

Status: Point in time view as at 26/06/2018.

Changes to legislation: European Union (Withdrawal) Act 2018, Paragraph 1 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 3

FURTHER AMENDMENTS OF DEVOLUTION LEGISLATION AND REPORTING REQUIREMENT

PART 1

CORRESPONDING PROVISION IN RELATION TO EXECUTIVE COMPETENCE

Scotland Act 1998

- 1 In section 57 of the Scotland Act 1998 (EU law and Convention rights)—
- (a) in subsection (2) (no power for members of the Scottish Government to make subordinate legislation, or otherwise act, incompatibly with EU law) omit “or with EU law”, and
 - (b) after subsection (3) insert—
 - “(4) A member of the Scottish Government has no power to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law and the modification is of a description specified in regulations made by a Minister of the Crown.
 - (5) But subsection (4) does not apply—
 - (a) so far as the modification would be within the legislative competence of the Parliament if it were included in an Act of the Scottish Parliament, or
 - (b) to the making of regulations under Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.
 - (6) A Minister of the Crown must not lay for approval before each House of the Parliament of the United Kingdom a draft of a statutory instrument containing regulations under subsection (4) unless—
 - (a) the Scottish Parliament has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Parliament having made such a decision.
 - (7) For the purposes of subsection (6) a consent decision is—
 - (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;

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and a consent decision is made when the Parliament first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).

- (8) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (6) must—
- (a) provide a copy of the draft to the Scottish Ministers, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (9) See also paragraph 6 of Schedule 7 (duty to make explanatory statement about regulations under subsection (4) including a duty to explain any decision to lay a draft without the consent of the Parliament).
- (10) No regulations may be made under subsection (4) after the end of the period of two years beginning with exit day.
- (11) Subsection (10) does not affect the continuation in force of regulations made under subsection (4) at or before the end of the period mentioned in subsection (10).
- (12) Any regulations under subsection (4) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.
- (13) Subsections (6) to (11) do not apply in relation to regulations which only relate to a revocation of a specification.
- (14) The restriction in subsection (4) is in addition to any restriction in section 7 of the European Union (Withdrawal) Act 2018 or elsewhere on the power of a member of the Scottish Government to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law.
- (15) In this section—
- “the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the Scottish Ministers,
- and, in calculating that period, no account is to be taken of any time during which the Parliament is dissolved or during which it is in recess for more than four days.”

Commencement Information

II Sch. 3 para. 1(b) in force for specified purposes at Royal Assent, see s. 25(3)(a)

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