



Interpretation and Legislative Reform (Scotland) Act 2010

2010 asp 10

PART 2

SCOTTISH STATUTORY INSTRUMENTS

Parliamentary scrutiny

28 Instruments subject to the negative procedure

- (1) This section applies where, by virtue of an enactment, devolved subordinate legislation is subject to the negative procedure.
- (2) The Scottish statutory instrument containing the subordinate legislation must be laid before the Scottish Parliament as soon as practicable after the instrument is made (and in any event at least 28 days before the instrument comes into force).
- (3) The Parliament may, before the expiry of the period of 40 days beginning with the date on which the instrument is laid before it, resolve that the instrument be annulled.
- (4) Where the Parliament makes such a resolution in relation to an instrument—
 - (a) so far as the instrument is not in force on the date of the resolution, the instrument is not to come into force after that date (despite any provision in it for its coming into force),
 - (b) so far as the instrument is in force on that date, nothing further is to be done or continued under, or in reliance on, the instrument after that date.
- (5) Where the Parliament makes such a resolution in relation to an instrument which contains an Order in Council or an Order of Council, Her Majesty may by Order in Council revoke the instrument.
- (6) Where the Parliament makes such a resolution in relation to any other instrument, the responsible authority must by order revoke the instrument.
- (7) Any such resolution or revocation does not affect—
 - (a) the validity of anything previously done under the instrument, or

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- (b) the making of a new Scottish statutory instrument.
- (8) In calculating the period of 28 days mentioned in subsection (2), or the period of 40 days mentioned in subsection (3), no account is to be taken of any time during which the Scottish Parliament is dissolved or in recess for more than four days.
- (9) In subsection (6), “responsible authority”, in relation to a Scottish statutory instrument, means—
- (a) the Scottish Ministers in a case where the instrument is made, confirmed or approved by the Scottish Ministers, the First Minister or the Lord Advocate, and
- (b) in any other case, the person who made, confirmed or approved the instrument.
- (10) An order under subsection (5) or (6) is to be made by Scottish statutory instrument.

Modifications etc. (not altering text)

- C1** S. 28 applied (with modifications) by 2002 c. 17, s. 38(3C) (as inserted (27.3.2012 for specified purposes, 16.3.2015 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 224(3)**, [306\(1\)\(d\)\(4\)](#); S.I. 2015/409, art. 2)
- C2** S. 28 applied (with modifications) (27.3.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 304(7)**, [306\(1\)\(c\)](#)
- C3** S. 28 applied (with modifications) (12.4.2016) by [The Pharmacy \(Premises Standards, Information Obligations, etc.\) Order 2016 \(S.I. 2016/372\)](#), arts. 1(2), **4(5)(b)**
- C4** S. 28 applied in part by 2018 c. 16, Sch. 7 paras. 8C(8), 8E(8), **8G(8)** (as inserted (23.1.2020 for specified purposes, 31.1.2020 for specified purposes, 19.5.2020 in so far as not already in force) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(ix), **Sch. 5 para. 51** (with s. 38(3)); S.I. 2020/75, **reg. 4(n)(xxiii)**; S.I. 2020/518, **reg. 2(p)(i)**)
- C5** S. 28(2)(3) applied (with modifications) (26.6.2018) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(1)(e), **Sch. 7 para. 2(8)** (with s. 19, Sch. 8 para. 37)
- C6** S. 28(2)(3) applied (with modifications) (31.12.2020) by [European Union \(Future Relationship\) Act 2020 \(c. 29\)](#), s. 40(6)(e), **Sch. 5 para. 13(8)**
- C7** S. 28(2)(3) applied (with modifications) (31.12.2020) by [European Union \(Future Relationship\) Act 2020 \(c. 29\)](#), s. 40(6)(e), **Sch. 5 para. 7(8)**
- C8** S. 28(2)(3) applied (with modifications) (6.5.2021) by [Trade Act 2021 \(c. 10\)](#), **Sch. 2 para. 3(5)**; S.I. 2021/550, reg. 2(g)
- C9** S. 28(2)(3) applied (with modifications) (23.3.2023) by [Trade \(Australia and New Zealand\) Act 2023 \(c. 9\)](#), s. 4(2), **Sch. 2 para. 3(5)**
- C10** S. 28(8) applied (with modifications) (26.6.2018) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(1)(e), **Sch. 7 para. 2(8)** (with s. 19, Sch. 8 para. 37)
- C11** S. 28(8) applied (with modifications) (31.12.2020) by [European Union \(Future Relationship\) Act 2020 \(c. 29\)](#), s. 40(6)(e), **Sch. 5 para. 7(8)**
- C12** S. 28(8) applied (with modifications) (31.12.2020) by [European Union \(Future Relationship\) Act 2020 \(c. 29\)](#), s. 40(6)(e), **Sch. 5 para. 13(8)**
- C13** S. 28(8) applied (with modifications) (6.5.2021) by [Trade Act 2021 \(c. 10\)](#), **Sch. 2 para. 3(5)**; S.I. 2021/550, reg. 2(g)
- C14** S. 28(8) applied (with modifications) (23.3.2023) by [Trade \(Australia and New Zealand\) Act 2023 \(c. 9\)](#), s. 4(2), **Sch. 2 para. 3(5)**

Commencement Information

- I1** S. 28 in force at 26.1.2011 for specified purposes by S.S.I. 2011/17, **art. 4(b)** (with art. 5)

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12 S. 28 in force at 6.4.2011 in so far as not already in force by S.S.I. 2011/17, **art. 3(a)**

Status:

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Changes to legislation:

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