

SCHEDULES

SCHEDULE 5

REGULATIONS UNDER THIS ACT

PART 3

GENERAL PROVISION ABOUT POWERS UNDER ACT

Scope and nature of powers: general

- 26 (1) Any power to make regulations under this Act—
- (a) so far as exercisable by a Minister of the Crown or by a Minister of the Crown acting jointly with a devolved authority, is exercisable by statutory instrument,
 - (b) so far as exercisable by the Welsh Ministers or by the Welsh Ministers acting jointly with a Minister of the Crown, is exercisable by statutory instrument, and
 - (c) so far as exercisable by a Northern Ireland department (other than when acting jointly with a Minister of the Crown), is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 ([S.I. 1979/1573 \(N.I. 12\)](#)) (and not by statutory instrument).
- (2) For regulations made under this Act by the Scottish Ministers, see also section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#)) (Scottish statutory instruments).
- 27 Any power to make regulations under this Act—
- (a) may be exercised so as to make different provision for different cases or descriptions of case, different circumstances, different purposes or different areas, and
 - (b) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- 28 The fact that a power to make regulations is conferred by this Act does not affect the extent of any other power to make subordinate legislation under this Act or any other enactment.

Anticipatory exercise of powers in relation to future relationship agreements etc.

- 29 Any power to make regulations under this Act in relation to a future relationship agreement or an agreement falling within section 31(7)(b) is also capable of being exercised before the agreement concerned is signed, provisionally applied or ratified or before it comes into force.

Scope of appointed day power

- 30 The power of a Minister of the Crown under section 40(7) to appoint a day includes a power to appoint a time on that day if the Minister considers it appropriate to do so.

Disapplication of certain review provisions

- 31 Section 28 of the Small Business, Enterprise and Employment Act 2015 (duty to review regulatory provisions in secondary legislation) does not apply in relation to any power to make regulations under this Act.

Hybrid instruments

- 32 If an instrument, or a draft of an instrument, containing regulations under this Act would, apart from this paragraph, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument.

Procedure on re-exercise of certain powers

- 33 A power to make regulations which, under this Schedule, is capable of being exercised subject to different procedures may (in spite of section 14 of the Interpretation Act 1978) be exercised, when revoking, amending or re-enacting an instrument made under the power, subject to a different procedure from the procedure to which the instrument was subject.

Combinations of instruments

- 34 (1) Sub-paragraph (2) applies to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament for the approval of the instrument in draft before it is made or its approval after it is made.
- (2) The statutory instrument may also include regulations under this Act or another enactment which are made by statutory instrument which is subject to a procedure before Parliament that provides for the annulment of the instrument after it has been made.
- (3) Where regulations are included as mentioned in sub-paragraph (2), the procedure applicable to the statutory instrument is the procedure mentioned in sub-paragraph (1) and not the procedure mentioned in sub-paragraph (2).
- (4) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Senedd Cymru as they apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before Parliament but as if the references to Parliament were references to Senedd Cymru.
- (5) Sub-paragraphs (1) to (3) apply in relation to a statutory rule as they apply in relation to a statutory instrument but as if the references to Parliament were references to the Northern Ireland Assembly.
- (6) Sub-paragraphs (1) to (3) apply in relation to a statutory instrument containing regulations under this Act which is subject to a procedure before the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly as well as a procedure before Parliament as they apply to a statutory instrument containing regulations

under this Act which is subject to a procedure before Parliament but as if the references to Parliament were references to Parliament and the Scottish Parliament, Senedd Cymru or (as the case may be) the Northern Ireland Assembly.

- (7) This paragraph does not prevent the inclusion of other regulations in a statutory instrument or statutory rule which contains regulations under this Act (and, accordingly, references in this Schedule to an instrument containing regulations are to be read as references to an instrument containing (whether alone or with other provision) regulations).