



Northern Ireland Act 1998

1998 CHAPTER 47

PART III

EXECUTIVE AUTHORITIES

Functions

22 Statutory functions.

- (1) An Act of the Assembly or other enactment may confer functions on a Minister (but not a junior Minister) or a Northern Ireland department by name.
- (2) Functions conferred on a Northern Ireland department by an enactment passed or made before the appointed day shall, except as provided by an Act of the Assembly or other subsequent enactment, continue to be exercisable by that department.

23 Prerogative and executive powers.

- (1) The executive power in Northern Ireland shall continue to be vested in Her Majesty.
- (2) As respects transferred matters, the prerogative and other executive powers of Her Majesty in relation to Northern Ireland shall, subject to [^{F1}subsections (2A) and (3)] , be exercisable on Her Majesty's behalf by any Minister or Northern Ireland department.
- [^{F2}(2A) So far as the Royal prerogative of mercy is exercisable on Her Majesty's behalf under subsection (2), it is exercisable only by the Minister in charge of the Department of Justice.]
- (3) As respects the Northern Ireland Civil Service and the Commissioner for Public Appointments for Northern Ireland, the prerogative and other executive powers of Her Majesty in relation to Northern Ireland shall be exercisable on Her Majesty's behalf by the First Minister and the deputy First Minister acting jointly.

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- (4) The First Minister and deputy First Minister acting jointly may by prerogative order under subsection (3) direct that such of the powers mentioned in that subsection as are specified in the order shall be exercisable on Her Majesty's behalf by a Northern Ireland Minister or Northern Ireland department so specified.

Textual Amendments

- F1** Words in s. 23(2) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), **24(2)** (with arts. 25, 28-31)
- F2** S. 23(2A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), **24(3)** (with arts. 25, 28-31)

Modifications etc. (not altering text)

- C1** [S. 23\(3\)](#) modified (22.3.2021) by [Functioning of Government \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2021 \(c. 3\)](#), **ss. 3(3)**, 14(2)

24 ^{F3} ... Convention rights [^{F4}, retained EU law]etc.

- (1) A Minister or Northern Ireland department has no power to make, confirm or approve any subordinate legislation, or to do any act, so far as the legislation or act—
- (a) is incompatible with any of the Convention rights;
 - ^{F5}(aa) is incompatible with Article 2(1) of the Protocol on Ireland/ Northern Ireland in the EU withdrawal agreement (rights of individuals);]
 - ^{F6}(b)
 - (c) discriminates against a person or class of person on the ground of religious belief or political opinion;
 - (d) in the case of an act, aids or incites another person to discriminate against a person or class of person on that ground; or
 - (e) in the case of legislation, modifies an enactment in breach of section 7.
- (2) Subsection (1)(c) and (d) does not apply in relation to any act which is unlawful by virtue of the [^{F7}Fair Employment and Treatment (Northern Ireland) Order 1998], or would be unlawful but for some exception made by virtue of [^{F7}Part VIII of that Order].
- ^{F8}(3) A Minister or Northern Ireland department has no power to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law and the modification is of a description specified in regulations made by a Minister of the Crown.
- (4) But subsection (3) does not apply—
- (a) so far as the modification would be within the legislative competence of the Assembly if it were included in an Act of the Assembly, or
 - (b) to the making of regulations under [^{F9}—
 - (i) Part 1 or 1B of Schedule 2 to the European Union (Withdrawal) Act 2018 (power to deal with deficiencies arising from withdrawal and certain powers in connection with the EU withdrawal agreement),
 - (ii) Schedule 4 to that Act (powers in connection with fees and charges), ^{F10} ...
 - (iii) section 12, 13 or 14 of the European Union (Withdrawal Agreement) Act 2020 (certain powers relating to citizens' rights)] [^{F11}, or

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- (iv) section 31, 32 or 33 of the European Union (Future Relationship) Act 2020 (powers in connection with future relationship agreements etc.)]
- (5) A Minister of the Crown must not lay for approval before each House of the Parliament a draft of a statutory instrument containing regulations under subsection (3) unless—
- (a) the Assembly has made a consent decision in relation to the laying of the draft, or
 - (b) the 40 day period has ended without the Assembly having made such a decision.
- (6) For the purposes of subsection (5) a consent decision is—
- (a) a decision to agree a motion consenting to the laying of the draft,
 - (b) a decision not to agree a motion consenting to the laying of the draft, or
 - (c) a decision to agree a motion refusing to consent to the laying of the draft;
- and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (7) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (5) must—
- (a) provide a copy of the draft to the relevant Northern Ireland department, and
 - (b) inform the Presiding Officer that a copy has been so provided.
- (8) See also section 96A (duty to make explanatory statement about regulations under subsection (3) including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (9) No regulations may be made under subsection (3) after the end of the period of two years beginning with exit day.
- (10) Subsection (9) does not affect the continuation in force of regulations made under subsection (3) at or before the end of the period mentioned in subsection (9).
- (11) Any regulations under subsection (3) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.
- (12) Subsections (5) to (10) do not apply in relation to regulations which only relate to a revocation of a specification.
- (13) Regulations under subsection (3) may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Minister of the Crown making them considers appropriate.
- (14) The restriction in subsection (3) is in addition to any restriction in section 7 of the European Union (Withdrawal) Act 2018 or elsewhere on the power of a Minister or Northern Ireland department to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law.
- (15) In this section—
- “the relevant Northern Ireland department” means such Northern Ireland department as the Minister of the Crown concerned considers appropriate;

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“the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the relevant Northern Ireland department,
and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.]

Textual Amendments

- F3** Words in s. 24 heading omitted (31.12.2020) by virtue of European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 55(a)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)
- F4** Words in s. 24 heading inserted (31.12.2020) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 55(b)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F5** S. 24(1)(aa) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 3 para. 3** (with s. 38(3)); S.I. 2020/1622, reg. 5(i)
- F6** S. 24(1)(b) omitted (31.12.2020) by virtue of European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 3(a)** (with s. 19, Sch. 8 paras. 37, 41, 42); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)
- F7** Words in s. 24(2) substituted (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 105(1), **Sch. 3**; S.R. 1999/81, **art. 3(1)**
- F8** S. 24(3)-(15) inserted (26.6.2018 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(3)(c), **Sch. 3 para. 3(b)** (with s. 19, Sch. 8 paras. 37, 41, 42); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F9** S. 24(4)(b)(i)-(iii) substituted for words (31.1.2020 for specified purposes, 31.12.2020 in so far as not already in force) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 25** (with s. 38(3)); S.I. 2020/75, reg. 4(n)(viii); S.I. 2020/1622, reg. 5(j) (with reg. 10)
- F10** Word in s. 24(4)(b)(ii) omitted (31.12.2020) by virtue of European Union (Future Relationship) Act 2020 (c. 29), s. 40(7), **Sch. 6 para. 2**; S.I. 2020/1662, reg. 2(ff)
- F11** S. 24(4)(b)(iv) and word inserted (31.12.2020) by European Union (Future Relationship) Act 2020 (c. 29), s. 40(7), **Sch. 6 para. 2**; S.I. 2020/1662, reg. 2(ff)

Modifications etc. (not altering text)

- C2** S. 24(1)(b) restricted (1.3.2019) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), Sch. 8 para. 41(8)(9) (with s. 19, Sch. 8 para. 37); S.I. 2019/399, reg. 2
- C3** S. 24(1)(b) excluded (19.5.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 64** (with s. 38(3)); S.I. 2020/518, reg. 2(p)(v)
- C4** S. 24(1)(b) excluded (14.11.2020) by Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20), s. 9(4), **Sch. 2 para. 4(c)**; S.I. 2020/1279, reg. 2(c)
- C5** S. 24(1)(b) excluded (14.11.2020) by Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20), s. 9(4), **Sch. 2 para. 9**; S.I. 2020/1279, reg. 2(c)
- C6** S. 24(1)(b) restricted (31.12.2020) by European Union (Future Relationship) Act 2020 (c. 29), s. 40(6)(g), **Sch. 6 para. 12**
- C7** S. 24(3)-(15): power to repeal conferred (4.7.2018) by European Union (Withdrawal) Act 2018 (c. 16), **ss. 12(9)-(11), 25(4)** (with s. 19, Sch. 8 paras. 37, 41); S.I. 2018/808, reg. 3(c)

25 Excepted and reserved matters.

- (1) If any subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department contains a provision dealing with an excepted or reserved matter, the Secretary of State may by order revoke the legislation.
- (2) An order made under subsection (1) shall recite the reasons for revoking the legislation and may make provision having retrospective effect.

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26 International obligations.

- (1) If the Secretary of State considers that any action proposed to be taken by a Minister or Northern Ireland department would be incompatible with any international obligations, with the interests of defence or national security or with the protection of public safety or public order, he may by order direct that the proposed action shall not be taken.
- (2) If the Secretary of State considers that any action capable of being taken by a Minister or Northern Ireland department is required for the purpose of giving effect to any international obligations, of safeguarding the interests of defence or national security or of protecting public safety or public order, he may by order direct that the action shall be taken.
- (3) In subsections (1) and (2), “action” includes making, confirming or approving subordinate legislation and, in subsection (2), includes introducing a Bill in the Assembly.
- (4) If any subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department contains a provision which the Secretary of State considers—
 - (a) would be incompatible with any international obligations, with the interests of defence or national security or with the protection of public safety or public order; or
 - (b) would have an adverse effect on the operation of the single market in goods and services within the United Kingdom,the Secretary of State may by order revoke the legislation.
- (5) An order under this section shall recite the reasons for making the order and may make provision having retrospective effect.

27 Quotas for purposes of international etc obligations.

- (1) A Minister of the Crown may make an order containing provision such as is specified in subsection (2) where—
 - (a) an international obligation or [^{F12}a retained EU obligation] is an obligation to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise); and
 - (b) the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which is or includes the whole or part of Northern Ireland).
- (2) The provision referred to in subsection (1) is provision for the achievement by a Minister or Northern Ireland department (in the exercise of his or its functions) of so much of the result to be achieved under the international obligation or [^{F13}retained EU obligation] as is specified in the order.
- (3) The order may specify the time by which any part of the result to be achieved by the Minister or department is to be achieved.
- (4) Where an order under subsection (1) is in force in relation to an international obligation ^{F14}..., the obligation shall have effect for the purposes of this Act as if it were an obligation to achieve so much of the result to be achieved under the obligation as is specified in the order by the time or times so specified.

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[^{F15}(4A) Where an order under subsection (1) is in force in relation to a retained EU obligation, the Minister or Northern Ireland department must (in the exercise of the Minister's or the department's functions) achieve so much of the result to be achieved under the obligation as is specified in the order by the time or times so specified.]

(5) No order shall be made by a Minister of the Crown under subsection (1) unless he has consulted the Minister or department concerned.

Textual Amendments

- F12** Words in s. 27(1)(a) substituted (31.12.2020) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 56\(2\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F13** Words in s. 27(2) substituted (31.12.2020) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 56\(3\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F14** Words in s. 27(4) omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 56\(4\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)
- F15** S. 27(4A) inserted (31.12.2020) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 56\(5\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(l) (with reg. 10)

28 Agency arrangements between UK and NI departments.

- (1) Arrangements may be made between—
- (a) any department of the Government of the United Kingdom or any public body, or holder of a public office, in the United Kingdom; and
 - (b) any Northern Ireland department,
- for any functions of one of them to be discharged by, or by officers of, the other.
- (2) No such arrangements shall affect the responsibility of the person on whose behalf any functions are discharged.
- (3) In this section—
- (a) references to a department of the Government of the United Kingdom include references to any Minister of the Crown; and
 - (b) references to a Northern Ireland department include references to a Minister.

Modifications etc. (not altering text)

- C8** S. 28 modified (7.4.2005 at 5:45 pm) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 15(2), S.I. 2005/1126, {art. 2}

Status:

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