

SCHEDULE

Regulation 4

Regulation (EU) No 1169/2011 of the European Parliament and of the Council: new Articles 51 to 51f

“Article 51

Type C regulations: general

1. The power to make type C regulations is exercisable by the appropriate authority.
2. But the power to make type C regulations under a provision specified in paragraph 5 may be exercised by the Secretary of State for the whole or part of the United Kingdom if consent is given by:
 - (a) for regulations applying in relation to Northern Ireland, the Department of Health;
 - (b) for regulations applying in relation to Scotland, the Scottish Ministers;
 - (c) for regulations applying in relation to Wales, the Welsh Ministers.
3. The power to make type C regulations under Article 21(2) to update the list in Annex 2 may only be exercised by the Secretary of State for the whole or part of the United Kingdom if:
 - (a) the Secretary of State considers it necessary to update the list,
 - (b) to the extent that the regulations will apply to Northern Ireland, the Department of Health considers it necessary to update the list,
 - (c) to the extent that the regulations will apply to Scotland, the Scottish Ministers consider it necessary to update the list, and
 - (d) to the extent that the regulations will apply to Wales, the Welsh Ministers consider it necessary to update the list.
4. Type C regulations may:
 - (a) contain supplementary, incidental, consequential, transitional or saving provision (including provision amending, repealing or revoking enactments and retained direct minor EU legislation);
 - (b) make different provision for different purposes.
5. The specified provisions are:
 - (a) Article 10(2);
 - (b) Article 21(2);
 - (c) Article 24(3);
 - (d) Article 26(8);
 - (e) Article 27(2);
 - (f) Article 34(6);
 - (g) Article 36(3).

Article 51a

Type D regulations: general

1. The power to make type D regulations is exercisable:
 - (a) as regards matters concerning the regulation of, and obligation to provide, particulars of the type specified in Article 9(1)(e):

- (i) in relation to Great Britain, by the Secretary of State;
 - (ii) in relation to Northern Ireland, by the Department for the Economy;
 - (b) as regards other matters, by the appropriate authority.
2. But in relation to the power to make type D regulations under a provision specified in paragraph 4 as regards a matter covered by paragraph 1(b), the Secretary of State may make regulations for the whole or part of the United Kingdom if consent is given by:
- (a) for regulations applying in relation to Northern Ireland, the Department of Health;
 - (b) for regulations applying in relation to Scotland, the Scottish Ministers;
 - (c) for regulations applying in relation to Wales, the Welsh Ministers.
3. Type D regulations may:
- (a) contain supplementary, incidental, consequential, transitional or saving provision (including provision amending, repealing or revoking enactments and retained direct minor EU legislation);
 - (b) make different provision for different purposes.
4. The specified provisions are:
- (a) Article 12(4);
 - (b) Article 13(4);
 - (c) Article 46.

Article 51b

Type E regulations: general

1. The power to make type E regulations is exercisable:
- (a) in relation to Great Britain, by the Secretary of State;
 - (b) in relation to Northern Ireland, by the Department for the Economy.
2. Type E regulations may:
- (a) contain supplementary, incidental, consequential, transitional or saving provision (including provision amending, repealing or revoking enactments and retained direct minor EU legislation);
 - (b) make different provision for different purposes.

Article 51c

Type C, D and E regulations: the Secretary of State

1. Type C, D and E regulations made by the Secretary of State are to be made by statutory instrument.
2. Except as specified in paragraphs 5 and 6, a statutory instrument containing type C regulations made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
3. A statutory instrument containing type D regulations made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

4. A statutory instrument containing type E regulations made by the Secretary of State may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

5. Except as specified in paragraph 6, a statutory instrument containing regulations made by the Secretary of State under Article 10(2), 21(2) or 30(6) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

6. A statutory instrument containing regulations made by the Secretary of State made under Article 21(2) may be made without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament if it contains a declaration that the Secretary of State is of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.

7. After an instrument is made in accordance with paragraph 6, it must be laid before each House of Parliament.

8. Regulations contained in an instrument made in accordance with paragraph 6 cease to have effect at the end of the period of one month beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.

9. In calculating the period of one month, no account is to be taken of any time during which:

- (a) Parliament is dissolved or prorogued, or
- (b) either House of Parliament is adjourned for more than four days.

10. If regulations cease to have effect as a result of paragraph 8, that does not:

- (a) affect the validity of anything previously done under the regulations;
- (b) prevent the making of new regulations.

Article 51d

Type C, D and E Regulations: Northern Ireland

1. A power of the Department of Health to make type C or D regulations and the Department for the Economy to make type D or E regulations is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

2. Except as specified in paragraphs 5 and 6, type C regulations made by the Department of Health are 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.

3. Type D regulations are 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.

4. Type E regulations may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

5. Except as specified in paragraph 6, regulations made under Article 10(2), 21(2) or 30(6) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

6. Regulations made under Article 21(2) may be made without a draft of the regulations being laid before, and approved by a resolution of, the Northern Ireland Assembly if they

contain a declaration that the Department of Health is of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.

7. After regulations are made in accordance with paragraph 6, they must be laid before the Northern Ireland Assembly.

8. Regulations made in accordance with paragraph 6 cease to have effect at the end of the period of one month beginning with the day on which they are made unless, during that period, the regulations are approved by a resolution of the Northern Ireland Assembly.

9. In calculating the period of one month, no account is to be taken of any time during which the Northern Ireland Assembly is:

- (a) dissolved,
- (b) in recess for more than four days, or
- (c) adjourned for more than six days.

10. If regulations cease to have effect as a result of paragraph 8, that does not:

- (a) affect the validity of anything previously done under the regulations;
- (b) prevent the making of new regulations.

Article 51e

Type C and D Regulations: the Scottish Ministers

1. For type C and D regulations made by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010.

2. Except as specified in paragraphs 4 and 5, type C regulations made by the Scottish Ministers are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

3. Type D regulations made by the Scottish Ministers are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

4. Except as specified in paragraph 5, regulations made by the Scottish Ministers under Article 10(2), 21(2) or 30(6) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).

5. Regulations made under Article 21(2) may be made without being subject to the affirmative procedure if the regulations contain a declaration that the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without them being subject to that procedure.

6. After regulations are made in accordance with paragraph 5, they must be laid before the Scottish Parliament.

7. Regulations made in accordance with paragraph 5 cease to have effect at the end of the period of one month beginning with the day on which they are made unless, during that period, the regulations are approved by resolution of the Scottish Parliament.

8. In calculating the period of one month, no account is to be taken of any time during which the Scottish Parliament is:

- (a) dissolved, or
- (b) in recess for more than four days.

9. If regulations cease to have effect as a result of paragraph 7, that does not:

- (a) affect the validity of anything previously done under the regulations;

- (b) prevent the making of new regulations.

Article 51f

Type C and D regulations: the Welsh Ministers

1. Type C and D regulations made by the Welsh Ministers are to be made by statutory instrument.
2. Except as specified in paragraphs 4 and 5, a statutory instrument containing type C regulations made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
3. A statutory instrument containing type D regulations made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
4. Except as specified in paragraph 5, a statutory instrument containing regulations made under Article 10(2), 21(2) or 30(6) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
5. A statutory instrument containing regulations made under Article 21(2) may be made without a draft of the instrument being laid before, and approved by a resolution of, the National Assembly for Wales if it contains a declaration that the Welsh Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.
6. After a statutory instrument is made in accordance with paragraph 5, it must be laid before the National Assembly for Wales.
7. Regulations contained in a statutory instrument made in accordance with paragraph 5 cease to have effect at the end of the period of one month beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of the National Assembly for Wales.
8. In calculating the period of one month, no account is to be taken of any time during which the National Assembly for Wales is:
 - (a) dissolved, or
 - (b) in recess for more than four days.
9. If regulations cease to have effect as a result of paragraph 7, that does not:
 - (a) affect the validity of anything previously done under the regulations;
 - (b) prevent the making of new regulations.”