
STATUTORY INSTRUMENTS

2000 No. 1563

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND**

**The Scotland Act 1998 (Transfer of Functions
to the Scottish Ministers etc.) Order 2000**

Made - - - - 14th June 2000

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 14th day of June 2000

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been—

- (a) laid before and approved by a resolution of each House of Parliament; and
- (b) laid before and approved by a resolution of the Scottish Parliament;

Now therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 30(3), 63, 113 and 124(2) of the Scotland Act 1998(1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2000 and subject to paragraph (2) shall come into force on the second day after the day on which it is made.

(2) Article 2 of this Order shall come into force on the day after the day on which it is made.

(3) In this Order—

“the 1998 Act” means the Scotland Act 1998; and

“the principal Order” means the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999(2).

(1) 1998 c. 46.

(2) S.I. 1999/1750.

(4) In this Order, any word or expression used in referring to any enactment and which is also used in the enactment has the same meaning as it has in the enactment.

Functions to be treated as exercisable in or as regards Scotland

2. The function of the Secretary of State under section 15(3) of the Tax Credits Act 1999⁽³⁾ (accrediting organisations for the purpose of a scheme under section 15) is to be treated as exercisable in or as regards Scotland for the purposes of section 63 of the 1998 Act but only in so far as accreditation is for the purpose of the application of a scheme in relation to child care providers in Scotland.

Transfer of functions to the Scottish Ministers

3. The functions which are conferred on a Minister of the Crown by the enactments specified in column 1 of the Schedule to this Order shall—

- (a) so far as they are exercisable by him in or as regards Scotland; and
- (b) subject to any restriction in the corresponding entry in column 2 of the Schedule,

be exercisable by the Scottish Ministers instead of by the Minister of the Crown.

Functions shared by the Scottish Ministers and a Minister of the Crown

4.—(1) Subject to the restriction specified in the following paragraph, the functions of the Secretary of State under section 60(5)(c)(i) of the Welfare Reform and Pensions Act 1999⁽⁴⁾ shall, so far as they are exercisable by him in or as regards Scotland, be exercisable by the Scottish Ministers concurrently with the Secretary of State.

(2) The functions are so exercisable only so far as the Scottish Ministers consider that the facilities whose provision any person (including the Secretary of State) is undertaking under arrangements within section 60(5)(a) or (b) of that Act are capable of supporting training of persons for employment.

Functions exercisable with agreement of the Scottish Ministers

5.—(1) The function of the Secretary of State under paragraph 2(1), as read with paragraph 2(1A), of Schedule 1 to the Disability Rights Commission Act 1999⁽⁵⁾ shall, so far as it is exercisable by him in or as regards Scotland, be exercisable by him only with the agreement of the Scottish Ministers.

(2) The function of the Secretary of State under section 15 of the Tax Credits Act 1999 to make regulations shall, so far as it is exercisable by him in or as regards Scotland, be exercisable by him only with the agreement of the Scottish Ministers.

Modification of principal Order

6.—(1) The principal Order shall be amended as follows.

(2) In Schedule 1, the reference to “The Merchant Shipping (Formal Investigations) Rules 1985 (S.I.1985/1001), rule 4(1)”, together with the corresponding entry in column 2 of the Schedule, is omitted.

(3) 1999 c. 10.

(4) 1999 c. 30.

(5) 1999 c. 17. The function under this enactment was modified by the Scotland Act 1998 (Modification of Functions) Order 2000 (S.I. 2000/1458), which inserted sub-paragraph (1A).

General modification of enactments etc.

7.—(1) Sections 117 and 118 of the 1998 Act shall apply in relation to the exercise of functions by the Scottish Ministers by virtue of article 3 or 4 of this Order as they apply in relation to the exercise of functions by the Scottish Ministers within devolved competence.

(2) Sections 119 to 121 of the 1998 Act shall apply in relation to functions exercisable by the Scottish Ministers by virtue of those articles as they apply in relation to functions of the Scottish Ministers exercisable within devolved competence.

(3) In the application of those sections by virtue of this article, any reference in them to a pre commencement enactment is to be read as if it were a reference to any enactment.

(4) Any reference in any enactment or prerogative instrument or in any other instrument or document—

(a) to government departments; or

(b) to, or to any part or officer of, any government department,

(however described) is to be read, so far as the effect of this Order makes it necessary or expedient to do so, as including or being a reference to, or to any corresponding part or member of the staff of, the Scottish Administration.

Nurses, Midwives and Health Visitors Act 1997

8.—(1) Section 18 of the Nurses, Midwives and Health Visitors Act 1997⁽⁶⁾ (accounts of Council and Boards) is amended as follows.

(2) After subsection (7) there is inserted—

“(8) Subsections (2) to (5) and (7) do not apply in relation to the National Board for Scotland and instead—

(a) that Board shall send its statement of accounts prepared under subsection (1)(b) to the Scottish Ministers by such time as they may direct;

(b) the Scottish Ministers shall send the statement of accounts to the Auditor General for Scotland for auditing; and

(c) the Scottish Ministers shall lay before the Scottish Parliament copies of the report submitted by that Board under subsection (6).”

Transitional and saving provision

9.—(1) The transfer, by virtue of this Order, of any function exercisable by a Minister of the Crown to the Scottish Ministers shall not affect the validity of anything done (or having effect as if done) by or in relation to a Minister of the Crown before the date on which the transfer takes effect.

(2) Anything (including legal proceedings) which, at the time when that transfer takes effect, is in the process of being done by or in relation to a Minister of the Crown may, so far as it relates to any function transferred, be continued by or in relation to the Scottish Ministers.

(3) Anything done (or having effect as if done) by or in relation to a Minister of the Crown for the purposes of or in connection with any function transferred to the Scottish Ministers by virtue of this Order shall, if in force at the time when that transfer takes effect, have effect as if done by or in relation to the Scottish Ministers in so far as that is required for continuing its effect after that time.

(6) 1997 c. 24.

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(4) Despite the transfer to the Scottish Ministers of functions by virtue of this Order, any function of a Minister of the Crown in relation to any matter shall continue to be exercisable by him as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972(7).

A. K. Galloway
Clerk of the Privy Council

(7) 1972 c. 68.

SCHEDULE

Article 3

ENACTMENTS CONFERRING FUNCTIONS
TRANSFERRED TO THE SCOTTISH MINISTERS

<i>Column 1</i> <i>Enactment</i>	<i>Column 2</i> <i>Restrictions</i>
The Road Traffic Regulation Act 1984 (c. 27), section 88(1)(a) and (4).	Only the function of making, or continuing, an Order in relation to any road specified in the Order.
The Nurses, Midwives and Health Visitors Act 1997 (c. 24), sections 5(2), (3), (5), (6), (7), (8) and (9), 6(1)(e), 17(1) and (3), 18(1) and (6) and 24(4).	Only so far as the functions are exercisable in relation to the National Board for Scotland.
The Tax Credits Act 1999 (c. 10), section 15(3)(8).	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the Scotland Act 1998 (c. 46) (“the 1998 Act”), provides for certain specified functions of a Minister of the Crown, so far as they are exercisable by him in or as regards Scotland, to be exercisable by the Scottish Ministers instead of, or concurrently with the Minister concerned, or to be exercisable by him in or as regards Scotland subject to a requirement as to agreement with the Scottish Ministers.

Article 2 of the Order provides for the function of the Secretary of State under section 15(3) of the Tax Credits Act 1999 (c. 10) to be treated to a specified extent as exercisable in or as regards Scotland for the purposes of section 63 of the 1998 Act.

Article 3 of the Order provides that the functions conferred on a Minister of the Crown by the enactments specified in the Schedule shall be exercisable, in or as regards Scotland, by the Scottish Ministers instead of by a Minister of the Crown, subject, in certain cases, to specified restrictions.

Article 4 provides that the functions of the Secretary of State under section 60(5)(c)(i) of the Welfare Reform and Pensions Act 1999 (c. 30) shall be exercisable, in or as regards Scotland, by the Scottish Ministers concurrently with the Secretary of State subject to a specified restriction.

Article 5(1) provides that the function of the Secretary of State under paragraph 2(1), as read with paragraph 2(1A), of Schedule 1 to the Disability Rights Commission Act 1999 (c. 17) shall be exercisable by him, in or as regards Scotland, only with the agreement of the Scottish Ministers.

Article 5(2) provides that the Secretary of State’s regulation making functions under section 15 of the Tax Credits Act 1999 shall be exercisable by him, in or as regards Scotland, only with the agreement of the Scottish Ministers.

(8) The function under this enactment is treated as exercisable in or as regards Scotland for the purposes of section 63 of the Scotland Act 1998 (c. 46) by virtue of article 2 of this Order.

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Article 6 modifies the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. [1999/1750](#)) by removing a redundant reference.

Article 7 provides for certain general modifications of enactments etc. in connection with the provision made in the Order. Article 8 makes consequential modifications to section 18 of the Nurses, Midwives and Health Visitors Act [1997 \(c. 24\)](#). Article 9 makes transitional and saving provision.