

SCHEDULES

SCHEDULE 5

Section 20

REGULATIONS: PROCEDURE

PART 1

GENERAL

Making of regulations by statutory instrument etc

- 1 (1) A power to make regulations under this Act—
- (a) so far as exercisable by a Minister of the Crown acting alone, the Welsh Ministers acting alone, or by a Minister of the Crown and a devolved authority acting jointly, is exercisable by statutory instrument;
 - (b) 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 \(N.I. 12\)\)](#).
- (2) For regulations made under this Act by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (Scottish statutory instruments).

Commencement Information

- II** Sch. 5 para. 1 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Combining provision

- 2 (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.
- (2) The statutory instrument may also include regulations under this Act or another enactment which are made by statutory instrument which is not subject to the procedure mentioned in [sub-paragraph \(1\)](#) (whether or not it is subject to any other procedure before Parliament).
- (3) Where regulations are included as mentioned in [sub-paragraph \(2\)](#), the statutory instrument is subject to the procedure mentioned in [sub-paragraph \(1\)](#) (and is not subject to any other procedure before Parliament).
- (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

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which is subject to a procedure before Parliament, but as if references to Parliament were references to the Senedd.

- (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 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 a devolved legislature as well as a procedure before Parliament 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 references to Parliament were references to Parliament and the devolved legislature.
- (7) In [sub-paragraph \(6\)](#) “devolved legislature” means the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly.
- (8) Nothing in this paragraph prevents the inclusion of other regulations in a statutory instrument or statutory rule which contains regulations under this Act.

Commencement Information

I2 Sch. 5 para. 2 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Hybrid instruments

- 3 If an instrument, or a draft of an instrument, containing regulations under this Act would otherwise 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.

Commencement Information

I3 Sch. 5 para. 3 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

PART 2

POWERS OF RELEVANT NATIONAL AUTHORITY: SEPARATE EXERCISE

Introductory

- 4 [This Part of this Schedule](#) applies to regulations under any provision of this Act except [section 22\(4\)](#), where—
 - (a) the power to make the regulations is conferred on a “relevant national authority”, and
 - (b) the power is exercised by one relevant national authority acting alone.

Commencement Information

I4 Sch. 5 para. 4 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

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Separate exercise by a Minister of the Crown

- 5 (1) A Minister of the Crown may not make a statutory instrument containing regulations to which [this Part of this Schedule](#) applies and which are within [sub-paragraph \(2\)](#) unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) The following regulations are within this sub-paragraph—
- (a) regulations under [section 1](#);
 - (b) regulations under [section 7](#) which amend, repeal or revoke primary legislation;
 - (c) regulations under [section 11](#) or [12](#) which amend, repeal or revoke primary legislation;
 - (d) regulations under [section 14\(2\)](#) which confer a power to make subordinate legislation or create a criminal offence;
 - (e) regulations under [section 14\(3\)](#);
 - (f) regulations under [section 19](#) which amend, repeal or revoke primary legislation.
- (3) A statutory instrument made by a Minister of the Crown containing regulations to which [this Part of this Schedule](#) applies and which are within [sub-paragraph \(4\)](#) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The following regulations are within this sub-paragraph—
- (a) regulations under [section 7](#) which are not within [sub-paragraph \(2\)\(b\)](#);
 - (b) regulations under [section 15](#);
 - (c) regulations under [section 19](#) which are not within [sub-paragraph \(2\)\(f\)](#).
- (5) A statutory instrument made by a Minister of the Crown containing regulations to which [this Part of this Schedule](#) applies and to which neither [sub-paragraph \(1\)](#) nor [sub-paragraph \(3\)](#) 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.

Commencement Information

I5 Sch. 5 para. 5 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

- 6 (1) Sub-paragraph [\(2\)](#) applies where—
- (a) a Minister of the Crown, acting alone, is to make a statutory instrument containing regulations under [section 11](#), [12](#) or [14](#),
 - (b) [paragraph 5\(5\)](#) applies to the regulations, and
 - (c) the Minister 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—

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- (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.
- (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,
 - (b) “Commons sitting day” means a day on which the House of Commons is sitting, and
 - (c) “Lords sitting day” means a day on which the House of Lords is sitting,

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and, for the purposes of sub-paragraph (10) and this sub-paragraph, a day is only a day on which the House of Commons or the House of Lords is sitting if the House concerned begins to sit on that day.

(12) Nothing in [this paragraph](#) prevents a Minister of the Crown from deciding at any time before a statutory instrument containing regulations under [section 11](#), [12](#) or [14](#) is made that another procedure should apply in relation to the instrument.

(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.

Commencement Information

I6 Sch. 5 para. 6 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Commencement Information

I5 Sch. 5 para. 5 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

I6 Sch. 5 para. 6 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Separate exercise by Scottish Ministers

- 7
- (1) Regulations of the Scottish Ministers to which [this Part](#) of [this Schedule](#) applies and which are within [paragraph 5\(2\)](#) are subject to the affirmative procedure.
 - (2) Regulations made by the Scottish Ministers to which [this Part](#) of [this Schedule](#) applies and which are within [paragraph 5\(4\)](#) are subject to the negative procedure.
 - (3) Regulations made by the Scottish Ministers to which [this Part](#) of [this Schedule](#) applies and to which neither [sub-paragraph \(1\)](#) nor [sub-paragraph \(2\)](#) applies are (if they have not been subject to the affirmative procedure) subject to the negative procedure.
 - (4) For the negative procedure and the affirmative procedure, see sections 28 and 29 of the Interpretation and [Legislative Reform \(Scotland\) Act 2010 \(asp 10\)](#) respectively.

Commencement Information

I7 Sch. 5 para. 7 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Separate exercise by Welsh Ministers

- 8
- (1) The Welsh Ministers may not make a statutory instrument containing regulations to which [this Part](#) of [this Schedule](#) applies and which fall within [paragraph 5\(2\)](#) unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
 - (2) A statutory instrument made by the Welsh Ministers containing regulations to which [this Part](#) of [this Schedule](#) applies and which are within [paragraph 5\(4\)](#) is subject to annulment in pursuance of a resolution of the Senedd.

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- (3) A statutory instrument made by the Welsh Ministers containing regulations to which [this Part of this Schedule](#) applies and to which neither [sub-paragraph \(1\)](#) nor [sub-paragraph \(2\)](#) applies is (if a draft of the instrument has not been laid before, and approved by a resolution of, Senedd Cymru) subject to annulment in pursuance of a resolution of the Senedd.

Commencement Information

18 Sch. 5 para. 8 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

- 9 (1) Sub-paragraph (2) applies if—
- (a) the Welsh Ministers, acting alone, are to make a statutory instrument containing regulations under [section 11, 12 or 14](#),
 - (b) [paragraph 8\(3\)](#) applies to the instrument, and
 - (c) 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 Senedd Cymru.
- (2) The Welsh Ministers 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 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 Senedd, and
 - (b) have laid before the Senedd—
 - (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 Senedd charged with doing so have 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 Senedd as mentioned in [sub-paragraph \(3\)\(b\)\(i\)](#) 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 Senedd 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 containing regulations under [section 11, 12 or 14](#) is made that another procedure should apply in relation to the instrument.
- (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 Senedd Cymru) does not apply in relation to any statutory instrument to which [this paragraph](#) applies.

Changes to legislation: There are currently no known outstanding effects for the Retained EU Law (Revocation and Reform) Act 2023, Schedule 5. (See end of Document for details)

Commencement Information

I9 Sch. 5 para. 9 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Commencement Information

I8 Sch. 5 para. 8 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

I9 Sch. 5 para. 9 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Separate exercise by Northern Ireland department

- 10 (1) A Northern Ireland department may not make regulations to which [this Part of this Schedule](#) applies and which fall within [paragraph 5\(2\)](#) unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (2) Regulations made by a Northern Ireland department to which [this Part of this Schedule](#) applies and which are within [paragraph 5\(4\)](#) are subject to negative resolution.
- (3) Regulations made by a Northern Ireland department to which [this Part of this Schedule](#) applies and to which neither [sub-paragraph \(1\)](#) nor [sub-paragraph \(2\)](#) applies 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.
- (4) In [this paragraph](#) “subject to negative resolution” means 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.

Commencement Information

I10 Sch. 5 para. 10 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

PART 3

POWERS OF RELEVANT NATIONAL AUTHORITY: JOINT EXERCISE

Parliamentary procedure

- 11 (1) A statutory instrument containing regulations within [paragraph 5\(2\)](#) may not be made by a Minister of the Crown jointly with a devolved authority unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (2) A statutory instrument containing regulations within [paragraph 5\(4\)](#) made by a Minister of the Crown jointly with a devolved authority is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing regulations under this Act that are made by a Minister of the Crown jointly with a devolved authority and to which neither [sub-paragraph \(1\)](#) nor [sub-paragraph \(2\)](#) applies is (if a draft of the instrument has not

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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) The procedure provided for by [this paragraph](#) is in addition to any other procedure provided for by [this Part of this Schedule](#).

Commencement Information

I11 Sch. 5 para. 11 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Joint exercise with Scottish Ministers

- 12 (1) Regulations within [paragraph 5\(2\)](#) of a Minister of the Crown acting jointly with the Scottish Ministers are subject to the affirmative procedure.
- (2) Regulations within [paragraph 5\(4\)](#) made by a Minister of the Crown jointly with the Scottish Ministers are subject to the negative procedure.
- (3) Regulations under this Act made by a Minister of the Crown jointly with the Scottish Ministers and to which neither [sub-paragraph \(1\)](#) nor [sub-paragraph \(2\)](#) applies are (if they have not been subject to the affirmative procedure) subject to the negative procedure.

Commencement Information

I12 Sch. 5 para. 12 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

- 13 (1) [This paragraph](#) applies in relation to regulations under this Act to which any provision of [paragraph 12](#) applies.
- (2) If the regulations are subject to the affirmative procedure, section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (affirmative procedure) applies in relation to the regulations 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).
- (3) If the regulations are subject to the negative procedure, sections 28(2), (3) and (8) and 31 of that Act apply in relation to the regulations 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).
- (4) Section 32 of that Act (laying) applies in relation to the laying before the Scottish Parliament of a statutory instrument containing the regulations 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).

Commencement Information

I13 Sch. 5 para. 13 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

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Commencement Information

- I12** Sch. 5 para. 12 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)
I13 Sch. 5 para. 13 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Joint exercise with Welsh Ministers

- 14 (1) A statutory instrument containing regulations within [paragraph 5\(2\)](#) may not be made by a Minister of the Crown jointly with the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (2) A statutory instrument containing regulations within [paragraph 5\(4\)](#) made by a Minister of the Crown jointly with the Welsh Ministers is subject to annulment in pursuance of a resolution of the Senedd.
- (3) A statutory instrument containing regulations under this Act that are made by a Minister of the Crown jointly with the Welsh Ministers and to which neither [sub-paragraph \(1\)](#) nor [sub-paragraph \(2\)](#) applies is (if a draft of the instrument has not been laid before, and approved by a resolution of, Senedd Cymru) subject to annulment in pursuance of a resolution of the Senedd.

Commencement Information

- I14** Sch. 5 para. 14 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Joint exercise with Northern Ireland department

- 15 (1) Regulations within [paragraph 5\(2\)](#) may not be made by a Minister of the Crown jointly with a Northern Ireland department unless a draft of the regulations been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (2) Regulations within [paragraph 5\(4\)](#) made by a Minister of the Crown jointly with a Northern Ireland department are subject to negative resolution.
- (3) Regulations under this Act made by a Minister of the Crown jointly with a Northern Ireland department and to which neither [sub-paragraph \(1\)](#) nor [sub-paragraph \(2\)](#) applies 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.
- (4) In [this paragraph](#) “subject to negative resolution” means 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.

Commencement Information

- I15** Sch. 5 para. 15 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Effect of annulment resolution

- 16 (1) If in accordance with [this Part of this Schedule](#)—

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- (a) either House of Parliament resolves that an address be presented to His 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 His Majesty may by Order in Council revoke the instrument.
- (2) In [sub-paragraph \(1\)](#) “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, Senedd Cymru;
 - (c) in the case of regulations made jointly with a Northern Ireland department, the Northern Ireland Assembly.
- (3) [Sub-paragraph \(1\)](#) does not—
- (a) affect the validity of anything previously done under the instrument, or
 - (b) prevent the making of a new instrument.
- (4) [This paragraph](#) applies in place of provision made by any other enactment about the effect of such a resolution.

Commencement Information

I16 Sch. 5 para. 16 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Transitional, transitory or saving provision

17 This Part of this Schedule does not apply in relation to regulations under [section 22\(4\)](#).

Commencement Information

I17 Sch. 5 para. 17 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Retained EU Law (Revocation and Reform) Act 2023, Schedule 5.