



Anti-terrorism, Crime and Security Act 2001

2001 CHAPTER 24

PART 13

MISCELLANEOUS

Third pillar of the European Union

111 Implementation of the third pillar

- (1) At any time before 1st July 2002, an authorised Minister may by regulations make provision—
 - (a) for the purpose of implementing any obligation of the United Kingdom created or arising by or under any third pillar measure or enabling any such obligation to be implemented,
 - (b) for the purpose of enabling any rights enjoyed or to be enjoyed by the United Kingdom under or by virtue of any third pillar measure to be exercised, or
 - (c) for the purpose of dealing with matters arising out of or related to any such obligation or rights.
- (2) For the purposes of subsection (1), the following are third pillar measures—
 - (a) the 1995 Convention drawn up on the basis of Article K.3 of the Treaty on European Union on Simplified Extradition Procedure between the Member States of the European Union,
 - (b) the 1996 Convention drawn up on the basis of Article K.3 of the Treaty on European Union relating to Extradition between the Member States of the European Union,
 - (c) any framework decision adopted under Article 34 of the Treaty on European Union on the execution in the European Union of orders freezing property or evidence, on joint investigation teams, or on combatting terrorism, and

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- (d) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with Article 34 of the Treaty on European Union.
- (3) The provision that may be made under subsection (1) includes, subject to subsection (4), any such provision (of any such extent) as might be made by Act of Parliament.
- (4) The powers conferred by subsection (1) do not include power—
- (a) to make any provision imposing or increasing taxation,
 - (b) to make any provision taking effect from a date earlier than that of the making of the instrument containing the provision,
 - (c) to confer any power to legislate by means of orders, rules, regulations or other subordinate instrument, other than rules of procedure for a court or tribunal, or
 - (d) to create, except in accordance with subsection (6), a criminal offence which is punishable—
 - (i) on conviction on indictment, with imprisonment for more than two years,
 - (ii) on summary conviction, with imprisonment for more than three months,
 - (iii) on summary conviction, with a fine (not calculated on a daily basis) of more than level 5 on the standard scale or (for an offence triable either way) more than the statutory maximum, or
 - (iv) on summary conviction, with a fine of more than £100 a day.
- (5) Subsection (4)(c) does not preclude the modification of a power to legislate conferred otherwise than under subsection (1), or the extension of any such power to purposes of the like nature as those for which it was conferred, and a power to give directions as to matters of administration is not to be regarded as a power to legislate within the meaning of subsection (4)(c).
- (6) Subsection (4)(d) does not preclude the creation of an offence punishable on conviction on indictment with imprisonment for a term of any length if—
- (a) the offence is one for which a term of that length, a term of at least that length, or a term within a range of lengths including that length, is required for the offence by an obligation created or arising by or under any third pillar measure,
 - (b) the offence, if committed in particular circumstances, would be an offence falling within paragraph (a), or
 - (c) the offence is not committed in the United Kingdom but would, if committed in the United Kingdom, or a part of the United Kingdom, be punishable on conviction on indictment with imprisonment for a term of that length.

112 Third pillar: supplemental

- (1) “Authorised Minister” in section 111(1) has the meaning given by subsections (2) and (3).
- (2) The Scottish Ministers are authorised Ministers for any purpose for which powers under section 111(1) are exercisable within devolved competence (within the meaning of the Scotland Act 1998 (c. 46)).
- (3) For any other purpose, the following are authorised Ministers—

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- (a) the Secretary of State,
 - (b) the Lord Chancellor,
 - (c) the Treasury,
 - (d) the National Assembly for Wales, if designated under subsection (4),
 - (e) the First Minister and deputy First Minister acting jointly, a Northern Ireland Minister or a Northern Ireland department, if the Ministers are, or the Minister or the department is, designated under subsection (4).
- (4) A designation under this subsection may be made by Order in Council in relation to any matter or for any purpose, and is subject to any restriction or condition specified in the Order.
- (5) An Order in Council under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) The power to make regulations under section 111(1)—
- (a) in the case of the First Minister and deputy First Minister acting jointly, a Northern Ireland Minister or a Northern Ireland Department, is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I.1979/1573 (N.I. 12)),
 - (b) in any other case, is exercisable by statutory instrument.
- (7) No regulations may be made under section 111(1) unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (8) Subsection (7) has effect, so far as it relates to the exercise of powers under section 111(1) by the Scottish Ministers, as if the reference to each House of Parliament were a reference to the Scottish Parliament.
- (9) Subsection (7) does not apply to a statutory instrument containing regulations made by the National Assembly for Wales unless the statutory instrument contains regulations—
- (a) made by the Secretary of State, the Lord Chancellor or the Treasury (whether or not jointly with the Assembly),
 - (b) relating to an English border area, or
 - (c) relating to a cross-border body (and not relating only to the exercise of functions, or the carrying on of activities, by the body in or with respect to Wales or a part of Wales);
- and in this subsection expressions used in the Government of Wales Act 1998 (c. 38) have the same meaning as in that Act.
- (10) Subsection (7) has effect, so far as it relates to the exercise of powers under section 111(1) by the First Minister and deputy First Minister acting jointly, a Northern Ireland Minister or a Northern Ireland department, as if the reference to each House of Parliament were a reference to the Northern Ireland Assembly.

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