

Changes to legislation: European Union (Withdrawal) Act 2018, Part 2 is up to date with all changes known to be in force on or before 24 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 7

REGULATIONS

PART 2

SCRUTINY OF OTHER POWERS UNDER ACT

Power to enable challenges to validity of retained EU law

- 9
- (1) A statutory instrument containing regulations under paragraph 1(2)(b) of Schedule 1 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) This paragraph is subject to paragraph 19.

[^{F1}Power in relation to interpretation of retained EU law

Textual Amendments

F1 Sch. 7 para. 9A and cross-heading inserted (19.5.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), Sch. 5 para. 52(2) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/518, reg. 2(p)(ii)

- 9A
- A statutory instrument containing regulations under section 6(5A) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.]

F2 ...

Textual Amendments

F2 Sch. 7 para. 10 and cross-heading omitted (23.1.2020) by virtue of European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(6)(e)(x), Sch. 5 para. 52(3) (with s. 38(3), Sch. 5 para. 66)

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Power to repeal provisions relating to retained EU law restrictions

- 11
- A statutory instrument containing regulations under section 12(9) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

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Powers in connection with fees and charges

- 12 (1) A statutory instrument containing regulations of a Minister of the Crown under Schedule 4 which contain provision which does not relate to altering the amount of a fee or charge to reflect changes in the value of money 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) Any other statutory instrument containing regulations under Schedule 4 of a Minister of the Crown 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.
- (3) Paragraphs 1(6) to (13)(a) and 2 apply to regulations under Schedule 4 as they apply to regulations under Part 1 of Schedule 2 except that any reference to provision falling within paragraph 1(2) is to be read as a reference to any provision made under Schedule 4 which does not relate to altering the amount of a fee or charge to reflect changes in the value of money.
- (4) This paragraph is subject to paragraph 19.

Power to make provision about judicial notice and admissibility

- 13 A statutory instrument containing regulations under paragraph 4 of Schedule 5 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Power to amend the definition of “exit day”

- 14 A statutory instrument containing regulations under section 20(4) [^{F3}is subject to annulment in pursuance of a resolution of either] House of Parliament.

Textual Amendments

- F3** Words in Sch. 7 para. 14 substituted (8.4.2019) by [European Union \(Withdrawal\) Act 2019 \(c. 16\), ss. 2, 3\(2\)](#)

Power to make consequential provision

- 15 (1) A statutory instrument containing regulations under section 23(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.
- (2) See paragraph 17 for restrictions on the choice of procedure under sub-paragraph (1).

Power to make transitional, transitory or saving provision

- 16 (1) Sub-paragraph (2) applies if a Minister of the Crown who is to make regulations under section 23(6) considers that—
- (a) it is not appropriate for the statutory instrument containing them to be subject to no parliamentary procedure, and

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- (b) it is appropriate for that statutory instrument to be subject to the parliamentary procedure in sub-paragraph (2).
- (2) The statutory instrument containing the regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (3) Sub-paragraph (4) applies if a Minister of the Crown who is to make regulations under section 23(6) considers that—
 - (a) it is not appropriate for the statutory instrument containing them to be subject to no parliamentary procedure, and
 - (b) it is appropriate for that statutory instrument to be subject to the parliamentary procedure in sub-paragraph (4).
- (4) The statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

Parliamentary committee to sift^{F4} ... consequential regulations of a Minister of the Crown

Textual Amendments

F4 Words in Sch. 7 para. 17 cross-heading omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(x), [Sch. 5 para. 52\(4\)](#) (with s. 38(3), [Sch. 5 para. 66](#))

- 17 (1) Sub-paragraph (2) applies if a Minister of the Crown who is to make a statutory instrument to which paragraph^{F5}... 15 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,

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- (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.
- (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 of Parliament 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,
 - ^{F6}(b)
 - ^{F6}(c)
 - ^{F6} ...
- (12) Nothing in this paragraph prevents a Minister of the Crown from deciding at any time before a statutory instrument to which paragraph ^{F7}... 15 applies is made that another procedure should apply in relation to the instrument (whether under that paragraph or paragraph 19).
- (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

- F5** Words in Sch. 7 para. 17(1) omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(x), [Sch. 5 para. 52\(5\)\(a\)](#) (with s. 38(3), Sch. 5 para. 66)
- F6** Sch. 7 para. 17(11)(b)(c) and words omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(x), [Sch. 5 para. 52\(5\)\(b\)](#) (with s. 38(3), Sch. 5 para. 66)
- F7** Words in Sch. 7 para. 17(12) omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(x), [Sch. 5 para. 52\(5\)\(c\)](#) (with s. 38(3), Sch. 5 para. 66)

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F8 ...

Textual Amendments

F8 Sch. 7 para. 18 and cross-heading omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(x), [Sch. 5 para. 52\(6\)](#) (with s. 38(3), [Sch. 5 para. 66](#))

F818

Scrutiny procedure for certain powers to which this Part applies in urgent cases

- 19 (1) Sub-paragraph (2) applies to—
- (a) a statutory instrument to which paragraph 9(1) ^{F9}... or 12(1) applies, or
 - (b) a statutory instrument to which paragraph ^{F10}... 12(2) or 15 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.
- (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.
- F11**(7)
- (8) Sub-paragraph (9) applies to a statutory instrument to which paragraph ^{F12}... 15 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.
- (9) Paragraph 17 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.

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Textual Amendments

- F9** Word in Sch. 7 para. 19(1)(a) omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(x), [Sch. 5 para. 52\(7\)\(a\)\(i\)](#) (with s. 38(3), Sch. 5 para. 66)
- F10** Word in Sch. 7 para. 19(1)(b) omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(x), [Sch. 5 para. 52\(7\)\(a\)\(ii\)](#) (with s. 38(3), Sch. 5 para. 66)
- F11** Sch. 7 para. 19(7) omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(x), [Sch. 5 para. 52\(7\)\(b\)](#) (with s. 38(3), Sch. 5 para. 66)
- F12** Words in Sch. 7 para. 19(8) omitted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(x), [Sch. 5 para. 52\(7\)\(c\)](#) (with s. 38(3), Sch. 5 para. 66)

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Changes and effects yet to be applied to :

- Sch. 7 para. 9 cross-heading word substituted by 2023 c. 28 Sch. 2 para. 8(14)(a)

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)