
Changes to legislation: There are currently no known outstanding effects for the Retained EU Law (Revocation and Reform) Act 2023, Paragraph 6. (See end of Document for details)

SCHEDULES

SCHEDULE 5

REGULATIONS: PROCEDURE

PART 2

POWERS OF RELEVANT NATIONAL AUTHORITY: SEPARATE EXERCISE

Separate exercise by a Minister of the Crown

- 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—
- (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

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- (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,
- 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

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

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