



Public Finance and Accountability (Scotland) Act 2000

2000 asp 1

PART 2

ACCOUNTABILITY AND AUDIT

Audit authorities

10 Audit Scotland

- (1) There is to be a body corporate to be known as Audit Scotland, with the functions conferred on it by virtue of this Act and any other enactment.
- (2) Audit Scotland is to consist of—
 - (a) the Auditor General,
 - (b) the Chairman of the Accounts Commission, and
 - (c) 3 other members appointed jointly by the Auditor General and the Chairman.
- (3) Audit Scotland is to provide such assistance and support as the Auditor General and the Accounts Commission require in the exercise of their respective functions and, in particular, is to provide them, or ensure that they are provided, with the property, staff and services which they require for the exercise of those functions.
- (4) Directions may be given to Audit Scotland—
 - (a) by the Auditor General, for the purpose of or in connection with the exercise of Audit Scotland's functions in relation to the Auditor General,
 - (b) by the Accounts Commission, for the purpose of or in connection with the exercise of Audit Scotland's functions in relation to the Commission.
- (5) Audit Scotland may make arrangements with any public body or office-holder for the provision by Audit Scotland to the body or office-holder of administrative, professional or technical services in connection with the conduct of audits.
- (6) Schedule 2 makes further provision about Audit Scotland.

11 Audit Scotland: financial provisions

- (1) Audit Scotland may impose reasonable charges in respect of the exercise of its functions in connection with—
 - (a) the provision of services under arrangements made in pursuance of section 10(5),
 - (b) the audit under sections 21 and 22 of an account, other than one prepared in pursuance of section 19(1) to (3) or 20(1),
 - (c) the carrying out under section 23 of an examination, other than one in respect of an office-holder in the Scottish Administration or a body or other office-holder to whom sums are paid out of the Fund,
 - (d) the audit of an account in pursuance of Part VII of the Local Government (Scotland) Act 1973 (c. 65),
 - (e) the undertaking or promotion of any study under section 97A or 105A of that Act,
 - (f) the giving of directions under section 1 of the Local Government Act 1992 (c. 19).
- (2) Charges under subsection (1) may be determined by reference to particular cases or classes of case.
- (3) In determining the amounts of those charges Audit Scotland must seek to ensure that the total sum received in respect of the charges is, taking one year with another, broadly equivalent to its expenditure in connection with the matters mentioned in subsection (1)(a) to (f).
- (4) Charges under subsection (1)(b) to (f) are payable by the body or office-holder whose account is audited or, as the case may be, in respect of whom the examination is carried out, the study undertaken or promoted or the direction given.
- (5) Where a charge under subsection (1)(c), (e) or (f) relates to an examination, study or direction in respect of more than one body or office-holder, each body or office-holder is to pay such proportion of the charge as is determined by Audit Scotland.
- (6) Sums received by Audit Scotland in respect of charges under subsection (1) are to be retained by it and applied to meet the expenditure mentioned in subsection (3).
- (7) Any other sums received by Audit Scotland are to be paid into the Fund, subject to any provision made by any enactment for such sums to be applied for any purpose instead of being paid into the Fund.
- (8) Any expenditure of Audit Scotland, so far as not met out of sums received and applied in accordance with subsection (6), is payable out of the Fund.
- (9) Audit Scotland must, for each financial year, prepare proposals for its use of resources and expenditure and send the proposals to the Scottish Commission for Public Audit (constituted under section 12), which is to examine the proposals and report to the Parliament on them.

12 Scottish Commission for Public Audit

- (1) There is to be a body to be known as the Scottish Commission for Public Audit, with the functions conferred on it by virtue of this Act.
- (2) The Commission is to consist of—

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- (a) the member of the Parliament who is for the time being convener of the Audit Committee, and
 - (b) 4 other members of the Parliament appointed in accordance with standing orders.
- (3) The Commission may require Audit Scotland to provide it with such documents, information and explanations about the exercise of the functions of Audit Scotland as the Commission reasonably considers necessary in connection with the discharge of its functions.
- (4) The Commission is from time to time to report to the Parliament on the exercise of its functions.
- (5) Schedule 3 makes further provision about the Commission.

13 Auditor General for Scotland

- (1) The Auditor General is entitled to—
- (a) a salary of such amount, and
 - (b) such allowances,
- as the Parliamentary corporation may determine.
- (2) The salary and allowances and any expenses incurred by the Auditor General in the exercise of the Auditor General's functions are to be paid by Audit Scotland.
- (3) Audit Scotland must make arrangements for the payment of pensions, gratuities or allowances to, or in respect of, any person who has ceased to hold the office of Auditor General.
- (4) In particular, Audit Scotland may—
- (a) make contributions or payments towards provision for such pensions, gratuities or allowances,
 - (b) establish and administer one or more pension schemes.
- (5) A person appointed to be the Auditor General—
- (a) may be relieved of office by Her Majesty at that person's request,
 - (b) vacates office on attaining the age of 65, or on such later date as the Parliament may by resolution determine,
 - (c) in other respects, holds office on such terms and conditions as the Parliamentary corporation may determine.
- (6) Any function of the Auditor General may be exercised on behalf of the Auditor General by any person (whether or not a member of the staff of Audit Scotland) authorised by the Auditor General to do so.
- (7) The Auditor General's functions under sections 21(4) and 23(8) may be exercised by another person by virtue of subsection (6) only where the Auditor General is incapable of exercising those functions personally.
- (8) Subsections (6) and (7) do not affect the responsibility of the Auditor General for the exercise of the Auditor General's functions.
- (9) Where the office of Auditor General is vacant, the Scottish Commission for Public Audit may appoint a person (whether or not a member of the staff of Audit Scotland) to discharge the functions of the Auditor General until—

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- (a) the appointment of a new Auditor General, or
 - (b) the expiry of the period of 12 months beginning with the date on which the vacancy arose,
- whichever is the earlier.
- (10) A person appointed under subsection (9)—
- (a) holds office on such terms and conditions as the Parliamentary corporation may determine,
 - (b) shall, while he holds office, be treated for all purposes, except those of section 69(1) to (3) of the 1998 Act and subsections (1) to (5) of this section, as the Auditor General.
- (11) Any sums payable by virtue of subsection (10)(a) to, or in respect of, a person appointed under subsection (9), or who has ceased to hold office by virtue of such an appointment, are to be paid by Audit Scotland.

Accountable officers

14 Principal accountable officer for the Scottish Administration

- (1) The most senior member of the staff of the Scottish Administration is, by virtue of this subsection, principal accountable officer for the Scottish Administration.
- (2) The principal accountable officer has the functions set out in subsection (3) and is answerable to the Parliament for the exercise of those functions.
- (3) Those functions are—
 - (a) signing the accounts of the expenditure and receipts of the Scottish Administration or any part of it, so far as it is not a function of any accountable officer designated under section 15(1) to do so,
 - (b) signing any account prepared in pursuance of section 19(2),
 - (c) ensuring the propriety and regularity of the finances of the Scottish Administration,
 - (d) ensuring that the resources of the Scottish Administration are used economically, efficiently and effectively,
 - (e) designating persons as accountable officers, and determining their functions as such, in accordance with section 15,
 - (f) ensuring the performance of those functions by accountable officers for parts of the Scottish Administration, and
 - (g) the duty set out in subsection (4).
- (4) That duty is a duty, where the principal accountable officer considers that any action which the officer is required to take is inconsistent with the proper performance of the functions mentioned in subsection (3)(a) to (f), to—
 - (a) obtain written authority from, as the case may be, the Scottish Ministers, the Lord Advocate or the non-ministerial office-holder in question before taking the action, and
 - (b) send a copy of the authority to the Auditor General as soon as possible.
- (5) In subsection (4)(a), “non-ministerial office-holder” means the holder of an office in the Scottish Administration which is not a ministerial office (within the meaning of section 126(8) of the 1998 Act).

15 Accountable officers

- (1) The principal accountable officer for the Scottish Administration is to designate members of the staff of the Scottish Administration as accountable officers for such parts of the Administration as the principal accountable officer may specify.
- (2) There may, by virtue of subsection (1), be more than one accountable officer having functions in relation to any particular part of the Scottish Administration.
- (3) The principal accountable officer for the Scottish Administration may designate a member of the staff of any body or office-holder to whom subsection (4) applies as its accountable officer.
- (4) This subsection applies to any body or office-holder (other than an office-holder in the Scottish Administration) any account of whom is an account in relation to which sections 21 and 22 apply.
- (5) Subsection (3) does not apply in relation to the Parliamentary corporation, Audit Scotland or any other body or office-holder in relation to whom provision for the appointment of an accountable officer is made by virtue of any enactment.
- (6) The functions of accountable officers designated under subsection (1) or (3) are—
 - (a) those determined by the principal accountable officer for the Scottish Administration, and
 - (b) the duty set out in subsection (8); and the accountable officers are answerable to the Parliament for the exercise of those functions.
- (7) The functions which may be determined under subsection (6)(a) include, in particular—
 - (a) signing the accounts of the expenditure and receipts of the part of the Scottish Administration, or body or office-holder, in question,
 - (b) ensuring the propriety and regularity of the finances of that part, body or office-holder,
 - (c) ensuring that the resources of that part, body or office-holder are used economically, efficiently and effectively.
- (8) The duty referred to in subsection (6)(b) is a duty, where the accountable officer in question considers that any action which the officer is required to take is inconsistent with the proper performance of the functions determined under subsection (6)(a), to—
 - (a) obtain written authority from, as the case may be, the Scottish Ministers, the Lord Advocate or the body or office-holder in question before taking the action, and
 - (b) send a copy of the authority to the Auditor General as soon as possible.

16 Principal accountable officer for the Parliamentary corporation

- (1) The Clerk of the Parliament is, by virtue of this subsection, principal accountable officer for the Parliamentary corporation.
- (2) The principal accountable officer has the functions set out in subsection (3) and is answerable to the Parliament for the exercise of those functions.
- (3) Those functions are—

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- (a) signing the accounts of the expenditure and receipts of the corporation or any part of it, so far as it is not a function of any accountable officer designated under section 17(1) to do so,
 - (b) ensuring the propriety and regularity of the finances of the corporation,
 - (c) ensuring that the resources of the corporation are used economically, efficiently and effectively,
 - (d) designating persons as accountable officers, and determining their functions as such, in accordance with section 17,
 - (e) ensuring the performance of those functions by accountable officers for parts of the corporation, and
 - (f) the duty set out in subsection (4).
- (4) That duty is a duty, where the principal accountable officer considers that any action which the officer is required to take is inconsistent with the proper performance of the functions mentioned in subsection (3)(a) to (e), to—
- (a) obtain written authority from the corporation before taking the action, and
 - (b) send a copy of the authority to the Auditor General as soon as possible.

17 Parliamentary corporation: accountable officers

- (1) The principal accountable officer for the Parliamentary corporation may designate members of the staff of the Parliament as accountable officers for such parts of the corporation as the principal accountable officer may specify.
- (2) The functions of accountable officers designated under subsection (1) are—
- (a) those determined by the principal accountable officer, and
 - (b) the duty set out in subsection (4);
- and the accountable officers are answerable to the Parliament for the exercise of those functions.
- (3) The functions which may be determined under subsection (2)(a) include, in particular—
- (a) signing the accounts of the expenditure and receipts of the part of the corporation in question,
 - (b) ensuring the propriety and regularity of the finances of that part,
 - (c) ensuring that the resources of that part are used economically, efficiently and effectively.
- (4) The duty referred to in subsection (2)(b) is a duty, where the accountable officer in question considers that any action which the officer is required to take is inconsistent with the proper performance of the functions determined under subsection (2)(a), to—
- (a) obtain written authority from the corporation before taking the action, and
 - (b) send a copy of the authority to the Auditor General as soon as possible.

18 Audit Scotland: accountable officer

- (1) The Scottish Commission for Public Audit is to designate the Auditor General or a member of the staff of Audit Scotland as the accountable officer for Audit Scotland.
- (2) The functions of the accountable officer are—
- (a) those specified in subsection (3), and

- (b) the duty set out in subsection (4);
and the accountable officer is answerable to the Parliament for the exercise of those functions.
- (3) The functions referred to in subsection (2)(a) are—
- (a) signing the accounts of the expenditure and receipts of Audit Scotland,
 - (b) ensuring the propriety and regularity of the finances of Audit Scotland, and
 - (c) ensuring that the resources of Audit Scotland are used economically, efficiently and effectively.
- (4) The duty referred to in subsection (2)(b) is a duty, where the accountable officer considers that any action which the officer is required to take is inconsistent with the proper performance of the functions specified in subsection (3), to—
- (a) obtain written authority from Audit Scotland before taking the action, and
 - (b) send a copy of the authority as soon as possible to the person appointed under section 25(1) to audit an account of Audit Scotland.

Accounts

19 Duty to prepare accounts

- (1) The Scottish Ministers, the Lord Advocate and every other person to whom sums are paid out of the Fund in a financial year must prepare accounts of their expenditure and receipts for that year.
- (2) The Scottish Ministers must prepare for each financial year an account of payments into and out of the Fund.
- (3) Holders of offices in the Scottish Administration which are not ministerial offices (within the meaning of section 126(8) of the 1998 Act) must, if required to do so by the Scottish Ministers, prepare for each financial year accounts of their expenditure and receipts.
- (4) Accounts prepared in pursuance of subsections (1) to (3) must be prepared in accordance with directions issued by the Scottish Ministers.
- (5) Subsection (1) does not apply to any cross-border public authority in relation to which the condition in section 70(6) of the 1998 Act is satisfied.
- (6) Subsection (3) does not apply to any office-holder to whom subsection (1) applies.
- (7) Accounts prepared in pursuance of subsections (1) to (3) (except accounts to which subsection (8) applies) must be sent to the Auditor General for auditing.
- (8) Accounts prepared by Audit Scotland in pursuance of subsection (1) must be sent to the Scottish Commission for Public Audit for auditing.

20 Consolidated public accounts

- (1) The Scottish Ministers may prepare for any financial year consolidated accounts, in such form and manner as they may determine in writing, for—
- (a) the Scottish Administration,

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- (b) the Scottish Administration together with such bodies and office-holders, or bodies or office-holders of such classes, mentioned in subsection (2) as they may designate for that financial year for the purposes of this section.
- (2) Those bodies and office-holders and classes of body or office-holder are any body or office-holder which appears, and any class of body or office-holder all the members of which appear, to the Scottish Ministers—
 - (a) to exercise functions of a public nature, or
 - (b) to be entirely or substantially funded from public money.
- (3) A body or office-holder designated, or of a class designated, for a financial year must—
 - (a) prepare such financial information in relation to that year, and in such form and manner, as the Scottish Ministers may require,
 - (b) arrange for the information to be audited so far as the Scottish Ministers may require, and
 - (c) send the information and any explanation which the Scottish Ministers may require to the Scottish Ministers by such time as they may direct.
- (4) Accounts prepared in pursuance of subsection (1) and the determination under that subsection must be sent to the Auditor General.
- (5) The Auditor General must examine the accounts and prepare a report on whether the accounts have been prepared in accordance with the determination.
- (6) The Auditor General must send the report to the Scottish Ministers, who must lay before the Parliament a copy of the accounts and the report.
- (7) Subsections (1) and (2) of section 24 apply for the purposes of the examination of accounts under subsection (5) of this section as they apply for the purposes of the audit of an account under sections 21 and 22.

Audit and value for money examinations

21 Audit of accounts

- (1) This section and section 20 apply in relation to any account which is, by virtue of any enactment or prerogative instrument, required (in whatever words) to be—
 - (a) audited by the Auditor General, or
 - (b) sent to the Auditor General for auditing.
- (2) The account must be sent to the Auditor General not later than 6 months after the end of the financial year to which the account relates.
- (3) The account is to be audited by—
 - (a) the Auditor General, or
 - (b) a qualified person appearing to the Auditor General to be suitable for appointment to audit the account by reason of, among other things, the person's professional qualifications and experience.
- (4) It is for the Auditor General personally to decide who is to audit the account.
- (5) For the purposes of subsection (3)(b) a person is qualified if that person is—

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- (a) eligible for appointment as a company auditor under section 25 of the Companies Act 1989 (c. 40), or
- (b) a member of a body of accountants established in the United Kingdom or another EEA State;

and “EEA State” means any State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.

22 Audit of accounts: further provisions

- (1) The auditor’s report on an account in relation to which this section applies (unless it is an account prepared in pursuance of section 19(2)) must set out the auditor’s findings on the following matters—
 - (a) whether the expenditure and receipts shown in the account were incurred or applied in accordance with—
 - (i) any enactment by virtue of which the expenditure was incurred or the income received,
 - (ii) the Budget Act or Acts for the financial year, or any part of the financial year, to which the account relates, and (iii) sections 4 to 7,
 - (b) where sums have been paid out of the Fund for the purpose of meeting such expenditure, whether the sums were applied in accordance with section 65 of the 1998 Act,
 - (c) whether the expenditure and receipts shown in the account were incurred or applied in accordance with any applicable guidance (whether as to propriety or otherwise) issued by the Scottish Ministers,
 - (d) whether the account complies with any applicable direction by virtue of any enactment.
- (2) The auditor’s report on an account prepared in pursuance of section 19(2) must set out the auditor’s findings on the following matters—
 - (a) whether sums paid out of the Fund were paid out in accordance with section 65 of the 1998 Act and sections 4 to 6 of this Act,
 - (b) whether the account complies with any applicable direction by virtue of any enactment
- (3) The auditor (unless the Auditor General) must send the account and the auditor’s report to the Auditor General, who may prepare a report on the account.
- (4) The Auditor General must send to the Scottish Ministers the account, the auditor’s report on the account and any report prepared by the Auditor General under subsection (3) in sufficient time to enable the Scottish Ministers to comply with subsection (5).
- (5) The Scottish Ministers must—
 - (a) lay before the Parliament a copy of every account and report sent to them under subsection (4), and
 - (b) publish every such account and report,not later than 9 months after the end of the financial year to which the account relates.
- (6) In section 21 and this section “financial year”, in relation to an account, means the financial year of the body or office-holder in question.

23 Economy, efficiency and effectiveness examinations

- (1) The Auditor General may initiate examinations into the economy, efficiency and effectiveness with which bodies and office-holders mentioned in subsection (2) have used their resources in discharging their functions.
- (2) Those bodies and office-holders are—
 - (a) any body or office-holder so far as an account of that body or office-holder is an account in relation to which sections 21 and 22 apply,
 - (b) any other body or office-holder, or a body or office-holder of any class, specified by the Scottish Ministers by order,
 - (c) any body or office-holder not falling within paragraph (a) or (b) which agrees to such an examination being carried out.
- (3) An order made under subsection (2)(b) may specify a body or office-holder, or a class of body or office-holder, only if the Scottish Ministers reasonably believe that—
 - (a) in the case of a body or office-holder, in any of the financial years of the body or office-holder—
 - (i) more than a quarter of the income of the body or office-holder was received from public funds, or
 - (ii) the amount of the income of the body or office-holder received from public funds exceeded £500,000,
 - (b) in the case of a class of body or office-holder, paragraph (a) is satisfied in relation to at least half of those in the class.
- (4) An examination under this section in respect of a body or office-holder, or a body or office-holder of a class, specified in such an order may be carried out only—
 - (a) in relation to any period as respects which the Auditor General reasonably believes that—
 - (i) more than a quarter of the income of the body or office-holder was derived from public funds, or
 - (ii) the amount of the income of the body or office-holder received from public funds exceeded £500,000,
 - (b) so far as is reasonably practicable, in relation to the use by the body or office-holder of the income derived from public funds and to resources used in discharging the functions for which such income was used.
- (5) For the purposes of subsections (3) and (4)—
 - (a) income is received from public funds if it is paid by—
 - (i) any body or office-holder mentioned in subsection (2)(a), or
 - (ii) any body or office-holder, or body or office-holder of a class, specified in an order made under subsection (2)(b), in a financial year of that body or office-holder in which more than half of the income of the body or office-holder was received from public funds,
 - (b) in calculating income, capital receipts are to be disregarded,
 - (c) money paid as consideration for the acquisition of property or the supply of goods or services or as remuneration, expenses, pensions, allowances or similar benefits for or in respect of a person as the holder of an office is to be disregarded.
- (6) In determining whether an examination under this section is to be carried out, the Auditor General must take into account any proposals made by the Parliament.

- (7) Before initiating an examination under this section in respect of a new water and sewerage authority (within the meaning of the Local Government etc. (Scotland) Act 1994 (c. 39)) the Auditor General must consult the Water Industry Commissioner for Scotland.
- (8) It is for the Auditor General personally to initiate an examination under this section and to decide who is to carry out the examination.
- (9) In carrying out the examination that person (“the examiner”)—
 - (a) is not entitled to question the merits of the policy objectives of the body or office-holder in question, but
 - (b) may consider the appropriateness of any criteria used by the body or office-holder to assess use of resources.
- (10) The examiner (if not the Auditor General) must report the results to the Auditor General, who may report the results to the Parliament.

24 Access to documents and information

- (1) For the purposes of the audit of an account under sections 21 and 22 the auditor is entitled to—
 - (a) have access at all reasonable times to any document in the possession, or under the control, of the body or office-holder who prepared the account which the auditor may reasonably require,
 - (b) require from any person holding, or accountable for, any such document any assistance, information or explanation which the auditor reasonably thinks necessary,
 - (c) require the body or office-holder who prepared the account to provide, at times specified by the auditor, accounts of such of the transactions of the body or office-holder as the auditor may specify.
- (2) For those purposes the auditor is also entitled to—
 - (a) have access at all reasonable times to any document in the possession, or under the control, of a relevant person which the auditor may reasonably require,
 - (b) require from a relevant person any assistance, information or explanation which the auditor reasonably thinks necessary for those purposes.
- (3) For the purposes of an examination under section 23 the examiner is entitled to—
 - (a) have access at all reasonable times to any document in the possession, or under the control, of the body or office-holder in question which the examiner may reasonably require,
 - (b) require from any person holding, or accountable for, any such document any assistance, information or explanation which the examiner reasonably thinks necessary,
 - (c) require the body or office-holder to provide, at times specified by the examiner, accounts of such of the transactions of the body or office-holder as the examiner may specify.
- (4) For those purposes the examiner is also entitled to—
 - (a) have access at all reasonable times to any document in the possession, or under the control, of a relevant person which the examiner may reasonably require,

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- (b) require from a relevant person any assistance, information or explanation which the examiner reasonably thinks necessary for those purposes.
- (5) In subsections (2) and (4) “relevant person” means a person specified, or of a class specified, by the Scottish Ministers by order.
- (6) An order under subsection (5) may—
 - (a) specify different persons, or classes of person, in relation to subsections (2) and (4),
 - (b) provide for those subsections, or either of them, to apply to any specified person or class of person with such modifications as the order may specify.
- (7) In this section “document” means anything in which information is recorded in any form.

25 Audit and examination: Audit Scotland

- (1) The Scottish Commission for Public Audit, when required to do so by the Auditor General, must appoint a qualified person to audit an account of Audit Scotland sent to the Commission for auditing under section 19(8).
- (2) In subsection (1) “qualified” has the same meaning as in section 21(5).
- (3) The auditor must examine and certify the account and report on the account to the Commission, including in the report the auditor’s findings on the matters set out in section 22(1)(a) and (b).
- (4) The Commission may initiate an examination into the economy, efficiency and effectiveness with which Audit Scotland has used its resources in discharging its functions and may appoint a person to carry out the examination and report the results to the Commission.
- (5) Subsection (9) of section 23 applies in relation to an examination under subsection (4) of this section as it applies in relation to an examination under that section.
- (6) The Commission must—
 - (a) lay before the Parliament a copy of the account and the auditor’s report under subsection (3) and of any report made to it under subsection (4), and
 - (b) publish the account and those reports.
- (7) Subsections (1) and (3) of section 24 apply respectively for the purposes of the audit of an account under subsection (3), and an examination under subsection (4), of this section as they apply for the purposes of the audit of an account under sections 21 and 22 and an examination under section 23.
- (8) Appointments under subsections (1) and (4) of this section are to be on such terms and conditions as the Commission may determine and any remuneration payable to the person appointed is to be paid by Audit Scotland.

Supplementary

26 Modification of enactments

- (1) Schedule 4, which makes modifications of enactments relating to this Part, has effect.

- (2) The Scottish Ministers may by order make such modifications in any enactment or prerogative instrument or any other instrument or document as appear to them to be necessary or expedient in consequence of this Part.