



# Health and Care Act 2022

## 2022 CHAPTER 31

### PART 3

#### SECRETARY OF STATE'S POWERS TO TRANSFER OR DELEGATE FUNCTIONS

#### 108 Consent and consultation

- (1) Before making regulations under section 103 or 104, the Secretary of State must—
  - (a) obtain the consent of the Scottish Ministers in relation to any provision—
    - (i) which would be within the legislative competence of the Scottish Parliament, if contained in an Act of that Parliament, and is not merely incidental to, or consequential on, provision which would be outside that legislative competence, or
    - (ii) which modifies the functions of the Scottish Ministers;
  - (b) obtain the consent of the Welsh Ministers in relation to any provision—
    - (i) which would be within the legislative competence of Senedd Cymru, if contained in an Act of the Senedd, and is not merely incidental to, or consequential on, provision which would be outside that legislative competence, or
    - (ii) which modifies the functions of the Welsh Ministers;
  - (c) obtain the consent of a Northern Ireland department in relation to any provision—
    - (i) which would be within the legislative competence of the Northern Ireland Assembly, if contained in an Act of that Assembly, and is not merely incidental to, or consequential on, provision which would be outside that legislative competence, or
    - (ii) which modifies the functions of a Northern Ireland department.
- (2) Consent is not required under subsection (1)(c)(i) in relation to any provision if—
  - (a) a Bill for an Act of the Northern Ireland Assembly containing the provision would require the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998, and

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) the provision does not affect, other than incidentally, a transferred matter (within the meaning of that Act).
- (3) Before making regulations under section 103 or 104, the Secretary of State must consult the following about a draft of the regulations—
  - (a) any body to which the regulations relate, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (4) If, as a result of consultation under this section, it appears to the Secretary of State appropriate to change the draft regulations, the Secretary of State must carry out such further consultation with respect to the changes as the Secretary of State considers appropriate.
- (5) It is immaterial for the purposes of this section whether consent is obtained or consultation is carried out before or after the commencement of this section.