

Changes to legislation: There are currently no known outstanding effects for the European Union (Withdrawal Agreement) Act 2020, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Sections 12, 13 and 14

POWERS OF DEVOLVED AUTHORITIES UNDER SECTIONS 12, 13 AND 14

No power to make provision outside devolved competence

- 1 No provision may be made by a devolved authority acting alone in regulations under section 12, 13 or 14 unless the provision is within the devolved competence of the devolved authority.

Commencement Information

- I1** Sch. 1 para. 1 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

- 2 A provision is within the devolved competence of the Scottish Ministers for the purposes of this Schedule if—
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament ^{F1} ..., or
 - (b) it is provision which could be made in other subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone ^{F2}

Textual Amendments

- F1** Words in Sch. 1 para. 2(a) omitted (31.3.2022) by virtue of The European Union (Withdrawal) Act 2018 (Repeal of EU Restrictions in Devolution Legislation, etc.) Regulations 2022 (S.I. 2022/357), regs. 1(1), 7(2)(a)(i)
- F2** Words in Sch. 1 para. 2(b) omitted (31.3.2022) by virtue of The European Union (Withdrawal) Act 2018 (Repeal of EU Restrictions in Devolution Legislation, etc.) Regulations 2022 (S.I. 2022/357), regs. 1(1), 7(2)(a)(ii)

Commencement Information

- I2** Sch. 1 para. 2 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

- 3 A provision is within the devolved competence of the Welsh Ministers for the purposes of this Schedule if—
- (a) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (^{F3}... including any provision that could be made only with the consent of a Minister of the Crown), or
 - (b) it is provision which could be made in other subordinate legislation by the Welsh Ministers acting alone ^{F4}....

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Textual Amendments

- F3** Words in Sch. 1 para. 3(a) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), 7(2)(b)(i)
- F4** Words in Sch. 1 para. 3(b) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), 7(2)(b)(ii)

Commencement Information

- I3** Sch. 1 para. 3 in force at 19.5.2020 by [S.I. 2020/518](#), [reg. 2\(o\)](#)

- 4 A provision is within the devolved competence of a Northern Ireland department for the purposes of this Schedule if—
- (a) the provision, if it were contained in an Act of the Northern Ireland Assembly—
- (i) would be within the legislative competence of the Assembly ^{F5} ..., and
- (ii) would not require the consent of the Secretary of State,
- (b) the provision—
- (i) amends or repeals Northern Ireland legislation, and
- (ii) would, if it were contained in an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly ^{F6} ... and require the consent of the Secretary of State, or
- (c) the provision is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority acting alone ^{F7}

Textual Amendments

- F5** Words in Sch. 1 para. 4(a)(i) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), 7(2)(c)
- F6** Words in Sch. 1 para. 4(b)(ii) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), 7(2)(c)
- F7** Words in Sch. 1 para. 4(c) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), 7(2)(c)

Commencement Information

- I4** Sch. 1 para. 4 in force at 19.5.2020 by [S.I. 2020/518](#), [reg. 2\(o\)](#)

Requirement for consent where it would otherwise be required

- 5 (1) The consent of a Minister of the Crown is required before any provision is made by the Welsh Ministers acting alone in regulations under section 12, 13 or 14 so far as that provision, if contained in an Act of the National Assembly for Wales, would require the consent of a Minister of the Crown.

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- (2) The consent of the Secretary of State is required before any provision is made by a Northern Ireland department acting alone in regulations under section 12, 13 or 14 so far as that provision, if contained in an Act of the Northern Ireland Assembly, would require the consent of the Secretary of State.
- (3) Sub-paragraph (1) or (2) does not apply if—
- (a) the provision could be contained in subordinate legislation made otherwise than under this Act by the Welsh Ministers acting alone or (as the case may be) a Northern Ireland devolved authority acting alone, and
 - (b) no such consent would be required in that case.
- (4) The consent of a Minister of the Crown is required before any provision is made by a devolved authority acting alone in regulations under section 12, 13 or 14 so far as that provision, if contained in—
- (a) subordinate legislation made otherwise than under this Act by the devolved authority, or
 - (b) subordinate legislation not falling within paragraph (a) and made otherwise than under this Act by—
 - (i) in the case of Scotland, the First Minister or Lord Advocate acting alone, or
 - (ii) in the case of Northern Ireland, a Northern Ireland devolved authority acting alone,
- would require the consent of a Minister of the Crown.
- (5) Sub-paragraph (4) does not apply if—
- (a) the provision could be contained in—
 - (i) an Act of the Scottish Parliament, an Act of the National Assembly for Wales or (as the case may be) an Act of the Northern Ireland Assembly, or
 - (ii) different subordinate legislation of the kind mentioned in sub-paragraph (4)(a) or (b) and of a devolved authority acting alone or (as the case may be) another person acting alone, and
 - (b) no such consent would be required in that case.

Commencement Information

I5 Sch. 1 para. 5 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

Requirement for joint exercise where it would otherwise be required

- 6 (1) No regulations may be made under section 12, 13 or 14 by the Scottish Ministers, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by—
- (a) the Scottish Ministers acting jointly with a Minister of the Crown, or
 - (b) the First Minister or Lord Advocate acting jointly with a Minister of the Crown,
- unless the regulations are, to that extent, made jointly with the Minister of the Crown.
- (2) No regulations may be made under section 12, 13 or 14 by the Welsh Ministers, so far as they contain provision which relates to a matter in respect of which a power

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to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers acting jointly with a Minister of the Crown, unless the regulations are, to that extent, made jointly with the Minister of the Crown.

- (3) No regulations may be made under section 12, 13 or 14 by a Northern Ireland department, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by—
- (a) a Northern Ireland department acting jointly with a Minister of the Crown, or
 - (b) another Northern Ireland devolved authority acting jointly with a Minister of the Crown,
- unless the regulations are, to that extent, made jointly with the Minister of the Crown.
- (4) Sub-paragraph (1), (2) or (3) does not apply if the provision could be contained in—
- (a) an Act of the Scottish Parliament, an Act of the National Assembly for Wales or (as the case may be) an Act of the Northern Ireland Assembly without the need for the consent of a Minister of the Crown, or
 - (b) different subordinate legislation made otherwise than under this Act by—
 - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
 - (ii) the Welsh Ministers acting alone, or
 - (iii) (as the case may be), a Northern Ireland devolved authority acting alone.

Commencement Information

16 Sch. 1 para. 6 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

Requirement for consultation where it would otherwise be required

- 7 (1) No regulations may be made under section 12, 13 or 14 by the Welsh Ministers acting alone, so far as they contain provision which, if contained in an Act of the National Assembly for Wales, would require consultation with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (2) No regulations may be made under section 12, 13 or 14 by the Scottish Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Scottish Ministers, the First Minister or the Lord Advocate after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (3) No regulations may be made under section 12, 13 or 14 by the Welsh Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (4) No regulations may be made under section 12, 13 or 14 by a Northern Ireland department acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this

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Act is exercisable by a Northern Ireland department after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.

- (5) Sub-paragraph (2), (3) or (4) does not apply if—
- (a) the provision could be contained in an Act of the Scottish Parliament, an Act of the National Assembly for Wales or (as the case may be) an Act of the Northern Ireland Assembly, and
 - (b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.
- (6) Sub-paragraph (2), (3) or (4) does not apply if—
- (a) the provision could be contained in different subordinate legislation made otherwise than under this Act by—
 - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
 - (ii) the Welsh Ministers acting alone, or
 - (iii) (as the case may be), a Northern Ireland devolved authority acting alone, and
 - (b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.

Commencement Information

I7 Sch. 1 para. 7 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

Interpretation

- 8 In this Schedule “Northern Ireland devolved authority” means—
- (a) the First Minister and deputy First Minister in Northern Ireland acting jointly,
 - (b) a Northern Ireland Minister, or
 - (c) a Northern Ireland department.

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I8 Sch. 1 para. 8 in force at 19.5.2020 by S.I. 2020/518, reg. 2(o)

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