

Status: Point in time view as at 31/01/2020.

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SCHEDULES

SCHEDULE 7

REGULATIONS

PART 1

SCRUTINY OF POWERS TO DEAL WITH DEFICIENCIES

Scrutiny of regulations made by Minister of the Crown or devolved authority acting alone

- 1 (1) A statutory instrument containing regulations under section 8(1) which contain provision falling within sub-paragraph (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) Provision falls within this sub-paragraph if it—
 - (a) provides for any function of an EU entity or public authority in a member State of making an instrument of a legislative character to be exercisable instead by a public authority in the United Kingdom,
 - (b) relates to a fee in respect of a function exercisable by a public authority in the United Kingdom,
 - (c) creates, or widens the scope of, a criminal offence, or
 - (d) creates or amends a power to legislate.
- (3) Any other statutory instrument containing regulations under section 8(1) is (if a draft of the instrument has not been laid before, and approved by a resolution of, each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) See paragraph 3 for restrictions on the choice of procedure under sub-paragraph (3).
- (5) A statutory instrument containing regulations under section 8 (3)(b) (including as applied by paragraph 1(3) of Schedule 2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Regulations under Part 1 of Schedule 2 of the Scottish Ministers which contain provision falling within sub-paragraph (2) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (7) Any other regulations under Part 1 of Schedule 2 of the Scottish Ministers are (if they have not been subject to the affirmative procedure) subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

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- (8) A statutory instrument containing regulations under Part 1 of Schedule 2 of the Welsh Ministers which contain provision falling within sub-paragraph (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (9) Any other statutory instrument containing regulations under Part 1 of Schedule 2 of the Welsh Ministers is (if a draft of the instrument has not been laid before, and approved by a resolution of, the National Assembly for Wales) subject to annulment in pursuance of a resolution of the Assembly.
- (10) See paragraph 4 for restrictions on the choice of procedure under sub-paragraph (9).
- (11) Regulations under Part 1 of Schedule 2 of a Northern Ireland department which contain provision falling within sub-paragraph (2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (12) Any other regulations under Part 1 of Schedule 2 of a Northern Ireland department are (if a draft of the regulations has not been laid before, and approved by a resolution of, the Northern Ireland Assembly) subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (13) This paragraph—
 - (a) does not apply to regulations to which paragraph 2 applies, and
 - (b) is subject to paragraphs 5 to 8.

Scrutiny of regulations made by Minister of the Crown and devolved authority acting jointly

- 2 (1) This paragraph applies to regulations under Part 1 of Schedule 2 of a Minister of the Crown acting jointly with a devolved authority.
- (2) The procedure provided for by sub-paragraph (3) or (4) applies in relation to regulations to which this paragraph applies as well as any other procedure provided for by this paragraph which is applicable in relation to the regulations concerned.
- (3) A statutory instrument containing regulations to which this paragraph applies which contain provision falling within paragraph 1(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any other statutory instrument containing regulations to which this paragraph applies is (if a draft of the instrument has not been laid before, and approved by a resolution of, each House of Parliament) subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations to which this paragraph applies which are made jointly with the Scottish Ministers and contain provision falling within paragraph 1(2) are subject to the affirmative procedure.
- (6) Any other regulations to which this paragraph applies which are made jointly with the Scottish Ministers are (if they have not been subject to the affirmative procedure) subject to the negative procedure.

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- (7) Section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (affirmative procedure) applies in relation to regulations to which sub-paragraph (5) or (6) applies and which are subject to the affirmative procedure as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (8) Sections 28(2), (3) and (8) and 31 of the Interpretation and Legislative Reform (Scotland) Act 2010 (negative procedure etc.) apply in relation to regulations to which sub-paragraph (6) applies and which are subject to the negative procedure as they apply in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the negative procedure (but as if references to a Scottish statutory instrument were references to a statutory instrument).
- (9) Section 32 of the Interpretation and Legislative Reform (Scotland) Act 2010 (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing regulations to which sub-paragraph (5) or (6) applies as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (10) A statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers and contain provision falling within paragraph 1(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) Any other statutory instrument containing regulations to which this paragraph applies which are made jointly with the Welsh Ministers is (if a draft of the instrument has not been laid before, and approved by a resolution of, the National Assembly for Wales) subject to annulment in pursuance of a resolution of the Assembly.
- (12) Regulations to which this paragraph applies which are made jointly with a Northern Ireland department and contain provision falling within paragraph 1(2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (13) Any other regulations to which this paragraph applies which are made jointly with a Northern Ireland department are (if a draft of the regulations has not been laid before, and approved by a resolution of, the Northern Ireland Assembly) subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.
- (14) If in accordance with sub-paragraph (4), (6), (11) or (13)—
 - (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument be annulled, or
 - (b) a relevant devolved legislature resolves that an instrument be annulled,nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.
- (15) In sub-paragraph (14) “relevant devolved legislature” means—
 - (a) in the case of regulations made jointly with the Scottish Ministers, the Scottish Parliament,
 - (b) in the case of regulations made jointly with the Welsh Ministers, the National Assembly for Wales, and

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- (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (16) Sub-paragraph (14) does not affect the validity of anything previously done under the instrument or prevent the making of a new instrument.
- (17) Sub-paragraphs (14) [^{F1}to (16)] apply in place of provision made by any other enactment about the effect of such a resolution.

Textual Amendments

- F1** Words in [Sch. 7 para. 2\(17\)](#) substituted (23.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(viii), [Sch. 5 para. 50\(a\)](#) (with s. 38(3), [Sch. 5 para. 66](#))

Parliamentary committee to sift certain deficiencies regulations of a Minister of the Crown

- 3 (1) Sub-paragraph (2) applies if a Minister of the Crown who is to make a statutory instrument to which paragraph 1(3) applies is of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) The Minister may not make the instrument so that it is subject to that procedure unless—
- (a) condition 1 is met, and
 - (b) either condition 2 or 3 is met.
- (3) Condition 1 is that a Minister of the Crown—
- (a) has made a statement in writing to the effect that in the Minister's opinion the instrument should be subject to annulment in pursuance of a resolution of either House of Parliament, and
 - (b) has laid before each House of Parliament—
 - (i) a draft of the instrument, and
 - (ii) a memorandum setting out the statement and the reasons for the Minister's opinion.
- (4) Condition 2 is that a committee of the House of Commons charged with doing so and a committee of the House of Lords charged with doing so have, within the relevant period, each made a recommendation as to the appropriate procedure for the instrument.
- (5) Condition 3 is that the relevant period has ended without condition 2 being met.
- (6) Sub-paragraph (7) applies if—
- (a) a committee makes a recommendation as mentioned in sub-paragraph (4) within the relevant period,
 - (b) the recommendation is that the appropriate procedure for the instrument is for a draft of it to be laid before, and approved by a resolution of, each House of Parliament before it is made, and
 - (c) the Minister who is to make the instrument is nevertheless of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (7) Before the instrument is made, the Minister must make a statement explaining why the Minister does not agree with the recommendation of the committee.
- (8) If the Minister fails to make a statement required by sub-paragraph (7) before the instrument is made, a Minister of the Crown must make a statement explaining why the Minister has failed to do so.
- (9) A statement under sub-paragraph (7) or (8) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (10) In this paragraph “the relevant period” means the period—
- (a) beginning with the first day on which both Houses of Parliament are sitting after the day on which the draft instrument was laid before each House as mentioned in sub-paragraph (3)(b)(i), and
 - (b) ending with whichever of the following is the later—
 - (i) the end of the period of 10 Commons sitting days beginning with that first day, and
 - (ii) the end of the period of 10 Lords sitting days beginning with that first day.
- (11) For the purposes of sub-paragraph (10)—
- (a) where a draft of an instrument is laid before each House of Parliament on different days, the later day is to be taken as the day on which it is laid before both Houses,
 - ^{F2}(b)
 - ^{F2}(c)
 - ^{F2}...
- (12) Nothing in this paragraph prevents a Minister of the Crown from deciding at any time before a statutory instrument to which paragraph 1(3) applies is made that another procedure should apply in relation to the instrument (whether under paragraph 1(3) or 5).
- (13) Section 6(1) of the Statutory Instruments Act 1946 (alternative procedure for certain instruments laid in draft before Parliament) does not apply in relation to any statutory instrument to which this paragraph applies.

Textual Amendments

F2 Sch. 7 para. 3(11)(b)(c) and words omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(viii), [Sch. 5 para. 50\(b\)](#) (with s. 38(3), [Sch. 5 para. 66](#))

Committee of the National Assembly for Wales to sift certain deficiencies regulations of Welsh Ministers

- 4 (1) Sub-paragraph (2) applies if the Welsh Ministers are to make a statutory instrument to which paragraph 1(9) applies and are of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (2) The Welsh Ministers may not make the instrument so that it is subject to that procedure unless—

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- (a) condition 1 is met, and
 - (b) either condition 2 or 3 is met.
- (3) Condition 1 is that the Welsh Ministers—
- (a) have made a statement in writing to the effect that in their opinion the instrument should be subject to annulment in pursuance of a resolution of the National Assembly for Wales, and
 - (b) have laid before the Assembly—
 - (i) a draft of the instrument, and
 - (ii) a memorandum setting out the statement and the reasons for the Welsh Ministers' opinion.
- (4) Condition 2 is that a committee of the National Assembly for Wales charged with doing so has made a recommendation as to the appropriate procedure for the instrument.
- (5) Condition 3 is that the period of 14 days beginning with the first day after the day on which the draft instrument was laid before the National Assembly for Wales as mentioned in sub-paragraph (3) has ended without any recommendation being made as mentioned in sub-paragraph (4).
- (6) In calculating the period of 14 days, no account is to be taken of any time during which the National Assembly for Wales is—
- (a) dissolved, or
 - (b) in recess for more than four days.
- (7) Nothing in this paragraph prevents the Welsh Ministers from deciding at any time before a statutory instrument to which paragraph 1(9) applies is made that another procedure should apply to the instrument (whether under paragraph 1(9) or 7).
- (8) Section 6(1) of the Statutory Instruments Act 1946 as applied by section 11A of that Act (alternative procedure for certain instruments laid in draft before the Assembly) does not apply in relation to any statutory instrument to which this paragraph applies.
- ^{F3}(9)

Textual Amendments

- F3** Sch. 7 para. 4(9) omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(viii), [Sch. 5 para. 50\(c\)](#) (with s. 38(3), [Sch. 5 para. 66](#))

Scrutiny procedure in certain urgent deficiencies cases: Ministers of the Crown

- 5 (1) Sub-paragraph (2) applies to—
- (a) a statutory instrument to which paragraph 1(1) applies, or
 - (b) a statutory instrument to which paragraph 1(3) applies which would not otherwise be made without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament.
- (2) The instrument may be made without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament if it contains a declaration that the Minister of the Crown concerned is of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.

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- (3) After an instrument is made in accordance with sub-paragraph (2), it must be laid before each House of Parliament.
- (4) Regulations contained in an instrument made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (5) In calculating the period of 28 days, no account is to be taken of any time during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not—
 - (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.
- (7) Sub-paragraph (8) applies to a statutory instrument to which paragraph 1(3) applies where the Minister of the Crown who is to make the instrument is of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Paragraph 3 does not apply in relation to the instrument if the instrument contains a declaration that the Minister is of the opinion that, by reason of urgency, it is necessary to make the regulations without meeting the requirements of that paragraph.

Scrutiny procedure in certain urgent deficiencies cases: devolved authorities

- 6 (1) This paragraph applies to—
 - (a) regulations to which paragraph 1(6) applies, or
 - (b) regulations to which paragraph 1(7) applies which would not otherwise be made without being subject to the affirmative procedure.
- (2) The regulations may be made without being subject to the affirmative procedure if the regulations contain a declaration that the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without them being subject to that procedure.
- (3) After regulations are made in accordance with sub-paragraph (2), they must be laid before the Scottish Parliament.
- (4) Regulations made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by resolution of the Scottish Parliament.
- (5) In calculating the period of 28 days, no account is to be taken of any time during which the Scottish Parliament is—
 - (a) dissolved, or
 - (b) in recess for more than four days.
- (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not—
 - (a) affect the validity of anything previously done under the regulations, or

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- (b) prevent the making of new regulations.

^{F4}(7)

Textual Amendments

F4 Sch. 7 para. 6(7) omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(6)(e)(viii), **Sch. 5 para. 50(d)** (with s. 38(3), Sch. 5 para. 66)

- 7 (1) Sub-paragraph (2) applies to—
- (a) a statutory instrument to which paragraph 1(8) applies, or
 - (b) a statutory instrument to which paragraph 1(9) applies which would not otherwise be made without a draft of the instrument being laid before, and approved by a resolution of, the National Assembly for Wales.
- (2) The instrument may be made without a draft of the instrument being laid before, and approved by a resolution of, the National Assembly for Wales if it contains a declaration that the Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.
- (3) After an instrument is made in accordance with sub-paragraph (2), it must be laid before the National Assembly for Wales.
- (4) Regulations contained in an instrument made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of the National Assembly for Wales.
- (5) In calculating the period of 28 days, no account is to be taken of any time during which the National Assembly for Wales is—
- (a) dissolved, or
 - (b) in recess for more than four days.
- (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not—
- (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.
- (7) Sub-paragraph (8) applies to a statutory instrument to which paragraph 1(9) applies where the Welsh Ministers are of the opinion that the appropriate procedure for the instrument is for it to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (8) Paragraph 4 does not apply in relation to the instrument if the instrument contains a declaration that the Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without meeting the requirements of that paragraph.

^{F5}(9)

Textual Amendments

F5 Sch. 7 para. 7(9) omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(6)(e)(viii), **Sch. 5 para. 50(e)** (with s. 38(3), Sch. 5 para. 66)

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- 8 (1) This paragraph applies to—
- (a) regulations to which paragraph 1(11) applies, or
 - (b) regulations to which paragraph 1(12) applies which would not otherwise be made without a draft of the regulations being laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (2) The regulations may be made without a draft of the regulations being laid before, and approved by a resolution of, the Northern Ireland Assembly if they contain a declaration that the Northern Ireland department concerned is of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.
- (3) After regulations are made in accordance with sub-paragraph (2), they must be laid before the Northern Ireland Assembly.
- (4) Regulations made in accordance with sub-paragraph (2) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by a resolution of the Northern Ireland Assembly.
- (5) In calculating the period of 28 days, no account is to be taken of any time during which the Northern Ireland Assembly is—
- (a) dissolved,
 - (b) in recess for more than four days, or
 - (c) adjourned for more than six days.
- (6) If regulations cease to have effect as a result of sub-paragraph (4), that does not—
- (a) affect the validity of anything previously done under the regulations, or
 - (b) prevent the making of new regulations.
- ^{F6}(7)

Textual Amendments

F6 Sch. 7 para. 8(7) omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020](#) (c. 1), s. 42(6)(e)(viii), **Sch. 5 para. 50(f)** (with s. 38(3), Sch. 5 para. 66)

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