

*Status: Point in time view as at 02/10/2000.*

*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998, SCHEDULE 2. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2 **U.K.**

Section 10.

#### REMEDIAL ORDERS

##### *Orders*

- 1 (1) A remedial order may—
  - (a) contain such incidental, supplemental, consequential or transitional provision as the person making it considers appropriate;
  - (b) be made so as to have effect from a date earlier than that on which it is made;
  - (c) make provision for the delegation of specific functions;
  - (d) make different provision for different cases.
- (2) The power conferred by sub-paragraph (1)(a) includes—
  - (a) power to amend primary legislation (including primary legislation other than that which contains the incompatible provision); and
  - (b) power to amend or revoke subordinate legislation (including subordinate legislation other than that which contains the incompatible provision).
- (3) A remedial order may be made so as to have the same extent as the legislation which it affects.
- (4) No person is to be guilty of an offence solely as a result of the retrospective effect of a remedial order.

##### *Procedure*

- 2 No remedial order may be made unless—
  - (a) a draft of the order has been approved by a resolution of each House of Parliament made after the end of the period of 60 days beginning with the day on which the draft was laid; or
  - (b) it is declared in the order that it appears to the person making it that, because of the urgency of the matter, it is necessary to make the order without a draft being so approved.

##### *Orders laid in draft*

- 3 (1) No draft may be laid under paragraph 2(a) unless—
  - (a) the person proposing to make the order has laid before Parliament a document which contains a draft of the proposed order and the required information; and
  - (b) the period of 60 days, beginning with the day on which the document required by this sub-paragraph was laid, has ended.

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- (2) If representations have been made during that period, the draft laid under paragraph 2(a) must be accompanied by a statement containing—
- (a) a summary of the representations; and
  - (b) if, as a result of the representations, the proposed order has been changed, details of the changes.

#### *Urgent cases*

- 4 (1) If a remedial order (“the original order”) is made without being approved in draft, the person making it must lay it before Parliament, accompanied by the required information, after it is made.
- (2) If representations have been made during the period of 60 days beginning with the day on which the original order was made, the person making it must (after the end of that period) lay before Parliament a statement containing—
- (a) a summary of the representations; and
  - (b) if, as a result of the representations, he considers it appropriate to make changes to the original order, details of the changes.
- (3) If sub-paragraph (2)(b) applies, the person making the statement must—
- (a) make a further remedial order replacing the original order; and
  - (b) lay the replacement order before Parliament.
- (4) If, at the end of the period of 120 days beginning with the day on which the original order was made, a resolution has not been passed by each House approving the original or replacement order, the order ceases to have effect (but without that affecting anything previously done under either order or the power to make a fresh remedial order).

#### *Definitions*

- 5 In this Schedule—
- “representations” means representations about a remedial order (or proposed remedial order) made to the person making (or proposing to make) it and includes any relevant Parliamentary report or resolution; and
- “required information” means—
- (a) an explanation of the incompatibility which the order (or proposed order) seeks to remove, including particulars of the relevant declaration, finding or order; and
  - (b) a statement of the reasons for proceeding under section 10 and for making an order in those terms.

#### *Calculating periods*

- 6 In calculating any period for the purposes of this Schedule, no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued; or
  - (b) both Houses are adjourned for more than four days.

- [<sup>F17</sup> (1) This paragraph applies in relation to—

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- (a) any remedial order made, and any draft of such an order proposed to be made,—
    - (i) by the Scottish Ministers; or
    - (ii) within devolved competence (within the meaning of the Scotland Act 1998) by Her Majesty in Council; and
  - (b) any document or statement to be laid in connection with such an order (or proposed order).
- (2) This Schedule has effect in relation to any such order (or proposed order), document or statement subject to the following modifications.
- (3) Any reference to Parliament, each House of Parliament or both Houses of Parliament shall be construed as a reference to the Scottish Parliament.
- (4) Paragraph 6 does not apply and instead, in calculating any period for the purposes of this Schedule, no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than four days.]

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**Textual Amendments**

**F1** Sch. 2 para. 7 inserted (27.7.2000) by S.I. 2000/2040, art. 2, Sch. Pt. I para. 21 (with art. 3)

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