
Changes to legislation: There are currently no known outstanding effects for the Retained EU Law (Revocation and Reform) Act 2023, Schedule 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4

Section 20

REGULATIONS: RESTRICTIONS ON POWERS OF DEVOLVED AUTHORITIES

Introductory

- 1 This Schedule applies to regulations under this Act where the power to make the regulations is conferred on a relevant national authority.

Commencement Information

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

No power to make provision outside devolved competence

- 2 (1) Provision may be made in regulations to which this Schedule applies by a devolved authority acting alone only if the provision is within the devolved competence of the devolved authority.
- (2) A provision is within the devolved competence of the Scottish Ministers for the purposes of this paragraph if—
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, or
 - (b) it is provision which could be made in other subordinate legislation by the Scottish Ministers, the First Minister or the Lord Advocate acting alone.
- (3) A provision is within the devolved competence of the Welsh Ministers for the purposes of this paragraph if—
- (a) it would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006), or
 - (b) it is provision which could be made in other subordinate legislation by the Welsh Ministers acting alone.
- (4) A provision is within the devolved competence of a Northern Ireland department for the purposes of this paragraph if—
- (a) it would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly and it would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998, or
 - (b) it is provision which could be made in other subordinate legislation by any Northern Ireland devolved authority acting alone.

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Commencement Information

I2 Sch. 4 para. 2 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Requirement for consent where it would otherwise be required

- 3 (1) The consent of a Minister of the Crown is required before any provision is made in regulations to which this Schedule applies by the Welsh Ministers acting alone so far as that provision, if contained in an Act of Senedd Cymru, would require the consent of a Minister of the Crown.
- (2) The consent of the Secretary of State is required before any provision is made in regulations to which this Schedule applies by a Northern Ireland department acting alone so far as that provision, if contained in a Bill in the Northern Ireland Assembly, would require the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.
- (3) Sub-paragraph (1) or (2) does not apply if—
- (a) the provision could be contained in subordinate legislation made otherwise than under this Act by the Welsh Ministers acting alone or (as the case may be) a Northern Ireland devolved authority acting alone, and
 - (b) no such consent would be required in that case.
- (4) The consent of a Minister of the Crown is required before any provision is made in regulations to which this Schedule applies by a devolved authority acting alone so far as that provision would require the consent of a Minister of the Crown if contained in—
- (a) subordinate legislation made otherwise than under this Act by the devolved authority, or
 - (b) subordinate legislation not falling within paragraph (a) and made otherwise than under this Act by (in the case of Scotland) the First Minister or Lord Advocate acting alone or (in the case of Northern Ireland) a Northern Ireland devolved authority acting alone.
- (5) Sub-paragraph (4) does not apply if—
- (a) the provision could be contained in—
 - (i) an Act of the Scottish Parliament, an Act of Senedd Cymru or (as the case may be) an Act of the Northern Ireland Assembly, or
 - (ii) different subordinate legislation of the kind mentioned in sub-paragraph (4)(a) or (b) and of a devolved authority acting alone or (as the case may be) other person acting alone, and
 - (b) no such consent would be required in that case.

Commencement Information

I3 Sch. 4 para. 3 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

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Requirement for joint exercise where it would otherwise be required

- 4 (1) No regulations to which this Schedule applies may be made by the Scottish Ministers, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by—
- (a) the Scottish Ministers acting jointly with a Minister of the Crown, or
 - (b) the First Minister or Lord Advocate acting jointly with a Minister of the Crown,
- unless the regulations are, to that extent, made jointly with the Minister of the Crown.
- (2) No regulations to which this Schedule applies may be made by the Welsh Ministers, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers acting jointly with a Minister of the Crown, unless the regulations are, to that extent, made jointly with the Minister of the Crown.
- (3) No regulations to which this Schedule applies may be made by a Northern Ireland department, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by—
- (a) a Northern Ireland department acting jointly with a Minister of the Crown, or
 - (b) another Northern Ireland devolved authority acting jointly with a Minister of the Crown,
- unless the regulations are, to that extent, made jointly with the Minister of the Crown.
- (4) Sub-paragraph (1), (2) or (3) does not apply if the provision could be contained in—
- (a) an Act of the Scottish Parliament, an Act of Senedd Cymru or (as the case may be) an Act of the Northern Ireland Assembly without the need for the consent of a Minister of the Crown, or
 - (b) different subordinate legislation made otherwise than under this Act by—
 - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
 - (ii) the Welsh Ministers acting alone, or (as the case may be)
 - (iii) a Northern Ireland devolved authority acting alone.

Commencement Information

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

Requirement for consultation where it would otherwise be required

- 5 (1) No regulations to which this Schedule applies may be made by the Welsh Ministers acting alone, so far as they contain provision which, if contained in an Act of Senedd Cymru, would require consultation with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (2) No regulations to which this Schedule applies may be made by the Scottish Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Scottish Ministers, the First Minister or the Lord Advocate after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.

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- (3) No regulations to which this Schedule applies may be made by the Welsh Ministers acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by the Welsh Ministers after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (4) No regulations to which this Schedule applies may be made by a Northern Ireland department acting alone, so far as they contain provision which relates to a matter in respect of which a power to make subordinate legislation otherwise than under this Act is exercisable by a Northern Ireland department after consulting with a Minister of the Crown, unless the regulations are, to that extent, made after consulting with the Minister of the Crown.
- (5) Sub-paragraph (2), (3) or (4) does not apply if—
- (a) the provision could be contained in an Act of the Scottish Parliament, an Act of Senedd Cymru or (as the case may be) an Act of the Northern Ireland Assembly, and
 - (b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.
- (6) Sub-paragraph (2), (3) or (4) does not apply if—
- (a) the provision could be contained in different subordinate legislation made otherwise than under this Act by—
 - (i) the Scottish Ministers, the First Minister or the Lord Advocate acting alone,
 - (ii) the Welsh Ministers acting alone, or (as the case may be)
 - (iii) a Northern Ireland devolved authority acting alone, and
 - (b) there would be no requirement for the consent of a Minister of the Crown, or for consultation with a Minister of the Crown, in that case.

Commencement Information

I5 Sch. 4 para. 5 in force at Royal Assent, see [s. 22\(1\)\(e\)](#)

Changes to legislation:

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