
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 88

CONSTITUTIONAL LAW

**The Interpretation and Legislative Reform (Scotland) Act
2010 (Savings and Transitional Provisions) Order 2011**

<i>Made</i>	- - - -	<i>10th February 2011</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>14th February 2011</i>
<i>Coming into force</i>	- -	<i>6th April 2011</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 57(2) of the Interpretation and Legislative Reform (Scotland) Act 2010(1).

Citation, commencement and interpretation

1. This Order may be cited as the Interpretation and Legislative Reform (Scotland) Act 2010 (Savings and Transitional Provisions) Order 2011 and comes into force on 6th April 2011.

2. In this Order—

“the 1999 Statutory Instruments Order” means the Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999(2);

“the 2011 Regulations” means the Scottish Statutory Instruments Regulations 2011;

“the Act” means the Interpretation and Legislative Reform (Scotland) Act 2010;

“pre-commencement instrument”—

(a) means a document that was a Scottish statutory instrument, within the meaning of the 1999 Statutory Instruments Order, before 6th April 2011; and

(b) in articles 6 to 12 of this Order, includes a resolution of the Scottish Parliament passed before 6th April 2011 pursuant to either—

(i) paragraph 10(1) of the schedule to the Interests of Members of the Scottish Parliament Act 2006(3); or

(ii) section 3 of the Scottish Parliamentary Pensions Act 2009(4);

“Queen’s Printer” means the Queen’s Printer for Scotland.

(1) 2010 asp 10.
(2) S.I. 1999/1096.
(3) 2006 asp 12.
(4) 2009 asp 1.

Orders subject to special parliamentary procedure

3.—(1) In relation to a special procedure order to which paragraph (2) applies—

- (a) Part 4 of the Act does not apply; and
- (b) the 1999 Special Procedure Order is to continue to have effect as it did immediately before 6th April 2011, despite article 2(2) of that Order and section 55(5) of the Act.

(2) This paragraph applies in relation to a special procedure order if notice in respect of it was given in accordance with article 5 of the 1999 Special Procedure Order before 6th April 2011.

(3) In this article—

“the 1999 Special Procedure Order” means the Scotland Act 1998 (Transitory and Transitional Provisions) (Orders subject to Special Parliamentary Procedure) Order 1999⁽⁵⁾; and

“special procedure order” means an order, within the meaning of the Statutory Orders (Special Procedure) Act 1945⁽⁶⁾, in relation to which section 94(2)(b) of the Scotland Act 1998⁽⁷⁾ applies.

Provision for certain statutory instruments made, or laid before the Scottish Parliament, before 6th April 2011

4.—(1) This article applies to a statutory instrument (within the meaning of section 1 of the Statutory Instruments Act 1946⁽⁸⁾) or a draft statutory instrument if—

- (a) articles 10 to 15 of the 1999 Statutory Instruments Order applied to it immediately before 6th April 2011 by virtue of article 4(4) of that Order; and
- (b) in the case of—
 - (i) a statutory instrument, it was made before 6th April 2011;
 - (ii) a draft statutory instrument, it was laid before the Scottish Parliament before 6th April 2011.

(2) Schedule 4 to the Act does not apply in relation to subordinate legislation which is contained in the statutory instrument or, as the case may be, which is (or was) contained in the draft statutory instrument.

(3) In relation to the statutory instrument or, as the case may be, the draft statutory instrument, articles 10 to 15 of the 1999 Statutory Instruments Order are to continue to have effect as they had effect (by virtue of article 4(4) of that Order) immediately before 6th April 2011, despite article 4(6) of that Order and section 55(3) and (4) of the Act.

Disapplication of section 30 of, and schedule 3 to, the Act

5. Section 30 of, and schedule 3 to, the Act do not apply in relation to subordinate legislation which—

- (a) is contained in a pre-commencement instrument; or
- (b) is (or was) contained in a document laid before the Scottish Parliament before 6th April 2011 in accordance with an enactment in relation to which paragraph 3(2) or 5(2) of schedule 3 to the Act applies.

(5) [S.I. 1999/1593](#).

(6) [1945 c.18](#); to which there are amendments not relevant for the purpose of this Order. Section 11(1) provides that “order” includes a scheme, certificate or byelaws.

(7) [1998 c.46](#).

(8) [1946 c.36](#); amended by the Government of Wales Act 2006 ([c.32](#)).

Continuing effect of the 1999 Statutory Instruments Order

6.—(1) The 1999 Statutory Instruments Order, except article 8(1) and (2), is to continue to have effect in relation to pre-commencement instruments as it had effect immediately before 6th April 2011, despite article 4(6) of that Order and section 55(3) and (4) of the Act.

(2) But article 9 of the 1999 Statutory Instruments Order is to continue to have effect only in respect of calendar years before 2011.

Application of the 2011 Regulations to pre-commencement instruments

7.—(1) Regulations 4, 8, 9, 10 and 12 of the 2011 Regulations apply to a pre-commencement instrument as they apply to a Scottish statutory instrument within the meaning of section 27 of the Act subject to the modifications set out in paragraphs (2) to (4).

(2) References in regulations 4 and 8 to the number assigned to an instrument under regulation 3 are to be read as reference to the number assigned to the pre-commencement instrument in accordance with article 5(2) of the 1999 Statutory Instruments Order.

(3) References in regulation 8 to an instrument being published under regulation 6 are to be read as references to a copy of the pre-commencement instrument being first published on a website by the Queen's Printer.

(4) The reference in regulation 9 to an instrument being printed under regulation 7 is to be read as a reference to the pre-commencement instrument being printed in compliance with the requirements of article 7(1) of the 1999 Statutory Instruments Order.

Scottish Statutory Instruments Issue Lists published before 6th April 2011

8. References in regulations 9, 10 and 12 of the 2011 Regulations to a Scottish Statutory Instruments Issue List include a list published under article 8(1) of the 1999 Statutory Instruments Order.

Annual editions in respect of calendar years up to and including 2011

9. The reference in regulation 12 of the 2011 Regulations to an annual edition includes an annual edition prepared under article 9(1) of the 1999 Statutory Instruments Order.

10. The annual edition to be prepared in respect of calendar year 2011 under regulation 9(2) of the 2011 Regulations is to include a list of the pre-commencement instruments that were made in calendar year 2011 and classified as local under article 6 of the 1999 Statutory Instruments Order.

Further provision in relation to the evidential status of lists and annual editions

11. In regulation 10(1) of the 2011 Regulations—

- (a) the references to a copy of a Scottish Statutory Instruments Issue List include an Annual Numerical and Issue List of Scottish Statutory Instruments included in an annual edition prepared under article 9(1) of the 1999 Statutory Instruments Order; and
- (b) the reference to a copy of a Scottish Statutory Instruments Issue List printed under regulation 12 of the 2011 Regulations includes any copy of a Scottish Statutory Instruments Issue List or Annual Numerical and Issue List of Scottish Statutory Instruments included in an annual edition (within the meaning of the 1999 Statutory Instruments Order) that was printed by, or under the authority of, the Queen's Printer before 6th April 2011.

Numbering of Scottish statutory instruments

12. For the purpose of assigning numbers to Scottish statutory instruments made in calendar year 2011 under regulation 3 of the 2011 Regulations, the numbers assigned to pre-commencement instruments in accordance with article 5(2) of the 1999 Statutory Instruments Order are to be deemed to have been assigned to Scottish statutory instruments under regulation 3.

St Andrew's House,
Edinburgh
10th February 2011

BRUCE CRAWFORD
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes savings and transitional provision in consequence of the coming into force of Parts 2, 4 and 5, and in Part 6, section 55(3) to (5) of the Interpretation and Legislative Reform (Scotland) Act 2010 (“the Act”) on 6th April 2011 by virtue of [S.S.I. 2010/17](#). Those Parts of the Act replace the existing arrangements under the Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999 and the Scotland Act 1998 (Transitory and Transitional Provisions) (Orders subject to Special Parliamentary Procedure) Order 1999 with new arrangements for the scrutiny of subordinate legislation by the Scottish Parliament, provision about orders subject to special parliamentary procedure and provision about the laying of certain documents before the Scottish Parliament.

Article 3 of this Order continues the existing arrangements for orders which are subject to special parliamentary procedure if notice of the order was given before 6th April 2011.

Article 4 of this Order provides that schedule 4 to the Act does not apply to certain statutory instruments made before 6th April 2011 or draft statutory instruments laid before the Scottish Parliament prior to that date and further provides that the existing arrangements are to continue have effect in relation to them.

Article 5 of this Order disapplies the new procedural requirements in the Act in relation to subordinate legislation which is contained in a document that was a Scottish statutory instrument under the existing arrangements before 6th April 2011 (“pre-commencement instruments”), or which was contained in a document laid before the Scottish Parliament before 6th April 2011 in accordance with an enactment to which the new arrangements will apply.

As a consequence of this, article 6 of this Order provides for the existing arrangements to continue to have effect in relation to pre-commencement instruments subject to the exception that the requirement for the Queen’s Printer for Scotland to prepare annual editions under the existing arrangements continues to have effect only up until 2010.

Articles 7 to 11 of this Order provide for various provisions of the Scottish Statutory Instruments Regulations 2011 to apply to pre-commencement instruments, subject to certain modifications. The effect of this is to allow the provisions of those Regulations which relate to numbering, printing and publishing of Scottish statutory instruments to apply in relation to anything that has been done under the existing arrangements for numbering, printing and publishing. Provision is also made to allow pre-commencement instruments to be cited in accordance with regulation 4 of those Regulations and for the evidential status of existing lists and annual editions of Scottish statutory instruments.

Article 12 of this Order ensures that the first number to be assigned under regulation 3 of the 2011 Regulations to a Scottish statutory instrument made in calendar year 2011 is the number after the number assigned to the last pre-commencement instrument.