

PUBLIC BODIES ACT 2011

EXPLANATORY NOTES

COMMENTARY

Part 1: General Order-Making Powers

Section 9: Devolution

29. **Section 9** limits the powers of Ministers to make orders in relation to devolved matters.
30. *Subsection (1)* provides that orders made under sections 1 to 5 which contain provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament or which modifies the functions of Scottish Ministers require the consent of the Scottish Parliament, subject to *subsection (2)*.
31. *Subsection (3)* provides that orders made under sections 1 to 5 which contain provision which would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly or which modifies the functions of persons within *subsection (4)*, require the consent of the Northern Ireland Assembly. *Subsection (5)* provides that the stipulation in subsection (3)(a) does not apply if a Bill for an Act of the Northern Ireland Assembly containing the provision would require the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998 and the provision does not affect, otherwise than incidentally, a transferred matter.
32. *Subsection (6)* provides that an order made under those sections requires the consent of the National Assembly for Wales if the order contains provision which would be within the legislative competence of the National Assembly if contained in a Measure or Act of that Assembly.
33. *Subsection (7)* provides that an order made under those sections requires the consent of the Welsh Ministers if it contains provision modifying a function of the Welsh Ministers, the First Minister or the Counsel General to the Welsh Assembly Government, or if it could be made by any of those persons. *Subsection (8)* sets out limitations on the definition of “function” for these purposes.