

SCHEDULES

SCHEDULE 5

Section 24

POWERS AND EXPIRY OF POWERS IN RESPECT OF NORTHERN IRELAND

Powers exercisable concurrently by the Department for the Economy

- 1 (1) A power conferred on the Secretary of State by any of the following provisions of this Act may be exercised concurrently by the Department for the Economy in Northern Ireland (“the Department”)—
- (a) section 5 (domestic energy price reduction: Northern Ireland);
 - (b) section 11 (non-domestic energy charges: Northern Ireland);
 - (c) section 13 (support for meeting energy costs etc.);
 - (d) section 15 (role of other bodies in support for meeting energy costs etc.);
 - (e) section 19 (passing on energy price support);
 - (f) section 21 (modification of energy licences);
 - (g) section 22 (directions);
 - (h) section 27 (consequential provision).
- (2) Accordingly, for that purpose—
- (a) a reference to the Secretary of State in any of those provisions or any related provision is to be read as a reference to the Department, and
 - (b) a reference to the House of Commons or Parliament in any of those provisions or any related provision is to be read as a reference to the Northern Ireland Assembly,
- (but see paragraphs 3 and 4 for additional and alternative provision about section 14 and regulations generally).

Limitations on the exercise of particular powers by the Department

- 2 (1) The Department may exercise the power in section 21 only in respect of a licence granted under Article 10 of the Electricity (Northern Ireland) Order 1992 or Article 8 of the Gas (Northern Ireland) Order 1996.
- (2) The Department may exercise the power in section 22 only for the purpose of giving a direction to—
- (a) the Northern Ireland Regulator;
 - (b) a person who holds a licence granted under Article 10 of the Electricity (Northern Ireland) Order 1992 or Article 8 of the Gas (Northern Ireland) Order 1996.

Application of section 14 to the exercise of powers by the Department

- 3 (1) This paragraph applies in relation to the exercise of the powers in section 13 by the Department.

Status: This is the original version (as it was originally enacted).

- (2) If the First Minister or deputy First Minister in Northern Ireland is not holding office at a time when the Department would otherwise—
- (a) seek the approval of the Northern Ireland Assembly for particular expenditure in accordance with section 14(2), that expenditure may instead be approved by a resolution of the House of Commons;
 - (b) lay a statement concerning urgent expenditure before the Northern Ireland Assembly in accordance with section 14(4), that statement may instead be laid by the Secretary of State before Parliament;
 - (c) lay a report concerning expenditure before the Northern Ireland Assembly in accordance with section 14(5), that report may instead be laid by the Secretary of State before Parliament.

Regulations made by the Department

- 4 (1) This paragraph applies where a power conferred by this Act to make regulations is exercisable concurrently by the Department.
- (2) Any provision made by the Department must be within the devolved competence of the Northern Ireland Assembly.
- (3) A provision is within the devolved competence of the Northern Ireland Assembly if—
- (a) the provision, if it were contained in a Bill for an Act of the Northern Ireland Assembly—
 - (i) would be within the legislative competence of the Assembly, and
 - (ii) would not require the consent of the Secretary of State; or
 - (b) the provision—
 - (i) amends or repeals Northern Ireland legislation, and
 - (ii) would, if it were contained in a Bill for an Act of the Northern Ireland Assembly, be within the legislative competence of the Assembly and require the consent of the Secretary of State.
- (4) Any power of the Department to make regulations is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)) (and not by statutory instrument).
- (5) If regulations made by the Secretary of State under a power in this Act would be subject to—
- (a) the affirmative procedure, regulations may not be made by the Department under that power unless a draft of the statutory rule containing the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly;
 - (b) the negative procedure, a statutory rule containing regulations made by the Department under that power is subject to negative resolution within the meaning given by section 41(6) of the [Interpretation Act \(Northern Ireland\) 1954 \(c. 33 \(N.I.\)\)](#).

Expiry of the Department's powers

- 5 A power conferred by any of the following provisions of this Act ceases to be exercisable concurrently by the Department at the end of the relevant period (and accordingly the related provision in paragraph 1(1) ceases to have effect)—

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

- (a) section 5;
- (b) section 11;
- (c) section 13;
- (d) section 15;
- (e) section 19;
- (f) section 21;
- (g) section 22;
- (h) section 27.

Expiry of the Secretary of State’s powers in respect of Northern Ireland

- 6 A power conferred by any of the following provisions of this Act ceases to be exercisable by the Secretary of State at the end of the relevant period—
- (a) section 5;
 - (b) section 11.

Meaning of “relevant period”

- 7 (1) In this Schedule “relevant period” means the first period of 6 months to end after this Act is passed during the whole of which both the First Minister and deputy First Minister in Northern Ireland have held office.
- (2) That includes any such period which began before the day on which this Act is passed.
- (3) The Secretary of State may, by regulations, substitute the period of time specified in sub-paragraph (1) (for the purposes of paragraph 5, paragraph 6, both of those paragraphs or any sub-paragraph of those paragraphs).
- (4) Regulations under sub-paragraph (3) are subject to the affirmative procedure.

Continuity of the Department’s powers

- 8 A power exercisable concurrently by the Department by virtue of paragraph 1(1) continues to be so exercisable even if that power has ceased to be exercisable by the Secretary of State.