

Changes to legislation: Trade (Australia and New Zealand) Act 2023, Part 1 is up to date with all changes known to be in force on or before 10 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) View outstanding changes

SCHEDULES

SCHEDULE 1

PROVISION RELATING TO DEVOLVED AUTHORITIES AND SENEDD CYMRU

PART 1

RESTRICTIONS ON DEVOLVED AUTHORITIES

No power to make provision outside devolved competence

- 1 (1) No provision may be made by a devolved authority acting alone in regulations under [section 1](#) unless the provision is within the devolved competence of the devolved authority.
- (2) See paragraphs [5](#) to [7](#) for the meaning of “devolved competence”.

Commencement Information

- II** Sch. 1 para. 1 in force at Royal Assent, see [s. 4\(2\)](#)

Requirement for consent where it would otherwise be required

- 2 (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 1](#) so far as that provision, if contained in an Act of Senedd Cymru, would require the consent of a Minister of the Crown.
- (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 1](#) 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 [section 1](#) 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 1](#) so far as that provision, if contained in—
 - (a) subordinate legislation made otherwise than under [section 1](#) by the devolved authority, or
 - (b) subordinate legislation not falling within [paragraph \(a\)](#) and made otherwise than under [section 1](#) by (in the case of Scotland) the First Minister or Lord

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Advocate acting alone or (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 Senedd Cymru 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
 - (b) the consent of a Minister of the Crown would not be required in that case.

Commencement Information

I2 Sch. 1 para. 2 in force at Royal Assent, see [s. 4\(2\)](#)

Requirement for joint exercise where it would otherwise be required

- 3 (1) No regulations may be made under [section 1](#) 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 [section 1](#) 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 1](#) by the Welsh 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 [section 1](#) 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 1](#) 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 [section 1](#) 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 Senedd Cymru 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 [section 1](#) 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.

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Commencement Information

I3 Sch. 1 para. 3 in force at Royal Assent, see [s. 4\(2\)](#)

Requirement for consultation where it would otherwise be required

- 4
- (1) No regulations may be made under [section 1](#) by the Welsh Ministers acting alone, so far as they contain provision which, if contained in an Act of Senedd Cymru, 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 1](#) 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 [section 1](#) 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 1](#) 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 [section 1](#) 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 1](#) 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 [section 1](#) is exercisable by a Northern Ireland devolved authority 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 Senedd Cymru 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 [section 1](#) 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.

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Commencement Information

I4 Sch. 1 para. 4 in force at Royal Assent, see [s. 4\(2\)](#)

Meaning of devolved competence

- 5 A provision is within the devolved competence of the Scottish Ministers if—
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, 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.

Commencement Information

I5 Sch. 1 para. 5 in force at Royal Assent, see [s. 4\(2\)](#)

- 6 A provision is within the devolved competence of the Welsh Ministers if—
- (a) it would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (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.

Commencement Information

I6 Sch. 1 para. 6 in force at Royal Assent, see [s. 4\(2\)](#)

- 7 A provision is within the devolved competence of a Northern Ireland department 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, 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 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.

Commencement Information

I7 Sch. 1 para. 7 in force at Royal Assent, see [s. 4\(2\)](#)

Commencement Information

I5 Sch. 1 para. 5 in force at Royal Assent, see [s. 4\(2\)](#)

I6 Sch. 1 para. 6 in force at Royal Assent, see [s. 4\(2\)](#)

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17 Sch. 1 para. 7 in force at Royal Assent, see [s. 4\(2\)](#)

Meaning of “Northern Ireland devolved authority”

8 In [this Part](#), a “Northern Ireland devolved authority” means the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department.

Commencement Information

18 Sch. 1 para. 8 in force at Royal Assent, see [s. 4\(2\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act repealed by [2023 c. 54 Sch. 11 para. 3](#)