

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Northern Ireland Act 1998. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

SCHEDULES

SCHEDULE 10

DEVOLUTION ISSUES

PART IV

PROCEEDINGS IN SCOTLAND

Application of Part IV

- 21 This Part of this Schedule applies in relation to devolution issues in proceedings in Scotland.

Institution of proceedings

- 22 (1) Proceedings for the determination of a devolution issue may be instituted ^{F1}... by the Advocate General for Scotland.
- (2) The Attorney General for Northern Ireland ^{F1}... may defend any such proceedings.
- (3) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

Textual Amendments

- F1** Words in Sch. 10 para. 22 repealed (1.3.2010) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\), s. 87\(1\), Sch. 13; S.R. 2010/52, art. 2\(e\)](#)

Intimation of devolution issue

- 23 Intimation of any devolution issue which arises in any proceedings before a court or tribunal shall be given to the Advocate General for Scotland [^{F2}and the Attorney General for Northern Ireland] (unless the person to whom the intimation would be given is a party to the proceedings).

Textual Amendments

- F2** Words in Sch. 10 para. 23 substituted (12.4.2010) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\), s. 87\(1\), Sch. 7 para. 2\(5\); S.R. 2010/113, art. 2, Sch. para. 19\(a\)](#)

- 24 A person to whom intimation is given in pursuance of paragraph 23 ^{F3}... may take part as a party in the proceedings, so far as they relate to a devolution issue.

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Textual Amendments

- F3** Words in Sch. 10 para. 24 repealed (1.3.2010) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\), s. 87\(1\), Sch. 13](#); S.R. 2010/52, art. 2(e)

Reference of devolution issue to higher court

- 25 A court, other than the [^{F4}Supreme Court] or any court consisting of three or more judges of the Court of Session, may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the Inner House of the Court of Session.

Textual Amendments

- F4** Words in Sch. 10 para. 25 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 117\(2\)](#); S.I. 2009/1604, art. 2(a)(d)

- 26 A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Inner House of the Court of Session; and any other tribunal may make such a reference.
- 27 A court, other than any court consisting of two or more judges of the High Court of Justiciary, may refer any devolution issue which arises in criminal proceedings before it to the High Court of Justiciary.

References from superior courts to [^{F5}Supreme Court]

Textual Amendments

- F5** Words in cross-heading preceding Sch. 10 para. 28 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 117\(3\)](#); S.I. 2009/1604, art. 2(a)(d)

- 28 Any court consisting of three or more judges of the Court of Session may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 25 or 26) to the [^{F6}Supreme Court] .

Textual Amendments

- F6** Words in Sch. 10 para. 28 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 117\(4\)](#); S.I. 2009/1604, art. 2(a)(d)

- 29 Any court consisting of two or more judges of the High Court of Justiciary may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 27) to the [^{F7}Supreme Court] .

Textual Amendments

- F7** Words in Sch. 10 para. 29 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 117\(5\)](#); S.I. 2009/1604, art. 2(a)(d)

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Appeals from superior courts to ^{F8}Supreme Court]

Textual Amendments

F8 Words in cross-heading preceding Sch. 10 para. 30 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, {Sch. 9 para. 117(6)}; [S.I. 2009/1604](#), [art. 2\(a\)\(d\)](#)

30 An appeal against a determination of a devolution issue by the Inner House of the Court of Session on a reference under paragraph 25 or 26 shall lie to the ^{F9}Supreme Court] .

Textual Amendments

F9 Words in Sch. 10 para. 30 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 117\(7\)](#); [S.I. 2009/1604](#), [art. 2\(a\)\(d\)](#)

31 An appeal against a determination of a devolution issue by—
(a) a court of two or more judges of the High Court of Justiciary (whether in the ordinary course of proceedings or on a reference under paragraph 27); or
(b) a court of three or more judges of the Court of Session from which there is no appeal to the ^{F10}Supreme Court apart from this paragraph] ,
shall lie to the ^{F11}Supreme Court] , but only with ^{F12}permission] of the court concerned or, failing such ^{F12}permission] , with ^{F13}permission] of the ^{F11}Supreme Court] .

Textual Amendments

F10 Words in Sch. 10 para. 31 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 117\(8\)\(a\)](#); [S.I. 2009/1604](#), [art. 2\(a\)\(d\)](#)

F11 Words in Sch. 10 para. 31 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 117\(8\)\(b\)](#); [S.I. 2009/1604](#), [art. 2\(a\)\(d\)](#)

F12 Words in Sch. 10 para. 31 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 117\(8\)\(c\)](#); [S.I. 2009/1604](#), [art. 2\(a\)\(d\)](#)

F13 Words in Sch. 10 para. 31 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 117\(8\)\(d\)](#); [S.I. 2009/1604](#), [art. 2\(a\)\(d\)](#)

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

- Act amendment to earlier affecting provision 2022 c. 48, s. 1 by [2024 c. 2 s. 1](#)
- Act modified (cond.) by [2006 c. 17 Sch. 2 para. 2\(5\)](#) (This amendment not applied to legislation.gov.uk. Conditional amendment never in force)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 31(2)-(2D) substituted for s. 31(2) (cond.) by [2006 c. 17 Sch. 3 para. 2\(1\)](#) (This amendment not applied to legislation.gov.uk. Conditional amendment never in force)
- s. 31(2)-(2D) substituted for s. 31(2) (cond.) by [2006 c. 53 Sch. 3 para. 2\(1\)](#) (This amendment not applied to legislation.gov.uk to legislation.gov.uk. It is a conditional amendment that was never brought into force. Sch. 3 repealed (10.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), s. 2(5) (as amended by 2007 c. 4, s. 1(1)), Sch. 4 para. 3 (with s. 1(3)); S.I. 2007/1397, art. 2)
- s. 31(2E) inserted (cond.) by [2006 c. 17 Sch. 3 para. 3\(1\)](#) (This amendment not applied to legislation.gov.uk. Conditional amendment never in force)
- Sch. 2 para. 9B inserted by [2009 c. 8 s. 27](#) (This amendment not applied to legislation.gov.uk. The amending provision was repealed (16.2.2011) without ever being in force by 2010 c. 36, ss. 2(1), 4(2))