Parliament.

**Type G:** The instrument containing the legislation, if made without a draft having been approved by resolution of each House of Parliament, shall be subject to annulment in pursuance of a resolution of either House.

**Type H:** The instrument containing the legislation shall be subject to annulment in pursuance of—

- (a) a resolution of either House of Parliament, or
- (b) a resolution of the Parliament.

**Type I:** The instrument containing the legislation shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Type J:** The instrument containing the legislation shall be subject to annulment in pursuance of a resolution of the Parliament.

**Type K:** The instrument containing the legislation shall be subject to annulment in pursuance of a resolution of the House of Commons.

[<sup>F17</sup>**Type L:** The legislation shall be subject to the affirmative procedure.]

#### Textual Amendments

**F17** Words in Sch. 7 para. 2 inserted (1.7.2015) by [Scotland Act 2012 \(c. 11\)](#), **ss. 3(4), 44(5)**; [S.I. 2015/682](#), **art. 2(b)** (with saving in [S.I. 2015/683](#), art. 2)

#### *Special cases*

- 3 (1) This paragraph applies if—
- (a) the instrument containing the legislation would, apart from this paragraph, be subject to the type F, G, H, I or K procedure, and
  - (b) the legislation contains provisions which add to, replace or omit any part of the text of an Act.
- (2) Where this paragraph applies—
- (a) instead of the type F procedure, the type A procedure shall apply,

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- (b) instead of the type G procedure, the type B or (as the case may be) C procedure shall apply,
  - (c) instead of the type H procedure, the type A procedure shall apply,
  - (d) instead of the type I procedure, the type B or (as the case may be) C procedure shall apply,
  - (e) instead of the type K procedure, the type E procedure shall apply.
- [<sup>F18</sup>3A If legislation under section 90B amends a scheme under that section and does not contain provision—
- (a) made by virtue of subsection (12) or (19) of that section, or
  - (b) adding to, replacing or omitting any part of the text of an Act, then, instead of the type C procedure, the type I procedure shall apply.]

#### Textual Amendments

**F18** Sch. 7 para. 3A inserted (23.3.2016) by [Scotland Act 2016 \(c. 11\)](#), ss. **36(6)**, **72(1)(b)**

- 4 If legislation under section 129(1) makes provision as mentioned in section 112(2) then, instead of the type G procedure, the type D procedure shall apply.
- 5 (1) An instrument containing an Order in Council or order under an open power which revokes, amends or re-enacts subordinate legislation under an open power may (in spite of section 14 of the <sup>M1</sup>Interpretation Act 1978) be subject to a different procedure under this Schedule from the procedure to which the instrument containing the original legislation was subject.
- (2) An instrument containing an Order in Council under section 89 or 90 which revokes, amends or re-enacts an Order under either section may (in spite of section 14 of the <sup>M2</sup>Interpretation Act 1978) be subject to a different procedure under this Schedule from the procedure to which the instrument containing the original Order was subject.

#### Marginal Citations

**M1** 1978 c. 30.

**M2** 1978 c. 30.

- [<sup>F196</sup> (1) This paragraph applies where a draft of an instrument containing regulations under section 30A or 57(4) is to be laid before each House of Parliament.
- (2) Before the draft is laid, the Minister of the Crown who is to make the instrument—
- (a) must make a statement explaining the effect of the instrument, and
  - (b) in any case where the Parliament has not made a decision to agree a motion consenting to the laying of the draft—
    - (i) must make a statement explaining why the Minister has decided to lay the draft despite this, and
    - (ii) must lay before each House of Parliament any statement provided for the purpose of this sub-paragraph to a Minister of the Crown by the Scottish Ministers giving the opinion of the Scottish Ministers as to why the Parliament has not made that decision.

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- (3) A statement of a Minister of the Crown under sub-paragraph (2) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (4) For the purposes of this paragraph, where a draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.
- (5) This paragraph does not apply to a draft of an instrument which only contains regulations under section 30A or 57(4) which only relate to a revocation of a specification.]

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#### **Textual Amendments**

- F19** Sch. 7 para. 6 inserted (26.6.2018 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(3)(f), **Sch. 3 para. 25** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(1) (with reg. 10)

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