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STATUTORY INSTRUMENTS

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1974 No. 1274

MINISTERS OF THE CROWN

The Transfer of Functions (Treasury and Secretary of State)  
Order 1974

<i>Made</i>	- - -	25th July 1974
<i>Laid before Parliament</i>		31st July 1974
<i>Coming into Operation</i>		22nd August 1974

At the Court at Buckingham Palace, the 25th day of July 1974

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 1 of the Ministers of the Crown (Transfer of Functions) Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Transfer of Functions (Treasury and Secretary of State) Order 1974.

(2) The Interpretation Act 1889(b) applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(3) Any reference in this Order to an enactment is a reference thereto as amended, and includes a reference thereto as applied, by or under any other enactment.

(4) This Order shall come into operation on 22nd August 1974.

*Transfer of functions from Treasury to Secretary of State*

2.—(1) There are hereby transferred to the Secretary of State for Scotland the following functions of the Treasury:

- (a) all functions relating to the ascertaining, allowing or paying of any sum or sums of money applicable to the charges of the courts of law except any such sum or sums relating to the Procurator Fiscal service and any other sum or sums which the Queen's and Lord Treasurer's Remembrancer may be authorised to pay from the Vote for the Administration of Justice, Crown Prosecutions and Legal Services, Scotland:

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(a) 1946 c. 31.

(b) 1889 c. 63.

(b) functions as Auditor of the Exchequer in Scotland in relation to the audit of the fees, fines and forfeitures collected by the Sheriff Clerks, to the audit of any money paid to or under the direction or superintendence of any Sheriff Principal or Sheriff in Scotland and to the audit of any fees or other sums collected by and with the authority of or under the superintendence of the Court of Session, the Accountant of Court, the Court of Justiciary and the Scottish Land Court:

(c) functions exercised for the audit of expenditure incurred by the Court of Session, the Court of Justiciary, the Accountant of Court, the Scottish Land Court, the Pensions Appeal Tribunal for Scotland and the Scottish Law Commission.

(2) There are hereby transferred to the Secretary of State those functions conferred on the Treasury under section 1 of the Public Revenue (Scotland) Act 1833(a) which relate to:

(a) the ascertaining, ordering, issuing, allowing or paying any sum or sums of money applicable and paid towards the charges of the courts of law, except those relating to expenses incurred in the prosecution of criminal cases;

(b) the payment of any Sheriff in Scotland, or any money to be paid to or under the direction or superintendence of any Sheriff, provided that such payment shall not include payments made out of the Consolidated Fund;

(c) the passing of the Sheriff's accounts, now known as the Sheriff Clerk's accounts, or other accounts, and taking securities, and receiving bonds, previously discharged by the barons of the Court of Exchequer, (excepting recognizances and other securities, and the oaths taken in discharge of judicial duties of the barons of the Court of Exchequer).

(3) There are hereby transferred to the Secretary of State from the Treasury the function of recovering and collecting those rent charges or penalties referred to in section 13 of the Court of Exchequer (Scotland) Act 1856(b).

(4) There are hereby also transferred to the Secretary of State the functions of the Treasury under the enactments specified in the Schedule to this Order.

*Consequential provisions*

3.—(1) This Order shall not affect the validity of anything done by or in relation to the Queen's and Lord Treasurer's Remembrancer as officer of the Treasury before the coming into operation of this Order; and anything which at the time of the coming into operation of this Order, is in process of being done by or in relation to the Queen's and Lord Treasurer's Remembrancer as said officer may if it relates to any function transferred by this Order, be continued by or in relation to the Secretary of State.

(2) Any approval, consent, direction or appointment given or made or other thing done by the Queen's and Lord Treasurer's Remembrancer for the purposes of any functions transferred by this Order shall, if in force at the coming into operation of this Order, continue in force and have effect as if similarly given, made or done by the Secretary of State.

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(a) 1833 c. 13.

(b) 1856 c. 56.

(3) Documents or forms printed for use in connection with any functions transferred by this Order may be used notwithstanding that they contain references to the Queen's and Lord Treasurer's Remembrancer, and those references shall be construed as a reference to the Secretary of State.

(4) In consequence of the transfer of functions effected by Article 1 above, in the enactments specified in the Schedule to this Order, for the words "the Treasury" or "the Queen's and Lord Treasurer's Remembrancer", wherever they occur, there shall be substituted the words "the Secretary of State".

*N. E. Leigh*

#### SCHEDULE

##### ENACTMENTS REFERRED TO IN ARTICLE 2(4):

1707 c. 53	.....	Court of Exchequer (Scotland) Act 1707, section 7
1746 c. 43	.....	Heritable Jurisdictions (Scotland) Act 1746, section 43
1808 c. 110	.....	Herring Fishery (Scotland) Act 1808, section 57
1815 c. 94	.....	Herring Fishery (Scotland) Act 1815, section 42
1834 c. 16	.....	Exchequer (Scotland) Act 1834, section 2
1871 c. 96	.....	Pedlars Act 1871, section 20(6)(2)
1871 c. 112	.....	Prevention of Crime Act 1871, section 17(7)
1875 c. 17	.....	Explosives Act 1875, section 114(e)
1889 c. 39	.....	Judicial Factors (Scotland) Act 1889, section 15
1893 c. 44	.....	Sheriff Courts Consignations (Scotland) Act 1893, sections 7, 8, 9 and 10
1895 c. 19	.....	Court of Sessions Consignations (Scotland) Act 1895, sections 9, 12, 13, 14 and 16
1907 c. 42	.....	Sea Fisheries (Scotland) Application of Penalties Act 1907, section 1
1913 c. 20	.....	Bankruptcy (Scotland) Act 1913, section 153(3)
1940 c. 42	.....	Law Reform (Miscellaneous Provisions) (Scotland) Act 1940, section 6(2)
1949 c. 27	.....	Juries Act 1949, section 25(1)(a)
1950 c. 36	.....	Diseases of Animals Act 1950, section 86(5)

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order transfers to the Secretary of State the following functions of the Treasury formerly carried out by its officer, the Queen's and Lord Treasurer's Remembrancer:—

- (a) functions, including audit, relating to receipts and expenditure applicable to the Sheriff Courts, the Court of Justiciary, the Court of Session, the Accountant of Court, the Scottish Land Court, the Pensions Appeal Tribunals for Scotland and the Scottish Law Commission except any expenditure which the Queen's and Lord Treasurer's Remembrancer may be authorised to pay or any payment made out of the Consolidated Fund (Articles 2(1)(a)(b) and (c) and 2(2)(a)(b) and (c).
- (b) functions relating to the recovery and collection of certain penalties etc. (Article 2(3)).
- (c) functions of the Treasury under the enactments specified in the Schedule to the Order (Article 2(4)).

The remaining provisions of the Order are consequential.