

Status: Point in time view as at 31/03/2022.

Changes to legislation: European Union (Withdrawal) Act 2018, Cross Heading: Meaning of devolved competence: Part 1 is up to date with all changes known to be in force on or before 27 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

CORRESPONDING POWERS INVOLVING DEVOLVED AUTHORITIES

PART 1

DEALING WITH DEFICIENCIES ARISING FROM WITHDRAWAL

Meaning of devolved competence: Part 1

- 8 (1) A provision is within the devolved competence of the Scottish Ministers for the purposes of this Part if—
- (a) it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament ^{F1}..., or
 - (b) it meets the conditions in sub-paragraph (2).
- (2) The conditions are—
- (a) the provision—
 - (i) amends or revokes subordinate legislation made before [^{F2}IP completion day] by the Scottish Ministers, the First Minister or the Lord Advocate acting alone, or
 - (ii) makes supplementary, incidental, consequential, transitional, transitory or saving provision in connection with any such amendment or revocation,
 - (b) the subject-matter of the provision does not go beyond the subject-matter of the subordinate legislation concerned,
 - (c) the provision only forms part of the law of Scotland,
 - (d) the provision does not confer or remove functions exercisable otherwise than in or as regards Scotland, and
 - (e) the provision does not modify any enactment so far as the enactment cannot, by virtue of paragraph 1, 4 or 5 of Schedule 4 to the Scotland Act 1998, be modified by an Act of the Scottish Parliament.

Textual Amendments

- F1** Words in Sch. 2 para. 8(1)(a) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), [6\(3\)\(a\)\(ii\)](#)
- F2** Words in Sch. 2 para. 8(2)(a)(i) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), [ss. 27\(7\)\(b\)](#), 42(7) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(k)

- 9 (1) A provision is within the devolved competence of the Welsh Ministers for the purposes of this Part if—

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- (a) it would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly (^{F3} ... including any provision that could be made only with the consent of a Minister of the Crown), or
 - (b) it meets the conditions in sub-paragraph (2).
- (2) The conditions are—
- (a) the provision—
 - (i) amends or revokes subordinate legislation made before [^{F4}IP completion day] by the Welsh Ministers acting alone or the National Assembly for Wales constituted by the Government of Wales Act 1998, or
 - (ii) makes supplementary, incidental, consequential, transitional, transitory or saving provision in connection with any such amendment or revocation,
 - (b) the subject-matter of the provision does not go beyond the subject-matter of the subordinate legislation concerned,
 - (c) the provision only forms part of the law of England and Wales,
 - (d) the provision does not confer or remove functions exercisable otherwise than in relation to Wales or the Welsh zone, and
 - (e) the provision does not modify any enactment so far as the enactment cannot, by virtue of paragraph 5, 6 or 7 of Schedule 7B to the Government of Wales Act 2006, be modified by an Act of the National Assembly for Wales.

Textual Amendments

- F3** Words in Sch. 2 para. 9(1)(a) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), **6(3)(a)(iii)**
- F4** Words in Sch. 2 para. 9(2)(a)(i) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), **ss. 27(7)(c), 42(7)** (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(k)

- 10 (1) A provision is within the devolved competence of a Northern Ireland department for the purposes of this Part if—
- (a) the provision, if it were contained in an Act of the Northern Ireland Assembly—
 - (i) would be within the legislative competence of the Assembly, ^{F5} ..., and
 - (ii) would not require the consent of the Secretary of State,
 - (b) the provision—
 - (i) amends or repeals Northern Ireland legislation, and
 - (ii) would, if it were contained in an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly ^{F6} ... and require the consent of the Secretary of State, or
 - (c) the provision meets the conditions in sub-paragraph (2).
- (2) The conditions are—
- (a) the provision—

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- (i) amends or revokes subordinate legislation made before [^{F7}IP completion day] by a Northern Ireland devolved authority acting alone, or
- (ii) makes supplementary, incidental, consequential, transitional, transitory or saving provision in connection with any such amendment or revocation,
- (b) the subject-matter of the provision does not go beyond the subject-matter of the subordinate legislation concerned,
- (c) the provision only forms part of the law of Northern Ireland,
- (d) the provision does not confer or remove functions exercisable otherwise than in or as regards Northern Ireland,
- (e) the provision does not modify any enactment so far as the enactment cannot, by virtue of section 7 of the Northern Ireland Act 1998, be modified by an Act of the Northern Ireland Assembly, and
- (f) the provision does not deal with, or otherwise relate to, a matter to which paragraph 22 of Schedule 2, or paragraph 42 of Schedule 3, to the Northern Ireland Act 1998 applies.

Textual Amendments

- F5** Words in Sch. 2 para. 10(1)(a)(i) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), [6\(3\)\(a\)\(iv\)](#)
- F6** Words in Sch. 2 para. 10(1)(b)(ii) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), [6\(3\)\(a\)\(iv\)](#)
- F7** Words in Sch. 2 para. 10(2)(a)(i) substituted (31.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), ss. [27\(7\)\(d\)](#), [42\(7\)](#) (with s. 38(3), Sch. 5 para. 66); S.I. 2020/75, reg. 4(k)

- 11 References in paragraphs 8 to 10, in connection with the making of regulations under this Part, to the subject-matter of any provision or subordinate legislation are to be read as references to the subject-matter of the provision or subordinate legislation when the regulations concerned are made.

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