

*Status: Point in time view as at 26/06/2018.*

*Changes to legislation: European Union (Withdrawal) Act 2018, Cross Heading: Explanatory statements for certain powers: appropriateness, equalities etc. is up to date with all changes known to be in force on or before 06 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 7

#### REGULATIONS

#### PART 3

##### GENERAL PROVISION ABOUT POWERS UNDER ACT

*Explanatory statements for certain powers: appropriateness, equalities etc.*

- 28 (1) This paragraph applies where—
- (a) a statutory instrument containing regulations under section 8(1), 9 or 23(1) or paragraph 1(2) or 12(2) of Schedule 2, or
  - (b) a draft of such an instrument,
- is to be laid before each House of Parliament.
- (2) Before the instrument or draft is laid, the relevant Minister must make a statement to the effect that in the Minister's opinion the instrument or draft does no more than is appropriate.
- (3) Before the instrument or draft is laid, the relevant Minister must make a statement as to why, in the Minister's opinion—
- (a) there are good reasons for the instrument or draft, and
  - (b) the provision made by the instrument or draft is a reasonable course of action.
- (4) Before the instrument or draft is laid, the relevant Minister must make a statement—
- (a) as to whether the instrument or draft amends, repeals or revokes any provision of equalities legislation, and
  - (b) if it does, explaining the effect of each such amendment, repeal or revocation.
- (5) Before the instrument or draft is laid, the relevant Minister must make a statement to the effect that, in relation to the instrument or draft, the Minister has, so far as required to do so by equalities legislation, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- (6) Before the instrument or draft is laid, the relevant Minister must make a statement otherwise explaining—
- (a) the instrument or draft,
  - (b) its purpose,
  - (c) the law before exit day which is relevant to it, and
  - (d) its effect (if any) on retained EU law.
- (7) Where an instrument or draft creates a criminal offence, the statement required by sub-paragraph (3) must (among other things) include an explanation of why, in the

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relevant Minister's opinion, there are good reasons for creating the offence and for the penalty provided in respect of it.

- (8) If the relevant Minister fails to make a statement required by sub-paragraph (2), (3), (4), (5) or (6) before the instrument or draft is laid, a Minister of the Crown must make a statement explaining why the relevant Minister has failed to do so.
- (9) A statement under sub-paragraph (2), (3), (4), (5), (6) or (8) must be made in writing and be published in such manner as the Minister making it considers appropriate.
- (10) For the purposes of this paragraph, where an instrument or draft is laid before each House of Parliament on different days, the earlier day is to be taken as the day on which it is laid before both Houses.
- (11) This paragraph does not apply in relation to any laying before each House of Parliament of an instrument or draft instrument where an equivalent draft instrument (ignoring any differences relating to procedure) has previously been laid before both Houses.
- (12) In this paragraph—  
“equalities legislation” means the Equality Act 2006, the Equality Act 2010 or any subordinate legislation made under either of those Acts;  
“the relevant Minister” means the Minister of the Crown who makes, or is to make, the instrument.
- 29 (1) This paragraph applies where—  
(a) a Scottish statutory instrument containing regulations under Part 1 or 2 of Schedule 2, or  
(b) a draft of such an instrument,  
is to be laid before the Scottish Parliament.
- (2) Before the instrument or draft is laid, the Scottish Ministers must make a statement to the effect that in the Scottish Ministers' opinion the instrument or draft does no more than is appropriate.
- (3) Before the instrument or draft is laid, the Scottish Ministers must make a statement as to why, in the Scottish Ministers' opinion—  
(a) there are good reasons for the instrument or draft, and  
(b) the provision made by the instrument or draft is a reasonable course of action.
- (4) Before the instrument or draft is laid, the Scottish Ministers must make a statement—  
(a) as to whether the instrument or draft amends, repeals or revokes any provision of equalities legislation, and  
(b) if it does, explaining the effect of each such amendment, repeal or revocation.
- (5) Before the instrument or draft is laid, the Scottish Ministers must make a statement to the effect that, in relation to the instrument or draft, the Scottish Ministers have, so far as required to do so by equalities legislation, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- (6) Before the instrument or draft is laid, the Scottish Ministers must make a statement otherwise explaining—  
(a) the instrument or draft,  
(b) its purpose,

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- (c) the law before exit day which is relevant to it, and
  - (d) its effect (if any) on retained EU law.
- (7) Where an instrument or draft creates a criminal offence, the statement required by sub-paragraph (3) must (among other things) include an explanation of why, in the Scottish Ministers' opinion, there are good reasons for creating the offence and for the penalty provided in respect of it.
- (8) If the Scottish Ministers fail to make a statement required by sub-paragraph (2), (3), (4), (5) or (6) before the instrument or draft is laid, the Scottish Ministers must make a statement explaining why they have failed to do so.
- (9) A statement under sub-paragraph (2), (3), (4), (5), (6) or (8) must be made in writing and be published in such manner as the Scottish Ministers consider appropriate.
- (10) In this paragraph “equalities legislation” means the Equality Act 2006, the Equality Act 2010 or any subordinate legislation made under either of those Acts.

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