

Draft Order in Council laid before Parliament and the Scottish Parliament under section 115 of, and paragraphs 1, 2 and 3 of Schedule 7 to, the Scotland Act 1998, for approval by resolution of each House of Parliament and of the Scottish Parliament.

DRAFT STATUTORY INSTRUMENTS

2000 No.

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND**

**The Scotland Act 1998 (Cross-Border Public
Authorities) (Adaptation of Functions etc.) Order 2000**

Made - - - - 2000
Coming into force - - 20th April 2000

At the Court at Windsor Castle, the 19th day of April 2000
Present,
The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before and approved by a resolution of each House of Parliament and of the Scottish Parliament;

And whereas the British Library Board, the Theatres Trust and the Trustees of the National Heritage Memorial Fund have been specified as cross-border public authorities by the Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999(1);

And whereas it has been recommended to Her Majesty in Council to make this Order following consultation with those cross-border public authorities;

Now therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 89 and 113 of the Scotland Act 1998(2), 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 and commencement

1. This Order may be cited as the Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 2000 and shall come into force on 20th April 2000 ("the commencement date").

(1) S.I. 1999/1319.
(2) 1998 c. 46.

The British Library Board

2.—(1) Section 2 of the British Library Act 1972(3), (constitution etc. of the British Library Board) shall be amended as follows.

(2) In subsection (1), at the end of paragraph (b), for the word “and” there shall be substituted—

“(bb) one part-time member appointed by the Secretary of State shall be a person who appears to him to have special knowledge of Scotland; and”.

(3) After subsection (2) there shall be inserted—

“(2A) Before making an appointment under subsection (1)(bb) above, the Secretary of State shall consult the Scottish Ministers.”.

The Theatres Trust

3.—(1) In the Schedule to the Theatres Trust Act 1976(4) (appointment etc. of trustees of the Theatres Trust), after paragraph 1 there shall be inserted—

“1A. Without prejudice to the application of paragraph 2 below, one of the trustees shall be a person who appears to the Secretary of State to have special knowledge of Scotland; but before appointing any person to be a trustee pursuant to this paragraph, the Secretary of State shall consult the Scottish Ministers.”.

(2) In paragraph 4 of that Schedule (which requires the Secretary of State, before appointing a trustee, to consult bodies representative of the interests concerned), for “the interests” there shall be substituted “such of the interests mentioned in paragraph 2 above as may be”.

The Trustees of the National Heritage Memorial Fund

4.—(1) In section 1 of the National Heritage Act 1980(5) (establishment of the National Heritage Memorial Fund and appointment of trustees), after subsection (3) there shall be inserted—

“(3A) The Prime Minister shall consult the Scottish Ministers before appointing—

(a) the chairman of the Trustees, and

(b) any person under this section on the ground that he is connected by residence or otherwise with Scotland.”.

(2) In Schedule 1 to that Act (the Trustees of the National Heritage Memorial Fund), in paragraph 3 (tenure of office of trustees), after sub-paragraph (4) there shall be inserted—

“(4A) The Prime Minister shall consult the Scottish Ministers before exercising any power of his under sub-paragraph (4)(d) above to terminate the appointment of a trustee in respect of whose appointment he was required by section 1(3A) of this Act to consult those Ministers.”.

Modification of section 88(2) of the Scotland Act 1998

5. —Section 88(2)(a) of the Scotland Act 1998 (Minister of the Crown to consult the Scottish Ministers before appointing etc. cross-border public authority or any member or office-holder of it) shall not apply in relation to—

(a) the British Library Board,

(b) the Theatres Trust, and

(3) 1972 c. 54. The function of appointing members to the British Library Board (other than the member appointed by Her Majesty) has been transferred on a number of occasions, most recently from the Lord President of the Council to the Secretary of State by the Transfer of Functions (National Heritage) Order 1992 (S.I. 1992/1311), article 3(1) and Schedule 1, Part I.

(4) 1976 c. 27. The Act was amended and extended to Scotland by the Theatres Trust (Scotland) Act 1978 (c. 24).

(5) 1980 c. 17. In section 1(2) (which amongst other things specifies the number of trustees, apart from the chairman), “fourteen” was substituted for “ten” by the National Lottery etc. Act 1993 (c. 39), Schedule 4, paragraph 1.

(c) the Trustees of the National Heritage Memorial Fund.

Transitional and saving provisions

6.—(1) Nothing in this Order shall affect the validity of any appointment made, or the termination of any appointment, before the commencement date.

(2) The amendments made by articles 2 and 3 shall first apply in relation to the appointment of a successor to such person holding office on the commencement date as a member of the British Library Board or as a trustee of the Theatres Trust as may be designated for the purpose by the Secretary of State.

(3) In any case where the Prime Minister proposes to terminate an appointment to which this paragraph applies he shall, before doing so, consult the Scottish Ministers.

(4) Paragraph (3) applies to any appointment made under section 1 of the National Heritage Act 1980 in respect of which, if it had been made after the commencement date, the Prime Minister would have been required to consult the Scottish Ministers.

Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to the British Library Board, the Theatres Trust and the Trustees of the National Heritage Memorial Fund, all of which are specified as cross-border public authorities by the Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999 (S.I.1999/1319).

In relation to the British Library Board, it provides (in article 2) that one part-time member shall be a person appearing to the Secretary of State to have special knowledge of Scotland. In relation to the Theatres Trust, it provides (in article 3) that one of the trustees shall be a person who appears to the Secretary of State to have special knowledge of Scotland. In both cases, the member or trustee concerned shall be appointed only after consultation with the Scottish Ministers. To effect the transition to the new constitutional arrangements for these bodies, the Secretary of State will (pursuant to article 6(2)) designate an existing member of the bodies to be the one whose successor will be appointed under the new arrangements.

There is already a requirement, in section 1(3) of the National Heritage Act 1980 (c. 17), that the persons appointed by the Prime Minister as trustees of the National Heritage Memorial Fund should include those connected by residence or otherwise with Scotland. The Order provides (in article 4) that, before a person is appointed as chairman or as trustee on the ground that he is so connected with Scotland, and before terminating (on grounds of misconduct) the appointment of a person so appointed, the Prime Minister shall consult the Scottish Ministers.

Accordingly, the Order also provides (in article 5) that section 88(2)(a) of the Scotland Act 1998 (c. 46) (which requires a Minister of the Crown to consult the Scottish Ministers before appointing or removing any member etc. of a cross-border public authority) shall not apply to these bodies.