

*Changes to legislation:* European Union (Withdrawal) Act 2018, Cross Heading: Meaning of devolved competence: Part 1 is up to date with all changes known to be in force on or before 21 July 2023. 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 2

#### CORRESPONDING POWERS INVOLVING DEVOLVED AUTHORITIES

##### PART 1

##### DEALING WITH DEFICIENCIES ARISING FROM WITHDRAWAL

###### *Meaning of devolved competence: Part 1*

- 8 (1) A provision is within the devolved competence of the Scottish Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament <sup>F1</sup>..., or
  - (b) it meets the conditions in sub-paragraph (2).
- (2) The conditions are—
- (a) the provision—
    - (i) amends or revokes subordinate legislation made before [<sup>F2</sup>IP completion day] by the Scottish Ministers, the First Minister or the Lord Advocate acting alone, or
    - (ii) makes supplementary, incidental, consequential, transitional, transitory or saving provision in connection with any such amendment or revocation,
  - (b) the subject-matter of the provision does not go beyond the subject-matter of the subordinate legislation concerned,
  - (c) the provision only forms part of the law of Scotland,
  - (d) the provision does not confer or remove functions exercisable otherwise than in or as regards Scotland, and
  - (e) the provision does not modify any enactment so far as the enactment cannot, by virtue of paragraph 1, 4 or 5 of Schedule 4 to the Scotland Act 1998, be modified by an Act of the Scottish Parliament.

###### Textual Amendments

- F1** Words in Sch. 2 para. 8(1)(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), [6\(3\)\(a\)\(ii\)](#)
- F2** Words in Sch. 2 para. 8(2)(a)(i) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), [ss. 27\(7\)\(b\)](#), 42(7) (with s. 38(3), [Sch. 5 para. 66](#)); S.I. 2020/75, reg. 4(k)

- 9 (1) A provision is within the devolved competence of the Welsh Ministers for the purposes of this Part if—

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- (a) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (<sup>F3</sup>... including any provision that could be made only with the consent of a Minister of the Crown), or
  - (b) it meets the conditions in sub-paragraph (2).
- (2) The conditions are—
- (a) the provision—
    - (i) amends or revokes subordinate legislation made before [<sup>F4</sup>IP completion day] by the Welsh Ministers acting alone or the National Assembly for Wales constituted by the Government of Wales Act 1998, or
    - (ii) makes supplementary, incidental, consequential, transitional, transitory or saving provision in connection with any such amendment or revocation,
  - (b) the subject-matter of the provision does not go beyond the subject-matter of the subordinate legislation concerned,
  - (c) the provision only forms part of the law of England and Wales,
  - (d) the provision does not confer or remove functions exercisable otherwise than in relation to Wales or the Welsh zone, and
  - (e) the provision does not modify any enactment so far as the enactment cannot, by virtue of paragraph 5, 6 or 7 of Schedule 7B to the Government of Wales Act 2006, be modified by an Act of the National Assembly for Wales.

#### Textual Amendments

- F3** Words in Sch. 2 para. 9(1)(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), [6\(3\)\(a\)\(iii\)](#)
- F4** Words in Sch. 2 para. 9(2)(a)(i) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), ss. [27\(7\)\(c\)](#), [42\(7\)](#) (with s. [38\(3\)](#), Sch. [5](#) para. [66](#)); S.I. 2020/75, reg. [4\(k\)](#)

- 10 (1) A provision is within the devolved competence of a Northern Ireland department for the purposes of this Part 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, <sup>F5</sup>..., 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 <sup>F6</sup>... and require the consent of the Secretary of State, or
  - (c) the provision meets the conditions in sub-paragraph (2).
- (2) The conditions are—
- (a) the provision—

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- (i) amends or revokes subordinate legislation made before [<sup>F7</sup>IP completion day] by a Northern Ireland devolved authority acting alone, or
  - (ii) makes supplementary, incidental, consequential, transitional, transitory or saving provision in connection with any such amendment or revocation,
- (b) the subject-matter of the provision does not go beyond the subject-matter of the subordinate legislation concerned,
- (c) the provision only forms part of the law of Northern Ireland,
- (d) the provision does not confer or remove functions exercisable otherwise than in or as regards Northern Ireland,
- (e) the provision does not modify any enactment so far as the enactment cannot, by virtue of section 7 of the Northern Ireland Act 1998, be modified by an Act of the Northern Ireland Assembly, and
- (f) the provision does not deal with, or otherwise relate to, a matter to which paragraph 22 of Schedule 2, or paragraph 42 of Schedule 3, to the Northern Ireland Act 1998 applies.

#### Textual Amendments

- F5** Words in Sch. 2 para. 10(1)(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), [6\(3\)\(a\)\(iv\)](#)
- F6** Words in Sch. 2 para. 10(1)(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), [6\(3\)\(a\)\(iv\)](#)
- F7** Words in Sch. 2 para. 10(2)(a)(i) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), ss. [27\(7\)\(d\)](#), [42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(k)

- 11      References in paragraphs 8 to 10, in connection with the making of regulations under this Part, to the subject-matter of any provision or subordinate legislation are to be read as references to the subject-matter of the provision or subordinate legislation when the regulations concerned are made.

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

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

- s. 5(A1)-(A3) inserted by [2023 c. 28 s. 3\(1\)](#)
- s. 5(A4) inserted by [2023 c. 28 s. 4\(2\)\(a\)](#)
- s. 5(A2) words substituted by [2023 c. 28 Sch. 2 para. 8\(2\)](#)
- s. 5(8) inserted by [2023 c. 28 s. 3\(2\)](#)
- s. 5(8) words substituted by [2023 c. 28 Sch. 2 para. 8\(2\)](#)
- s. 6(4)-(5ZA) word substituted by [2023 c. 28 Sch. 2 para. 8\(3\)\(c\)](#)
- s. 6(5ZA) inserted by [2023 c. 28 s. 6\(5ZA\)](#)
- s. 6(6B) inserted by [2023 c. 28 s. 6\(6\)](#)
- s. 6A-6C inserted by [2023 c. 28 s. 6\(8\)](#)
- s. 6A word substituted by [2023 c. 28 Sch. 2 para. 8\(4\)](#)
- s. 6B word substituted by [2023 c. 28 Sch. 2 para. 8\(5\)](#)
- s. 6C word substituted by [2023 c. 28 Sch. 2 para. 8\(6\)](#)
- s. 6D inserted by [2023 c. 28 s. 8](#)
- s. 6D(1)(a) words substituted by [2023 c. 28 Sch. 2 para. 8\(7\)](#)
- s. 6D(1)(b) words substituted by [2023 c. 28 Sch. 2 para. 8\(7\)](#)
- s. 7(4A) words substituted by [2023 c. 28 Sch. 2 para. 8\(8\)\(b\)](#)
- Sch. 8 para. 11A(2) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(b\)](#)
- Sch. 8 para. 11B(2) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(b\)](#)
- Sch. 8 para. 11A(3) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(d\)\(i\)](#)
- Sch. 8 para. 11B(3) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(d\)\(i\)](#)
- Sch. 8 para. 11A(3) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(d\)\(ii\)](#)
- Sch. 8 para. 11B(3) words substituted by [2023 c. 28 Sch. 2 para. 8\(15\)\(d\)\(ii\)](#)