



Northern Ireland Act 1998

1998 CHAPTER 47

PART III

EXECUTIVE AUTHORITIES

Functions

24 [F¹EU] law, Convention rights etc.

- (1) A Minister or Northern Ireland department has no power to make, confirm or approve any subordinate legislation, or to do any act, so far as the legislation or act—
 - (a) is incompatible with any of the Convention rights;
 - (b) is incompatible with [F¹EU] law;
 - (c) discriminates against a person or class of person on the ground of religious belief or political opinion;
 - (d) in the case of an act, aids or incites another person to discriminate against a person or class of person on that ground; or
 - (e) in the case of legislation, modifies an enactment in breach of section 7.
- (2) Subsection (1)(c) and (d) does not apply in relation to any act which is unlawful by virtue of the [F²Fair Employment and Treatment (Northern Ireland) Order 1998], or would be unlawful but for some exception made by virtue of [F²Part VIII of that Order].
- [F³(3) A Minister or Northern Ireland department 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.
- (4) But subsection (3) does not apply—
 - (a) so far as the modification would be within the legislative competence of the Assembly if it were included in an Act of the Assembly, or
 - (b) to the making of regulations under [F⁴Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.] [F⁴—

Status: Point in time view as at 14/11/2020. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Section 24. (See end of Document for details)

- (i) Part 1 or 1B of Schedule 2 to the European Union (Withdrawal) Act 2018 (power to deal with deficiencies arising from withdrawal and certain powers in connection with the EU withdrawal agreement),
 - (ii) Schedule 4 to that Act (powers in connection with fees and charges), or
 - (iii) section 12, 13 or 14 of the European Union (Withdrawal Agreement) Act 2020 (certain powers relating to citizens' rights)]
- (5) A Minister of the Crown must not lay for approval before each House of the Parliament a draft of a statutory instrument containing regulations under subsection (3) unless—
- (a) the Assembly has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Assembly having made such a decision.
- (6) For the purposes of subsection (5) 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;
- and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (7) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (5) must—
- (a) provide a copy of the draft to the relevant Northern Ireland department, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (8) See also section 96A (duty to make explanatory statement about regulations under subsection (3) including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (9) No regulations may be made under subsection (3) after the end of the period of two years beginning with exit day.
- (10) Subsection (9) does not affect the continuation in force of regulations made under subsection (3) at or before the end of the period mentioned in subsection (9).
- (11) Any regulations under subsection (3) 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.
- (12) Subsections (5) to (10) do not apply in relation to regulations which only relate to a revocation of a specification.
- (13) Regulations under subsection (3) may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Minister of the Crown making them considers appropriate.
- (14) The restriction in subsection (3) is in addition to any restriction in section 7 of the European Union (Withdrawal) Act 2018 or elsewhere on the power of a Minister or Northern Ireland department to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law.
- (15) In this section—

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“the relevant Northern Ireland department” means such Northern Ireland department as the Minister of the Crown concerned considers appropriate;

“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 relevant Northern Ireland department,

and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.]

Textual Amendments

- F1** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011](#) (S.I. 2011/1043), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F2** Words in s. 24(2) substituted (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 105(1), **Sch. 3**; S.R. 1999/81, **art. 3(1)**
- F3** S. 24(3)-(15) inserted (26.6.2018 for specified purposes) by [European Union \(Withdrawal\) Act 2018](#) (c. 16), s. 25(3)(c), **Sch. 3 para. 3(b)** (with s. 19, Sch. 8 paras. 37, 41, 42)
- F4** S. 24(4)(b)(i)-(iii) substituted for words (31.1.2020 for specified purposes) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(7), **Sch. 5 para. 25** (with s. 38(3)); S.I. 2020/75, reg. 4(n)(viii)

Modifications etc. (not altering text)

- C1** S. 24(1)(b) restricted (1.3.2019) by [European Union \(Withdrawal\) Act 2018](#) (c. 16), s. 25(4), Sch. 8 para. 41(8)(9) (with s. 19, Sch. 8 para. 37); S.I. 2019/399, reg. 2
- C2** S. 24(1)(b) excluded (19.5.2020) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(7), **Sch. 5 para. 64** (with s. 38(3)); S.I. 2020/518, reg. 2(p)(v)
- C3** S. 24(1)(b) excluded (14.11.2020) by [Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020](#) (c. 20), s. 9(4), **Sch. 2 para. 4(c)**; S.I. 2020/1279, reg. 2(c)
- C4** S. 24(1)(b) excluded (14.11.2020) by [Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020](#) (c. 20), s. 9(4), **Sch. 2 para. 9**; S.I. 2020/1279, reg. 2(c)
- C5** S. 24(3)-(15): power to repeal conferred (4.7.2018) by [European Union \(Withdrawal\) Act 2018](#) (c. 16), **ss. 12(9)-(11)**, 25(4) (with s. 19, Sch. 8 paras. 37, 41); S.I. 2018/808, reg. 3(c)

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