
STATUTORY INSTRUMENTS

1999 No. 1747

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND**

**The Scotland Act 1998 (Cross-Border Public
Authorities) (Adaptation of Functions etc.) Order 1999**

Made - - - - 22nd June 1999

Coming into force in accordance with article 1

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 bodies mentioned in Schedule 1 to this Order 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 the cross-border public authorities mentioned in that Schedule;

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 1999 and shall come into force on the principal appointed day⁽³⁾

Interpretation

2. In this Order, “the Act” means the Scotland Act 1998.

Adaptation of functions etc.

3. The modifications mentioned in Part II of each of Schedules 2 to 23 to this Order, which modifications relate to the cross-border public authority or authorities mentioned in Part I of each of those Schedules, shall have effect.

(1) S.I. [1999/1319](#).

(2) [1998 c. 46](#).

(3) Article 3 of the Scotland Act 1998 (Commencement) Order 1998 (S.I. [1998/3178](#)) specifies 1st July 1999 as the principal appointed day for the purposes of the Scotland Act 1998.

Modification of enactments

4. Sections 118 to 121 of the Act shall apply in relation to any function exercisable by the Scottish Ministers alone by virtue of this Order as they apply in relation to functions of the Scottish Ministers exercisable within devolved competence.

Transitional and saving provisions

5.—(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 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 the 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.

A. K. Galloway
Clerk of the Privy Council

SCHEDULE 1

Preamble

CROSS-BORDER PUBLIC AUTHORITIES

Advisory Committee on Pesticides(4) Advisory Committee on Releases to the Environment(5)
British Potato Council(6) British Wool Marketing Board(7) Chief Commissioner and
Commissioners(8) Committee of Investigation for Great Britain(9) Consumers' Committee for Great
Britain(10)

Controller of Plant Variety Rights(11)

Council on Tribunals(12)

Criminal Injuries Compensation Appeals Panel(13)

Criminal Injuries Compensation Authority(14)

Criminal Injuries Compensation Board(15)

Food from Britain(16)

Forestry Commissioners(17)

Home-Grown Cereals Authority(18)

Horticultural Development Council(19)

Intervention Board for Agricultural Produce(20)

Meat and Livestock Commission(21)

Meat and Livestock Commission's Consumers Committee(22)

Milk Development Council(23)

The National Criminal Intelligence Service(24)

-
- (4) The Advisory Committee on Pesticides was established by article 3 of the Control of Pesticides (Advisory Committee on Pesticides) Order 1985 (S.I. 1985/1516).
- (5) The Advisory Committee on Releases to the Environment was constituted by section 124 of the Environmental Protection Act 1990 (c. 43).
- (6) The British Potato Council was constituted by article 3(1) of the Potato Industry Development Council Order 1997 (S.I. 1997/266).
- (7) The British Wool Marketing Board was constituted by paragraph 4 of the Schedule to the British Wool Marketing Scheme (Approval) Order 1950 (S.I. 1950/1326).
- (8) The Chief Commissioner and other Commissioners are appointed under section 91 of the Police Act 1997 (c. 50).
- (9) The Committee of Investigation for Great Britain was constituted by section 19 of the Agricultural Marketing Act 1958 (c. 47).
- (10) The Consumers' Committee for Great Britain was constituted by section 19 of the Agricultural Marketing Act 1958.
- (11) The Controller of Plant Variety Rights was constituted by section 2 of the Plant Varieties Act 1997 (c. 66).
- (12) The Council on Tribunals was constituted by section 1(1) of the Tribunals and Inquiries Act 1992 (c. 53).
- (13) The Criminal Injuries Compensation Appeals Panel was constituted by the Criminal Injuries Compensation Scheme 1996. The 1996 Scheme was made by the Secretary of State on 12th December 1995 under section 1 of the Criminal Injuries Compensation Act 1995 (c. 53).
- (14) The Criminal Injuries Compensation Authority is the body referred to in the Criminal Injuries Compensation Scheme 1996.
- (15) The Criminal Injuries Compensation Board was constituted by the Criminal Injuries Compensation Scheme 1990. The 1990 Scheme came into operation on 1st February 1990 and is a revision of the 1964 Scheme which was announced in both Houses of Parliament on 24th June 1964 in the exercise of the prerogative power.
- (16) Food from Britain was established by section 1(1) of the Agricultural Marketing Act 1983 (c. 3). The Act was amended by the Agriculture Act 1986 (c. 49), sections 8 and 24.
- (17) The Forestry Commissioners were constituted by section 1 of the Forestry Act 1967 (c. 10).
- (18) The Home-Grown Cereals Authority was constituted by section 1 of the Cereals Marketing Act 1965 (c. 14). Section 1 was amended by section 4(3) of the Agriculture Act 1986 (c. 49).
- (19) The Horticultural Development Council was constituted by article 3(1) of the Horticultural Development Council Order 1986 (S.I. 1986/1110), to which there are amendments not relevant to this Order.
- (20) The Intervention Board for Agricultural Produce was constituted by section 6(1) of the European Communities Act 1972 (c. 68).
- (21) The Meat and Livestock Commission was constituted by section 1 of the Agriculture Act 1967 (c. 22).
- (22) The Meat and Livestock Commission's Consumers Committee was constituted by section 2 of, and Schedule 1 to, the Agriculture Act 1967.
- (23) The Milk Development Council was constituted by article 3 of the Milk Development Council Order 1995 (S.I. 1995/356).
- (24) The National Criminal Intelligence Service was constituted by section 2 of the Police Act 1997 (c. 50).

National Radiological Protection Board(25)
Plant Varieties and Seeds Tribunal(26)
Plant Variety Rights Office(27)
Police Information Technology Organisation(28)
Police Negotiating Board for the United Kingdom(29)
Rail Users' Consultative Committee for Scotland(30)
Scottish Committee of the Council on Tribunals(31)
Sea Fish Industry Authority(32)
The Service Authority for the National Criminal Intelligence Service(33)

SCHEDULE 2

Article 3

ADVISORY COMMITTEE ON PESTICIDES

PART I

APPLICATION AND INTERPRETATION

1.—(1) This Schedule shall apply to the Advisory Committee on Pesticides.

(2) In this Schedule—

“the 1985 Act” means the Food and Environment Protection Act 1985(34);

“the Committee” means the Advisory Committee on Pesticides established by article 3 of the Order;

“the Order” means the Control of Pesticides (Advisory Committee on Pesticides) Order 1985(35);

“the Regulations” means the Control of Pesticides (Advisory Committee on Pesticides) (Terms of Office) Regulations 1985(36).

(25) The National Radiological Protection Board was constituted by section 1(1) of the Radiological Protection Act 1970 (c. 46).

(26) The Plant Varieties and Seeds Tribunal was continued by section 42 of the Plant Varieties Act 1997.

(27) The Plant Varieties Rights Office was continued by section 2 of the Plant Varieties Act 1997.

(28) The Police Information Technology Organisation was constituted by section 109 of the Police Act 1997.

(29) The Police Negotiating Board for the United Kingdom was constituted by section 61 of the Police Act 1996 (c. 16).

(30) The Rail Users' Consultative Committee for Scotland was constituted by section 2 of the Railways Act 1993 (c. 43).

(31) The Scottish Committee of the Council on Tribunals was constituted by section 2(2) of the Tribunals and Inquiries Act 1992.

(32) The Sea Fish Industry Authority was constituted by section 1 of the Fisheries Act 1981 (c. 29).

(33) The Service Authority for the National Criminal Intelligence Service was constituted by section 1 of the Police Act 1997.

(34) 1985 c. 48.

(35) S.I. 1985/1516.

(36) S.I. 1985/1517.

PART II

MODIFICATIONS

Modification of functions in relation to the Committee

2.—(1) Any function which is—
(a) specifically exercisable in relation to the Committee; and
(b) exercisable by the Secretary of State acting jointly with other Ministers of the Crown,
shall instead be exercisable by the Secretary of State, the Scottish Ministers and those Ministers of the Crown acting jointly.

(2) This paragraph shall not apply to any function to which paragraphs 3 or 4 apply.

3.—(1) This paragraph applies to any function of making subordinate legislation under section 16(7) of, or paragraphs 3 or 8 of Schedule 5 to, the 1985 Act.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers and section 88(2) of the Act shall not apply to any such function.

Modification of 1985 Act

4.—(1) Without prejudice to the generality of the modifications made by paragraphs 2 and 3, the consequential modification to the 1985 Act made by sub-paragraph (2) shall have effect.

(2) In section 16(9), after “the Ministers” there is inserted “or the Scottish Ministers”.

Modification of the Order

5. Without prejudice to the generality of the modifications made by paragraphs 2 and 3, in article 2 (title, commencement and interpretation) of the Order after “Secretary of State” there is inserted “and the Scottish Ministers”.

Modification of the Regulations

6. Without prejudice to the generality of the modifications made by paragraphs 2 and 3, in regulation 1(2) (title, commencement and interpretation) of the Regulations after “Secretary of State” there is inserted “and the Scottish Ministers”.

SCHEDULE 3

Article 3

ADVISORY COMMITTEE ON RELEASES TO THE ENVIRONMENT

PART I

APPLICATION AND INTERPRETATION

1. This Schedule shall apply to the Advisory Committee on Releases to the Environment.
2. In this Schedule—

“the 1990 Act” means the Environmental Protection Act 1990⁽³⁷⁾;

“the Committee” means the Advisory Committee on Releases to the Environment established under section 124 of the 1990 Act.

PART II MODIFICATIONS

Modification of functions in relation to the Committee

3.—(1) Any function which is—

- (a) specifically exercisable in relation to the Committee; and
- (b) exercisable by the Secretary of State acting alone,

shall instead be exercisable by the Secretary of State and the Scottish Ministers acting jointly.

(2) Any function which is—

- (a) specifically exercisable in relation to the Committee; and
- (b) exercisable by the Secretary of State acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Secretary of State, the Scottish Ministers and those other Ministers acting jointly.

SCHEDULE 4

Article 3

BRITISH POTATO COUNCIL

PART I APPLICATION AND INTERPRETATION

1.—(1) This Schedule shall apply to the British Potato Council.

(2) In this Schedule—

“the principal Order” means the Potato Industry Development Council Order 1997⁽³⁸⁾;

“the 1947 Act” means the Industrial Organisation and Development Act 1947⁽³⁹⁾;

“the Council” means the British Potato Council constituted by article 3 of the principal Order.

⁽³⁷⁾ 1990 c. 43.

⁽³⁸⁾ S.I. 1997/266.

⁽³⁹⁾ 1947 c. 40.

PART II

MODIFICATIONS

General modification of functions in relation to the Council

2.—(1) Any function which is exercisable in relation to the Council by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is—

- (a) specifically exercisable in relation to the Council; and
- (b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) This paragraph does not apply to any function to which paragraph 3 applies.

Modification of function under the 1947 Act

3.—(1) This paragraph applies to any function exercisable by a Minister of the Crown under the 1947 Act to modify the principal Order.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

SCHEDULE 5

Article 3

BRITISH WOOL MARKETING BOARD

PART I

APPLICATION AND INTERPRETATION

1.—(1) This Schedule shall apply to the British Wool Marketing Board.

(2) In this Schedule—

“the principal Order” means the British Wool Marketing Scheme (Approval) Order 1950(40);

“the 1958 Act” means the Agricultural Marketing Act 1958(41);

“the Board” means the British Wool Marketing Board.

(40) S.I. 1950/1326.

(41) 1958 c. 47.

PART II

MODIFICATIONS

General modification of functions

2.—(1) Any function which is exercisable in relation to the Board by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is—

- (a) specifically exercisable in relation to the Board; and
- (b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) This paragraph does not apply to any function to which paragraph 3 applies.

Modification of function under the 1958 Act

3.—(1) This paragraph applies to any function exercisable by a Minister of the Crown under the 1958 Act to modify the principal Order.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

SCHEDULE 6

Article 3

CHIEF COMMISSIONER AND OTHER COMMISSIONERS APPOINTED FOR THE PURPOSES OF PART III OF THE POLICE ACT 1997

PART I

APPLICATION

1. This Schedule shall apply to the Chief Commissioner and other Commissioners appointed for the purposes of Part III of the Police Act 1997⁽⁴²⁾.

PART II

MODIFICATIONS

2.—(1) Part III of the Police Act 1997 is amended as follows.

(2) In section 91 (the Commissioners)—

- (a) in subsection (1), after the words “Prime Minister” where they occur for the first time, there is inserted “, after consultation with the Scottish Ministers,”;

⁽⁴²⁾ 1997 c. 50.

- (b) for subsection (6), there is substituted—
- “(6) Subject to subsection (7), a Commissioner shall not be removed from office before the end of the term for which he is appointed unless—
- (a) a resolution approving his removal has been passed by each House of Parliament; and
- (b) a resolution approving his removal has been passed by the Scottish Parliament.”.
- (c) in subsection (8), after “Commissioner” there is inserted “, other than a Commissioner carrying out functions as mentioned in subsection (8A),”;
- (d) after subsection (8), there is inserted—
- “(8A) The Scottish Ministers shall pay to any Commissioner who carries out his functions under this Part wholly or mainly in Scotland such allowances as the Scottish Ministers consider appropriate.”;
- (f) in subsection (9), after “Commissioners” there is inserted “, other than any Commissioner carrying out functions as mentioned in subsection (9A),”;
- (g) after subsection (9), there is inserted—
- “(9A) The Scottish Ministers shall, after consultation with the Chief Commissioner, provide any Commissioner who carries out his functions under this Part wholly or mainly in Scotland with such staff as the Scottish Ministers consider necessary for the discharge of his functions.”.
- (3) In section 105 (appeals by authorising officers: supplementary), at the end of subsection (1) (b), there is inserted “and the Scottish Ministers”.
- (4) In section 106 (appeals by complainants), in subsection (4)(b), after the words “Prime Minister”, there are inserted the words “and to the Scottish Ministers”.
- (5) In section 107 (supplementary provisions relating to the Commissioners)—
- (a) in subsection (2)—
- (i) after “Prime Minister”, there is inserted “and to the Scottish Ministers”;
- (ii) after “to him”, there is inserted “or them (as the case may require)”;
- (b) after subsection (3), there is inserted—
- “(3A) The Scottish Ministers shall lay before the Scottish Parliament a copy of each annual report made by the Chief Commissioner under subsection (2), together with a statement as to whether any matter has been excluded from that copy in pursuance of subsection (4) below.”; and
- (c) in subsection (4), after “Chief Commissioner”, there is inserted “and the Scottish Ministers”.
- (6) In paragraph 4 of Schedule 7, after “Prime Minister”, there is inserted “and to the Scottish Ministers”.

SCHEDULE 7

Article 3

COMMITTEE OF INVESTIGATION FOR GREAT BRITAIN
CONSUMERS' COMMITTEE FOR GREAT BRITAIN

PART I

APPLICATION AND INTERPRETATION

1.—(1) This Schedule shall apply to the Committee of Investigation for Great Britain and the Consumers' Committee for Great Britain.

(2) In this Schedule—

“the 1958 Act” means the Agricultural Marketing Act 1958⁽⁴³⁾;

“the Committee” means the Consumers' Committee for Great Britain or, as the case may be, the Committee of Investigation for Great Britain.

PART II

MODIFICATIONS

General modification of functions in relation to the Committees

2.—(1) Any function which is exercisable in relation to the Committee by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is—

(a) specifically exercisable in relation to the Committee; and

(b) exercisable by the Secretary of State concerned with agriculture in Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) This paragraph does not apply to any function to which paragraph 3 applies.

3.—(1) This paragraph applies to the function of making regulations under section 19(5) of the 1958 Act and to functions of making orders under section 19(6) or (7) of that Act.

(2) The Secretary of State concerned with agriculture in Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

SCHEDULE 8

Article 3

CONTROLLER OF PLANT VARIETY RIGHTS PLANT VARIETIES AND SEEDS TRIBUNAL PLANT VARIETY RIGHTS OFFICE

PART I

APPLICATION AND INTERPRETATION

1.—(1) This Schedule shall apply to the—

⁽⁴³⁾ 1958 c. 47.

- (a) Controller of Plant Variety Rights;
 - (b) Plant Varieties and Seeds Tribunals;
 - (c) Plant Variety Rights Office.
- (2) In this Schedule—
- “the 1997 Act” means the Plant Varieties Act 1997⁽⁴⁴⁾;
 - “the Office” means the Plant Variety Rights Office continued under section 2 of the 1997 Act;
 - “the Controller” means the Controller of Plant Variety Rights constituted under section 2 of the 1997 Act; and
 - “the Tribunal” means the Plant Varieties and Seeds Tribunal continued under section 42 of the 1997 Act.

PART II

MODIFICATIONS

Modification of functions in relation to the Office, the Controller and the Tribunal

- 2.—(1) Any function which is—
- (a) specifically exercisable in relation to the Office, the Controller or the Tribunal; and
 - (b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,
- shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.
- (2) This paragraph shall not apply to any function to which paragraph 3 or 4 applies.
- 3.—(1) This paragraph applies to any function of making regulations under sections 17(8), 18, 22(2), 24, 26(2), 28, 29, 44 and 48 of the 1997 Act.
- (2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.
- (3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.
- 4.—(1) This paragraph applies to the function of making rules under paragraph 13 of Schedule 3 to the 1997 Act.
- (2) The function to which this paragraph applies shall be exercisable in relation to Scotland by the Scottish Ministers instead of by the Lord Chancellor, and section 88(2) of the Act shall not apply in relation to any such function.

SCHEDULE 9

Article 3

COUNCIL ON TRIBUNALS SCOTTISH COMMITTEE OF THE COUNCIL ON TRIBUNALS

(44) 1997 c. 66.

PART I

APPLICATION

1. This Schedule shall apply to the Council on Tribunals and the Scottish Committee of the Council on Tribunals.

PART II

MODIFICATIONS

2.—(1) The Tribunals and Inquiries Act 1992⁽⁴⁵⁾ is amended as follows.

(2) In each of sections 2(1) and (2), 4(1) to (4), (6) and (7) and 5(3)(c), for “Lord Advocate” wherever those words appear there is substituted “Scottish Ministers”.

(3) In section 4—

(a) in subsection (2) after “Minister” there is inserted “or Ministers”; and

(b) in subsection (7)—

(i) for “those Ministers”, there is substituted “(a) the Lord Chancellor”;

(ii) after “Parliament” there is inserted “, and (b) the Scottish Ministers shall lay the report before the Scottish Parliament,”; and

(iii) before “they”, there is inserted “he or”.

SCHEDULE 10

Article 3

CRIMINAL INJURIES COMPENSATION APPEALS PANEL
CRIMINAL INJURIES COMPENSATION AUTHORITY CRIMINAL INJURIES
COMPENSATION BOARD

PART I

APPLICATION, INTERPRETATION AND TRANSITIONAL PROVISION

1.—(1) This Schedule shall apply to the—

(a) Criminal Injuries Compensation Appeals Panel;

(b) Criminal Injuries Compensation Authority; and

(c) Criminal Injuries Compensation Board.

(2) In this Schedule—

“CICAP” means the Criminal Injuries Compensation Appeals Panel;

“CICA” means the Criminal Injuries Compensation Authority;

“CICB” means the Criminal Injuries Compensation Board;

“the 1990 Scheme” means the Criminal Injuries Compensation Scheme 1990;

“the 1996 Scheme” means the Criminal Injuries Compensation Scheme 1996;

⁽⁴⁵⁾ 1992 c. 53; the functions of the Lord Advocate under this Act were transferred to the Secretary of State by S.I. 1999/678.

“the 1995 Act” means the Criminal Injuries Compensation Act 1995⁽⁴⁶⁾.

(3) Any adjudicator appointed by the Secretary of State for Scotland prior to the principal appointed day and holding office on that day shall be treated, on or after that day, as having been appointed by the Scottish Ministers.

PART II

MODIFICATIONS

Criminal Injuries Compensation Act 1995 (c. 53)

2.—(1) The Criminal Injuries Compensation Act 1995 is amended as follows.

(2) In the definition of “adjudicator” in section 1(4), after “Secretary of State” there is inserted “or the Scottish Ministers”.

(3) In section 5(1)(b), after “Secretary of State” there is inserted “or the Scottish Ministers”.

(4) After section 5(1) there is inserted—

“(1A) Subject to subsection (1B) below, the adjudicators shall be appointed by the Secretary of State after consultation with the Scottish Ministers.

(1B) Five of the adjudicators, or such greater number as the Secretary of State may agree, are to be appointed by the Scottish Ministers after consultation with the Secretary of State”.

(5) For section 5(4) there shall be substituted—

“(4) Any person appointed under this section by the Secretary of State or, as the case may be, the Scottish Ministers—

(a) shall be appointed on such terms as the Secretary of State or the Scottish Ministers consider appropriate; but

(b) shall not be regarded as having been appointed to exercise functions of the Secretary of State or the Scottish Ministers or to act on his or their behalf.”.

(6) In section 5(5), after “Secretary of State” there is inserted “or, as the case may be, the Scottish Ministers”.

(7) In section 5(7), after “may at any time” there is inserted, “after consultation with the Scottish Ministers or, in the case of an appointment made by the Scottish Ministers, the Scottish Ministers may at any time, after consultation with the Secretary of State,”.

Criminal Injuries Compensation Scheme 1990

3.—(1) The Criminal Injuries Compensation Scheme 1990 is amended as follows.

(2) For the last sentence of paragraph 2 substitute—

“Their net expenditure will fall on the vote of the Home Department. Any expenditure incurred as regards Scotland shall be reimbursed to the Secretary of State by the Scottish Ministers.”.

(3) In paragraph 3—

(a) for “Secretary of State for Scotland” there is substituted “Scottish Ministers”; and

(b) after “Parliament” there is inserted “and in the Scottish Parliament”.

(46) 1995 c. 53.

Criminal Injuries Compensation Scheme 1996

- 4.—(1) The Criminal Injuries Compensation Scheme 1996 is amended as follows.
- (2) In the second sentence of paragraph 4, after “Secretary of State” there is inserted “and the Scottish Ministers”.
- (3) After paragraph 49 there is inserted—
- “**49A.** Any monies received by the Authority under paragraph 49 above that relate to criminal injuries sustained otherwise than in Scotland shall be paid to the Secretary of State and any such monies that relate to criminal injuries sustained in Scotland shall be paid to the Scottish Ministers”.

SCHEDULE 11

Article 3

FOOD FROM BRITAIN

PART I

APPLICATION AND INTERPRETATION

1. This Schedule shall apply to Food from Britain.
2. In this Schedule—
 - “the 1967 Act” means the Agriculture Act 1967⁽⁴⁷⁾;
 - “the 1983 Act” means the Agricultural Marketing Act 1983⁽⁴⁸⁾.

PART II

MODIFICATIONS

Modification of functions in relation to Food from Britain

- 3.—(1) Any function exercisable in relation to Food from Britain by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.
- (2) Subject to paragraph 4 below, any function which is—
- (a) specifically exercisable in relation to Food from Britain; and
 - (b) exercisable by the Secretary of State for Scotland acting jointly with any other Ministers of the Crown,
- shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.
- 4.—(1) This paragraph applies to the function under section 61⁽⁴⁹⁾ of the 1967 Act of making a scheme for payment of grants.

⁽⁴⁷⁾ 1967 c. 22.

⁽⁴⁸⁾ 1983 c. 3.

⁽⁴⁹⁾ Section 61 was amended by S.I. 1986/817, article 2; the Statute Law (Repeals) Act 1986 (c. 12), section 1(1) and Schedule 1, Part II; and the 1983 Act, section 9 and Schedule 3. Functions under Part IV of the 1967 Act were transferred to Food from Britain by sections 2(1) and 3(2) of, and Schedule 2 to, the 1983 Act.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise the function to which this paragraph applies.

(3) The function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to the function.

Modification of the 1967 Act

5. The reference in section 60(2) of the 1967 Act to “the Comptroller and Auditor General” shall be deemed to include a reference to “the Auditor General for Scotland”.

Modification of the 1983 Act

6. The reference in section 5(8) of the 1983 Act to “the Comptroller and Auditor General” shall be deemed to include a reference to “the Auditor General for Scotland”.

SCHEDULE 12

Article 3

FORESTRY COMMISSIONERS

PART I

APPLICATION

1. This Schedule shall apply to the Forestry Commissioners.

PART II

MODIFICATIONS

Plant Varieties and Seeds Act 1964 (c. 14)

2. Section 29(2) of the Plant Varieties and Seeds Act 1964(50) is amended by substituting for “or fees received” to the end—

“by the Commissioners by virtue of this subsection—

- (i) as regards England and Wales shall be paid out of money provided by Parliament and any fees received by them by virtue of this subsection as regards England and Wales shall be paid into the Consolidated Fund; and
- (ii) as regards Scotland shall be payable out of the Scottish Consolidated Fund and any fees received by them by virtue of this subsection as regards Scotland shall be paid into the Scottish Consolidated Fund subject to any provision made by or under an Act of the Scottish Parliament for the disposal of or accounting for such sums.”.

Plant Health Act 1967 (c. 8)

3. At the end of section 6 of the Plant Health Act 1967 there is added—

(50) Amended by the European Communities Act 1972, Schedule 4, paragraph 5(4).

“(4) Section 118 of the Scotland Act 1998 shall apply in relation to the functions of the Forestry Commissioners to make orders under this Act.”.

Forestry Act 1967 (c. 10)

4.—(1) The Forestry Act 1967 is amended as follows.

(2) In section 1, subsections (2) and (3), for “in Great Britain”, there is substituted “in Scotland, and in England and Wales”.

(3) In section 1(4), for “the Ministers”, there is substituted—

- “(a) the Ministers in relation to the exercise of their functions as regards England and Wales; and
- (b) the Scottish Ministers in relation to the exercise of their functions as regards Scotland.”.

(4) The following subsection is added at the end of section 1—

“(6) The power of the Ministers and of the Scottish Ministers to give directions for the purposes of subsection (4) above shall be exercisable as regards Great Britain by the Ministers and the Scottish Ministers acting jointly.”.

(5) In section 3(1), after “any land” there is inserted “in Scotland placed at their disposal by the Scottish Ministers under this Act or in England and Wales”.

(6) In section 5(1), after “the Minister” there is inserted “as regards England and Wales and the Scottish Ministers as regards Scotland”.

(7) For section 6(4), there is substituted the following subsection—

- “(4) a person aggrieved by an order under this section may—
- (a) where the order is made in respect of land in England and Wales, appeal therefrom to the Minister in such manner and upon such conditions, if any, as may be prescribed by the Minister, who may thereupon revoke or vary the order; and
- (b) where the order is made in respect of land in Scotland, appeal therefrom to the Scottish Ministers in such manner and upon such conditions, if any, as may be prescribed by the Scottish Ministers, who may thereupon revoke or vary the order.”.

(8) In section 8(c), for “in Great Britain”, there is substituted “in Scotland, and in England and Wales”.

(9) In sections 10(2)(b), 17A(3)(b)(51), 18(1), 27(3)(c) and 37(2), the words “in Great Britain” are omitted.

(10) In section 10(4)(b) after “the Treasury”, there is inserted “as regards land in England and Wales, and the Scottish Ministers as regards land in Scotland”.

(11) In section 14(2), for “certifies” there is substituted “as regards the felling of trees in England and Wales certifies, and the Scottish Ministers as regards the felling of trees in Scotland certify”.

(12) In section 16—

- (a) in subsection (2), after “request the Minister”, there is inserted “where the application was to fell trees in England and Wales, and the Scottish Ministers where the application was to fell trees in Scotland”;
- (b) in each of subsections (2)(a), (2)(b) and (3), after “the Minister”, there is inserted “or, as the case may be, the Scottish Ministers”; and
- (c) in subsection (2)(a), after “he is”, there is inserted “or they are”.

(51) Section 17A was inserted by the Forestry Act 1986 (c. 30), section 1(a).

- (13) In section 17B(52)–
- (a) in subsection (1), after “request the Minister”, there is inserted “where the restocking notice relates to land in England and Wales, and the Scottish Ministers where the restocking notice relates to land in Scotland”;
 - (b) in each of subsections (1)(a), (1)(b) and (2), after “the Minister”, there is inserted “or, as the case may be, the Scottish Ministers”; and
 - (c) in subsection (1)(a), after “he is”, there is inserted “or they are”.
- (14) In section 19(3), after “the Minister” there is inserted “where the felling direction was given in respect of trees in England and Wales, and the Scottish Ministers where the felling direction was given in respect of trees in Scotland”.
- (15) In section 20(1)–
- (a) after “request the Minister”, there is inserted “where the felling direction was given in respect of trees in England and Wales, and the Scottish Ministers where the felling direction was given in respect of trees in Scotland”; and
 - (b) for “shall, unless he is”, there is substituted “or, as the case may be, the Scottish Ministers shall, unless he is or they are”.
- (16) In section 21–
- (a) in subsection (2), after “given to the Minister”, there is inserted “where the felling direction was given in respect of trees in England and Wales, and the Scottish Ministers where the felling direction was given in respect of trees in Scotland”;
 - (b) in subsections (2) to (6) after the words “the Minister”, on each occasion they occur apart from in the phrase “given to the Minister” in subsection (2), there is inserted “or, as the case may be, the Scottish Ministers”; and
 - (c) in subsection (5) after “thinks”, there is inserted “or they think”.
- (17) In section 22, after “the Minister” on each occasion the words occur, there is inserted “or, as the case may be, the Scottish Ministers”.
- (18) In section 25, in subsection (1)–
- (a) after “served on the Minister”, there is inserted “where the notice is given in respect of land or trees in England and Wales, and the Scottish Ministers where the notice is given in respect of land or trees in Scotland”; and
 - (b) after “request the Minister”, there is inserted “or, as the case may be, the Scottish Ministers”.
- (19) In section 25(2), after “the Minister”, there is inserted “or the Scottish Ministers”.
- (20) In section 25(3), after “the Minister”, there is inserted “or, as the case may be, the Scottish Ministers”.
- (21) In section 25(4), for “and the Minister”, there is substituted “or, as the case may be, the Scottish Ministers and he or they”.
- (22) In section 27–
- (a) in subsection (1)(a) after “the Minister” there is inserted “in relation to cases where the trees are, or the land is, in England and Wales, and the Scottish Ministers in relation to cases where the trees are, or the land is, in Scotland”;
 - (b) in each of subsection (1)(b), (2) and (3), after “the Minister”, there is inserted “or, as the case may be, the Scottish Ministers”;

(52) Section 17B was inserted by the Forestry Act 1986, section 1(a).

- (c) in subsection (4), after “the Treasury”, there is inserted “as regards England and Wales”; and
- (d) after subsection (4), there is inserted—
 - “(4A) The Scottish Ministers may pay to the members of a committee appointed by them under this section such remuneration as they may determine.”.
- (23) For section 32(3), the following subsections are substituted—
 - “(3) Regulations made under this Part of this Act may make provision as regards England and Wales, or as regards Scotland.
 - (4) A statutory instrument containing regulations made under this Part of this Act making provision only as regards England and Wales—
 - (a) if the regulations are made under section 9(5)(b) or (c), shall be of no effect unless approved by a resolution of each House of Parliament; and
 - (b) in a case not falling within the foregoing paragraph, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
 - (5) A statutory instrument containing regulations made under this Part of this Act making provision only as regards Scotland—
 - (a) if the regulations are made under section 9(5)(b) or (c), shall be of no effect unless approved by a resolution of the Scottish Parliament; and
 - (b) in a case not falling within the foregoing paragraph, shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
 - (6) The Statutory Instruments Act 1946⁽⁵³⁾ shall apply to any statutory instrument containing regulations made under this Part of this Act applying to Scotland as it applies to any statutory instrument made by the Scottish Ministers.”.
- (24) In section 33(4), after “the Minister”, there is inserted “and the Scottish Ministers”.
- (25) For section 37(2) there is substituted—
 - “(2) The power of the Commissioners under section 32 of this Act to make regulations shall not be exercisable except after consultation with the Home Grown Timber Advisory Committee.”.
- (26) In section 34(3)—
 - (a) in paragraph (a), for “Minister”, on both occasions the words appear, there is substituted “Scottish Ministers”; and
 - (b) for “the Minister withdraws his”, there is substituted “the Scottish Ministers withdraw their”.
- (27) At the end of section 38, the following new subsection is added—
 - “(5) Subsection (4) above shall have effect in relation to a regional advisory committee for a conservancy wholly in Scotland as if the reference to the consent of the Treasury were a reference to the consent of the Scottish Ministers.”.
- (28) In section 39(1)—
 - (a) after “the Minister”, there is inserted “as regards England and Wales, and the Scottish Ministers as regards Scotland”;
 - (b) after “his”, there is inserted “or their”; and
 - (c) after “him”, there is inserted “or them”.
- (29) In section 39(2)—

⁽⁵³⁾ 1946 c. 36.

- (a) after “the Minister”, there is inserted “and the Scottish Ministers”;
 - (b) after “him”, there is inserted “or them”.
- (30) In section 39(3)–
- (a) after “the Minister”, there is inserted “and the Scottish Ministers”;
 - (b) after “him”, there is inserted “or them”; and
 - (c) in paragraph (a), after “he thinks”, there is inserted “or they think”.
- (31) In section 39(6), after “acquires”, there is inserted “or the Scottish Ministers acquire”.
- (32) In section 40–
- (a) in subsection (1), after “the Minister”, there is inserted “and the Scottish Ministers”; and
 - (b) in subsection (5), after “the Minister’s”, there is inserted “and the Scottish Ministers”.
- (33) In section 41–
- (a) for subsections (1) to (4A)(54), there are substituted the following subsections:–
 - “(1) The Forestry Fund constituted under section 8 of the Forestry Act 1919 shall be wound up and any balance in the Forestry Fund shall be paid to the Forestry Commissioners.
 - (2) Subject to subsection (4) below, the following shall be paid out of money provided by Parliament–
 - (a) the salaries of the Forestry Commissioners and the salaries or remuneration of the officers and servants of the Commissioners;
 - (b) all expenses incurred by the Commissioners in the exercise of their powers and the performance of their duties under–
 - (i) this Act; and
 - (ii) the Plant Health Act 1967,including the payment of allowances to the members of any Committee maintained by them under this Act;
 - (c) any administrative expenses of the Minister under Part II of this Act (including sums required for the payment of remuneration to the members of any committee appointed by him in pursuance of section 27);
 - (d) all capital payments made by the Minister in acquiring land under section 39 above and any expenses incurred by him in managing such land and any rent or other outgoings payable in respect of such land.
 - (3) Subject to subsection (4A) below, there shall be paid into the Consolidated Fund–
 - (a) all sums received by the Commissioners in respect of the sale of timber or otherwise received by them in respect of transactions carried out by them in exercise of their powers and duties under this Act;
 - (b) any capital sum received by the Minister from the sale, lease or exchange of land acquired by him under section 39 above and all sums received by him from the letting or use of such land; and
 - (c) all sums received by the Commissioners in respect of the exercise of their powers and duties under the Plant Health Act 1967.
 - (4) There shall be payable out of the Scottish Consolidated Fund–

(54) Section 41(4A) was inserted by the Forestry Act 1981 (c. 39), section 3.

- (a) all expenditure of a description specified in paragraph (a) or (b)(i) of subsection (2) above incurred by the Commissioners as regards Scotland; and
- (b) all expenditure incurred by the Commissioners in the exercise of their functions under the Countryside (Scotland) Act 1967⁽⁵⁵⁾.

(4A) Subject to any provision made by or under an Act of the Scottish Parliament for the disposal of or accounting for sums received, there shall be paid into the Scottish Consolidated Fund—

- (a) all sums received by the Commissioners of a description specified in subsection (3)(a) above as regards Scotland; and
- (b) all sums received by the Commissioners in the exercise of their functions under the Countryside (Scotland) Act 1967.”; and

(b) subsection (6) is repealed.

(34) Section 42 is repealed.

(35) Section 44 is repealed.

(36) For section 45, there is substituted the following section—

“**45.**—(1) The Commissioners shall, on such day and in such form as the Scottish Ministers may direct, submit to the Scottish Ministers an annual report and accounts as to their proceedings under this Act as regards Scotland and the Scottish Ministers shall lay the report and accounts before the Scottish Parliament.

(2) The annual report and accounts referred to in subsection (1) above shall be audited by the Auditor General for Scotland or by persons appointed by him.

(3) The Commissioners shall, on such day and in such form as the Ministers may direct, submit to the Ministers an annual report and accounts as to their proceedings under this Act other than such proceedings as regards Scotland and the Ministers shall lay the report and accounts before Parliament.

(4) Section 88(3) of the Scotland Act 1998 shall not apply in relation to the Commissioners.”.

(37) In section 46—

(a) in subsection (4), after “any such byelaws”, there is inserted “with respect to land in England and Wales”; and

(b) after subsection (4), there is inserted the following subsections—

“(4A) A draft of any statutory instrument containing byelaws made under this section with respect to land in Scotland shall be laid before the Scottish Parliament.

(4B) The Statutory Instruments Act 1946 shall apply to any statutory instrument containing byelaws made under this section with respect to land in Scotland as it applies to any statutory instrument made by the Scottish Ministers.”.

(38) In section 49, for the definition of “the Minister”, there is substituted the following definition—

““the Minister” means, except as provided by sections 15(8) and 19(4), and Schedules 1 and 3, the Minister of Agriculture, Fisheries and Food as respects England and the Secretary of State as respects Wales;”

(39) In Schedule 1—

(55) 1967 c. 86.

- (a) in paragraphs 7(2) and 10(2), for “the Forestry Fund”, there is substituted “money provided by Parliament”;
 - (b) in paragraph 7(2), after “appointed”, there is inserted “for England or Wales”;
 - (c) after paragraph 7(2), there is inserted the following new sub-paragraph–
 - “(3) There shall be payable out of the Scottish Consolidated Fund to the members of any committee appointed for Scotland under section 2(3) who are not Commissioners or officers of the Commissioners such travelling and other allowances as the Scottish Ministers may determine.”;
 - (d) after paragraph 8, there is inserted–
 - “**8A.** In this Part of this Schedule, “the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.”; and
 - (e) after paragraph 13, there shall be inserted–
 - “**13A.** In this Part of this Schedule, “the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.”.
- (40) In paragraph 2 of Schedule 4, for “Minister”, wherever that word occurs there is substituted “Scottish Ministers”.
- (41) In Schedule 5–
- (a) in each of paragraphs 2(1), 3(1) on the first occasion the words occur, and in paragraph 5 on both occasions the words occur, after “the Minister”, there is inserted “or, as the case may be, the Scottish Ministers”;
 - (b) in paragraph 3(1) after “if he thinks fit”, there is inserted “and the Scottish Ministers may if they think fit”; and
 - (c) in paragraphs 3(2) and 3(3), after “the Minister”, there is inserted “or the Scottish Ministers”.

Countryside Act 1968 (c. 41)

5. In section 23(6) of the Countryside Act 1968–
- (a) for “the Forestry Fund”, there is substituted “money provided by Parliament”; and
 - (b) for “Forestry Fund”, there is substituted “Consolidated Fund”.

Forestry Act 1979 (c. 21)

6. Section 1 of the Forestry Act 1979 is amended–
- (a) in section 1(1) by inserting after “Treasury approval”, the words “as regards England and Wales, and the approval of the Scottish Ministers as regards Scotland”; and
 - (b) by substituting for section 1(2) the following subsection–
 - “(2) Any such grant or loan made in relation to land in England and Wales shall be payable out of money provided by Parliament, and made in relation to land in Scotland shall be payable out of the Scottish Consolidated Fund.”.

Agriculture and Forestry (Financial Provisions) Act 1991 (c. 33)

7. In section 4(2) of the Agriculture and Forestry (Financial Provisions) Act 1991 for “defrayed out of the Forestry Fund”, there is substituted “payable out of money provided by Parliament”.

SCHEDULE 13

Article 3

HOME-GROWN CEREALS AUTHORITY

PART I

APPLICATION AND INTERPRETATION

- 1.—(1) This Schedule shall apply to the Home-Grown Cereals Authority.
- (2) In this Schedule—
- “the 1965 Act” means the Cereals Marketing Act 1965⁽⁵⁶⁾;
 - “the 1970 Act” means the Agriculture Act 1970⁽⁵⁷⁾
 - “the 1986 Act” means the Agriculture Act 1986⁽⁵⁸⁾
 - “the Authority” means the Home-Grown Cereals Authority established under section 1 of the 1965 Act.

PART II

MODIFICATIONS

General modification of functions in relation to the Authority

2.—(1) Any function exercisable in relation to the Authority by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

- (2) Any function which is—
- (a) specifically exercisable in relation to the Authority; and
 - (b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) The exercise of any function under section 107 of the Agriculture Act 1970 by the Scottish Ministers shall not require the approval of a Minister of the Crown.

(4) This paragraph does not apply to any function to which paragraph 3 applies.

3.—(1) This paragraph applies to functions under sections 7, 13, 16 and 23 of, and Schedule 3 to, the 1965 Act, and section 6 of the 1986 Act.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

⁽⁵⁶⁾ 1965 c. 14.
⁽⁵⁷⁾ 1970 c. 40.
⁽⁵⁸⁾ 1986 c. 49.

Modification of the 1970 Act

4.—(1) Without prejudice to the generality of the modifications made by paragraph 2, the consequential modification made by sub-paragraph (2) below shall have effect.

(2) In section 108(5) of the 1970 Act, after the word “section” there is inserted “the words “with the approval of the Treasury” and”.

SCHEDULE 14

Article 3

HORTICULTURAL DEVELOPMENT COUNCIL

PART I

APPLICATION AND INTERPRETATION

1.—(1) This Schedule shall apply to the Horticultural Development Council.

(2) In this Schedule—

“the principal Order” means the Horticultural Development Council Order 1986(59);

“the 1947 Act” means the Industrial Organisation and Development Act 1947(60);

“the Council” means the Horticultural Development Council constituted by article 3 of the principal Order.

PART II

MODIFICATIONS

General modification of functions in relation to the Council

2.—(1) Any function exercisable in relation to the Council by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is—

(a) specifically exercisable in relation to the Council; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) This paragraph does not apply to any function to which paragraph 3 applies.

Modification of function under the 1947 Act

3.—(1) This paragraph applies to any function exercisable by a Minister of the Crown under the 1947 Act to modify the principal Order.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(59) S.I. 1986/1110.

(60) 1947 c. 40.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

SCHEDULE 15

Article 3

INTERVENTION BOARD FOR AGRICULTURAL PRODUCE

PART I

APPLICATION AND INTERPRETATION

1.—(1) This Schedule shall apply to the Intervention Board for Agricultural Produce.

(2) In this Schedule—

“the 1972 Act” means the European Communities Act 1972(61);

“the Board” means the Intervention Board for Agricultural Produce constituted by section 6(1) of the 1972 Act.

PART II

MODIFICATIONS

Modification of functions in relation to the Board

2.—(1) Any function which is exercisable in relation to the Board by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is—

(a) specifically exercisable in relation to the Board; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) No written direction shall be given under section 6(2)(a) of the 1972 Act, and no regulations shall be made under section 6(2)(a) or (b) of that Act, except with the agreement of the Scottish Ministers.

SCHEDULE 16

Article 3

MEAT AND LIVESTOCK COMMISSION MEAT AND LIVESTOCK COMMISSION'S CONSUMERS COMMITTEE

(61) 1972 c. 68.

PART I

APPLICATION AND INTERPRETATION

1.—(1) This Schedule shall apply to the Meat and Livestock Commission and the Meat and Livestock Commission’s Consumers Committee.

(2) In this Schedule—

“the 1967 Act” means the Agriculture Act 1967(62);

“the Commission” means the Meat and Livestock Commission established by section 1 of the 1967 Act; and

“the Consumers Committee” means the Meat and Livestock Commission’s Consumers Committee appointed under section 2(1) of the 1967 Act.

PART II

MODIFICATIONS

Modification of functions in relation to the Commission and the Consumers Committee

2.—(1) Any function which is exercisable in relation to the Commission or the Consumers Committee by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is—

(a) specifically exercisable in relation to the Commission or the Consumers Committee; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) The exercise by the Scottish Ministers of any function by virtue of sub-paragraph (1) shall not require the approval of a Minister of the Crown.

(4) This paragraph shall not apply to any function to which paragraph 3 applies.

3.—(1) This paragraph applies to any function of making orders under section 6 or 16(1)(b) of the 1967 Act or making schemes under section 9 or 13 of that Act.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

(62) 1967 c. 22.

SCHEDULE 17

Article 3

MILK DEVELOPMENT COUNCIL

PART I

APPLICATION AND INTERPRETATION

1.—(1) This Schedule shall apply to the Milk Development Council.

(2) In this Schedule—

“the principal Order” means the Milk Development Council Order 1995⁽⁶³⁾;

“the 1947 Act” means the Industrial Organisation and Development Act 1947⁽⁶⁴⁾;

“the Council” means the Milk Development Council.

PART II

MODIFICATIONS

General modification of functions in relation to the Council

2.—(1) Any function exercisable in relation to the Council by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is—

(a) specifically exercisable in relation to the Council; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) This paragraph does not apply to any function to which paragraph 3 applies.

Modification of function under the 1947 Act

3.—(1) This paragraph applies to any function exercisable by a Minister of the Crown under the 1947 Act to modify the principal Order.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) shall not apply in relation to any such function.

Modification of the principal Order

4.—(1) Without prejudice to the generality of the modification made by paragraph 2, the consequential modifications to the principal Order made by sub-paragraph (2) shall have effect.

(2) In paragraph 2(1) of the principal Order (interpretation) in the definition of “the Ministers” for the words “Secretary of State for Scotland” there is substituted “Scottish Ministers”.

⁽⁶³⁾ S.I. 1995/356.

⁽⁶⁴⁾ 1947 c. 40.

SCHEDULE 18

Article 3

NATIONAL CRIMINAL INTELLIGENCE SERVICE
THE SERVICE AUTHORITY FOR THE NATIONAL CRIMINAL INTELLIGENCE SERVICE

PART I

APPLICATION

1. This Schedule shall apply to the National Criminal Intelligence Service and the Service Authority for the National Criminal Intelligence Service.

PART II

MODIFICATIONS

2.—(1) Part I of the Police Act 1997 is amended as follows.

(2) In section 1 (the Service Authority for the National Criminal Intelligence Service), in subsection (4)—

(a) the word “and” at the end of paragraph (c) is omitted; and

(b) at the end of paragraph (d) there is inserted—

“and

(e) the Scottish Ministers.”.

(3) In section 2 (general functions of the NCIS Service Authority and NCIS)—

(a) subsection (3)(a) is amended by inserting after the words “government department” the words “and the Scottish Administration”; and

(b) subsection (6) is amended by inserting after the words “Schedule 3” the words “or by the Scottish Ministers under section 30”.

(4) In section 4 (service plans), in subsection (5)—

(a) the word “and” at the end of paragraph (e) is omitted; and

(b) at the end of paragraph (f) there is inserted—

“and

(g) the Scottish Ministers.”.

(5) In section 5 (annual reports), in subsection (3)—

(a) at the end of paragraph (e) the word “and” is omitted; and

(b) at the end of paragraph (f) there is inserted—

“and

(g) the Scottish Ministers.”.

(6) In section 6 (appointment of Director General) in subsection (2), after “Secretary of State”, there is inserted “after consultation with the Scottish Ministers”.

(7) In section 7 (removal of Director General by the Authority), after subsection (2), there is inserted—

“(2A) Before giving approval under subsection (1), the Secretary of State shall consult the Scottish Ministers.”.

(8) In section 8 (Deputy Director General), after subsection (3), there is inserted—

“(4) Before giving consent under subsection (3), the Secretary of State shall consult the Scottish Ministers.”.

(9) In section 11 (reports by Director General to the Authority), after subsection (5), there is inserted—

“(5A) Before confirming any requirement under subsection (5), the Secretary of State shall consult the Scottish Ministers.”.

(10) After section 18 (initial financing of NCIS Service Authority) there is inserted—

“Financing by the Scottish Ministers

18A.—(1) The Scottish Ministers may make payments to the NCIS Service Authority in respect of expenditure incurred (or to be incurred) by it in relation to the exercise by it, or the exercise by NCIS, of their respective functions in or as regards Scotland.

(2) For the purposes of section 36(3) of the Police (Scotland) Act 1967, any expenditure under subsection (1) above shall be treated as expenditure incurred under section 36(1) of the said Act of 1967.”.

(11) For section 25 (general duty of the Secretary of State), there is substituted—

“General duty of the Secretary of State and the Scottish Ministers

25. The Secretary of State and the Scottish Ministers shall exercise the powers respectively conferred on them under this Part in such manner and to such extent as appear to him and them to be best calculated to promote the efficiency and effectiveness of NCIS.”.

(12) In section 26 (setting of objectives), in subsection (2)—

(a) at the end of paragraph (f) the word “and” is omitted; and

(b) at the end of paragraph (g) there is inserted—

“and

(h) the Scottish Ministers.”.

(13) In section 27 (setting of performance targets), in subsection (1), after the words “Secretary of State”, there are inserted the words “, after consultation with the Scottish Ministers,”.

(14) In section 28 (codes of practice)—

(a) in subsection (1), after the words “Secretary of State may”, there are inserted the words “, after consultation with the Scottish Ministers,”;

(b) in subsection (2), after the words “Secretary of State”, there are inserted the words “, after consultation with the Scottish Ministers,”; and

(c) after subsection (3) there is inserted—

“(4) The Secretary of State shall forthwith provide the Scottish Ministers with a copy of any code of practice, and of any revision of a code of practice, issued by him under this section and the Scottish Ministers shall lay any such copy before the Scottish Parliament.”.

(15) In section 29 (removal of Director General etc.)—

(a) in subsection (1), after the words “Secretary of State may”, there are inserted the words “, after consultation with the Scottish Ministers,”;

(b) in subsection (5), after the words “Government Department,” there are inserted the words “of the Scottish Administration,”.

- (16) In section 30 (power to give directions after adverse report)–
- (a) paragraph (b) of subsection (1) is repealed;
 - (b) after subsection (1) there is inserted–
 - “(1A) The Scottish Ministers may at any time require the inspectors of constabulary appointed under section 33 of the Police (Scotland) Act 1967 to carry out an inspection of NCIS under that section.”;
 - (c) in subsection (2), after the words “Secretary of State” where they occur for the second time, there are inserted the words “after consultation with the Scottish Ministers”; and
 - (d) after subsection (2), there is inserted–
 - “(3) Where a report made to the Scottish Ministers carried out in accordance with this section states–
 - (a) that, in the opinion of the person making the report, NCIS is not efficient or not effective; or
 - (b) that in his opinion, unless remedial measures are taken, NCIS will cease to be efficient or will cease to be effective,the Scottish Ministers may, after consultation with the Secretary of State, direct the NCIS Service Authority to take such measures as may be specified in the direction.”.
- (17) In section 31 (reports from NCIS Service Authority), in subsection (1), after the words “Secretary of State may”, there are inserted the words “, after consultation with the Scottish Ministers,”.
- (18) In section 32 (reports from Director General)–
- (a) in subsection (1), after the words “Secretary of State may”, there are inserted the words “, after consultation with the Scottish Ministers,”; and
 - (b) in subsection (4), after the words “Secretary of State”, there are inserted the words “and to the Scottish Ministers”.
- (19) In section 33 (criminal statistics)–
- (a) after subsection (1), there is inserted–
 - “(1A) Before making any direction or requirement under subsection (1), the Secretary of State shall consult the Scottish Ministers.
 - (1B) The Director General of NCIS shall send to the Scottish Ministers a copy of any particulars which he transmits under subsection (1).”; and
 - (b) after subsection (2), there is inserted–
 - “(3) The Scottish Ministers shall cause a consolidated and classified abstract of the information which has been received by them under this section to be prepared and laid before the Scottish Parliament.”.
- (20) In section 34 (inquiries), after subsection (8), there is inserted–
 - “(9) Before exercising any power conferred on him by subsection (1), (7) or (8), the Secretary of State shall consult the Scottish Ministers.”.
- (21) In section 35 (regulations as to standard of equipment), after the words “Secretary of State may”, there are inserted the words “, after consultation with the Scottish Ministers,”.
- (22) In section 36 (common services), after subsection (2), there is inserted–
 - “(3) Before making regulations under this section which would relate to police forces in Scotland, the Secretary of State shall obtain the consent of the Scottish Ministers.”.
- (23) In section 39 (complaints)–

- (a) after subsection (2), there is inserted—
 - “(2A) Before making regulations containing provision for the purposes mentioned in paragraph (a) of subsection (2), the Secretary of State shall obtain the consent of the Scottish Ministers.”; and
- (b) in subsection (3), after the words “Secretary of State may”, there are inserted the words “, after consultation with the Scottish Ministers.”.
- (24) In section 41 (arrangements for consultation), after subsection (5), there is inserted—
 - “(5A) Before exercising the powers conferred on him by subsection (4) or (5), the Secretary of State shall consult the Scottish Ministers.”.
- (25) In section 44 (orders governing NCIS Service Authority), after subsection (1), there is inserted—
 - “(1A) Before making any order under this section, the Secretary of State shall consult the Scottish Ministers.”.
- (26) In paragraph 2 of Schedule 1, after sub-paragraph (3), there is inserted—
 - “(4) Before making any appointment under this paragraph in relation to the NCIS Service Authority, the Secretary of State shall consult the Scottish Ministers.”.
- (27) In paragraph 7 of Schedule 1, for sub-paragraph (f), there is substituted—
 - “(f) two shall be Crown servants—
 - (i) one of whom shall be appointed by the Secretary of State under this paragraph; and
 - (ii) one of whom shall be appointed by the Scottish Ministers under this paragraph.”.
- (28) In paragraph 8 of Schedule 1—
 - (a) in sub-paragraph (a), after the word “paragraph”, there are inserted the words “after consultation with the Scottish Ministers”; and
 - (b) for sub-paragraph (h), there is substituted—
 - “(h) two shall be Crown servants—
 - (i) one of whom shall be appointed by the Secretary of State under this paragraph; and
 - (ii) one of whom shall be appointed by the Scottish Ministers under this paragraph.”.
- (29) In paragraph 6 of Schedule 2, in sub-paragraph (2)—
 - (a) at the end of head (a), the word “and” is omitted; and
 - (b) at the end of head (b), there is inserted—
 - “and
 - (c) if he was appointed under paragraph 7(f) or 8(1)(h) of Schedule 1 by the Scottish Ministers, to the Scottish Ministers.”.
- (30) In paragraph 11(1)(b) of Schedule 2, after the word “shall”, there are inserted the words “, after consultation with the Scottish Ministers.”.

SCHEDULE 19

Article 3

NATIONAL RADIOLOGICAL PROTECTION BOARD

PART I

APPLICATION AND INTERPRETATION

- 1.—(1) This Schedule shall apply to the National Radiological Protection Board.
- (2) In this Schedule—
- “the 1970 Act” means the Radiological Protection Act 1970⁽⁶⁵⁾;
 - “the Board” means the National Radiological Protection Board established by section 1(1) of the 1970 Act.

PART II

MODIFICATIONS

Modification of functions in relation to the Board

- 2.—(1) Any function exercisable in relation to the Board by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.
- (2) Any function which is—
- (a) specifically exercisable in relation to the Board; and
 - (b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,
- shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

SCHEDULE 20

Article 3

POLICE INFORMATION TECHNOLOGY ORGANISATION

PART I

APPLICATION

1. This Schedule shall apply to the Police Information Technology Organisation.

⁽⁶⁵⁾ 1970 c. 46.

PART II

MODIFICATIONS

2.—(1) Part IV of the Police Act 1997⁽⁶⁶⁾ is amended as follows.

(2) In section 109 (Police Information Technology Organisation), after subsection (3), there is inserted—

“(3A) The Secretary of State shall obtain the consent of the Scottish Ministers before making any order by virtue subsection (3)(b) which determines any body whose functions are carried out wholly or mainly in Scotland for the purposes mentioned in that subsection.”.

(3) In section 110 (relationship between the Organisation and the Secretary of State)—

(a) after subsection (2), there is inserted—

“(2A) The Secretary of State shall obtain the consent of the Scottish Ministers before giving any direction under subsection (1) which relates wholly or mainly to the exercise of the Organisation’s activities in or as regards Scotland.”; and

(b) in subsection (3)—

(i) after “Secretary of State”, there are inserted the words “or the Scottish Ministers”; and

(ii) after the word “he”, there are inserted the words “or they”.

(4) In paragraph 1 of Schedule 8—

(a) in sub-paragraph (1)—

(i) there are inserted at the beginning the words “Subject to sub-paragraph (2A)”; and

(ii) after the words “Secretary of State”, there are inserted the words “or, where so provided in sub-paragraph (3) below, the Scottish Ministers”;

(b) after sub-paragraph (2), there is inserted—

“(2A) Before appointing the Chairman the Secretary of State shall consult the Scottish Ministers.”; and

(c) in sub-paragraph (3)—

(i) in head (c) and (d), for the words “Secretary of State” in each place, there are substituted the words “Scottish Ministers”;

(ii) for head (g), there is substituted—

“(g) at least three other members of whom—

(i) at least one shall be appointed by the Secretary of State;

(ii) at least one shall be appointed by the Secretary of State after consultation with the Scottish Ministers; and

(iii) at least one shall be appointed by the Scottish Ministers.”.

(5) In paragraph 2 of Schedule 8—

(a) in sub-paragraph (4), there are inserted at the beginning the words “Subject to sub-paragraphs (4A) and (4B),”;

(b) after sub-paragraph (4), there is inserted—

“(4A) Before removing a person from office as chairman, the Secretary of State shall consult the Scottish Ministers.

⁽⁶⁶⁾ 1997 c. 50.

- (4B) The Scottish Ministers shall, instead of the Secretary of State, exercise the power of removal from office as a member under sub-paragraph (4) in respect of any person who was appointed by them.”;
- (c) in sub-paragraph (5), for the words “1(3)(a) to (d)”, there are substituted the words “1(3)(a) and (b)”;
- (d) after sub-paragraph (5), there is inserted—
- “5) The Scottish Ministers shall not remove from office a member nominated by persons representing certain interests in accordance with paragraph 1(3)(c) and (d) unless they have first consulted persons whom they consider to represent those interests.”.
- (6) In paragraph 4(2) of Schedule 8, after “Secretary of State”, there is inserted “after consultation with the Scottish Ministers,”.
- (7) In paragraph 8(1) of Schedule 8, after “Secretary of State”, there is inserted “, after consultation with the Scottish Ministers,”.
- (8) After paragraph 13 of Schedule 8, there is inserted—
- “13A.—(1) The Scottish Ministers may make payments to the Organisation in relation to the exercise by it of its functions in or as regards Scotland.
- (2) For the purposes of section 36(3) of the Police (Scotland) Act 1967, any expenditure under sub-paragraph (1) above shall be treated as expenditure incurred under section 36(1) of the said Act of 1967.”.
- (9) In paragraph 17 of Schedule 8—
- (a) in sub-paragraph (1), after “Secretary of State”, there is inserted “and the Scottish Ministers”;
- (b) after sub-paragraph (2), there is inserted—
- “(2A) The Scottish Ministers shall lay a copy of each report before the Scottish Parliament.”.

SCHEDULE 21

Article 3

POLICE NEGOTIATING BOARD FOR THE UNITED KINGDOM

PART I

APPLICATION

1. This Schedule shall apply to the Police Negotiating Board for the United Kingdom.

PART II

MODIFICATIONS

2. In Part III of the Police Act 1996(67), in section 61 (the Police Negotiating Board for the United Kingdom)—

(67) 1996 c. 16.

- (a) in subsection (1)–
 - (i) at the end of paragraph (c), the word “and” is omitted; and
 - (ii) at the end of paragraph (e), there is inserted–
 - “and
 - (e) the Scottish Ministers,”;
- (b) in subsection (2), after “Prime Minister”, there is inserted “after consultation with the Scottish Ministers”;
- (c) in subsection (3), for the words “paragraphs (a), (b) and (c)”, there is substituted “paragraphs (a), (b), (c) and (e)”; and
- (d) after subsection (4) there is inserted–
 - “(5) The Scottish Ministers may make payments towards the expenses incurred by the Board in relation to the exercise by it of its function in or as regards Scotland.
 - (6) For the purposes of section 36(3) of the Police (Scotland) Act 1967, any expenditure under subsection (5) above shall be treated as expenditure incurred under section 36(1) of the said Act of 1967.”.

SCHEDULE 22

Article 3

RAIL USERS' CONSULTATIVE COMMITTEE FOR SCOTLAND

PART I

APPLICATION

1. This Schedule shall apply to the Rail Users' Consultative Committee for Scotland.

PART II

MODIFICATIONS

- 2.—(1) The Railways Act 1993 (c. 43) is amended as follows.
 - (2) In section 2–
 - (a) in subsection (6) there is inserted, after the word “above”–
 - “, except the committee established for Scotland in accordance with subsection (3) above;”;and
 - (b) after that subsection, there is inserted–
 - “(6A) The consultative committee for Scotland shall consist of–
 - (a) a Chairman appointed by the Scottish Ministers after consultation with the Regulator; and
 - (b) such other members, being not less than ten nor more than twenty in number, as the Regulator may from time to time appoint, after consultation with the Scottish Ministers and the chairman.”.
 - (3) In section 79, after subsection (1) there is inserted–

“(1A) The consultative committee for Scotland shall, as soon as practicable after the end of each financial year, also send a copy of the report referred to in subsection (1) above to the Scottish Ministers and the Scottish Ministers shall lay a copy of each such report before the Scottish Parliament.

(1B) Subsection (1A) above shall not apply in relation to a financial year which ends before 1st April 1999.”.

SCHEDULE 23

Article 3

SEA FISH INDUSTRY AUTHORITY

PART I

APPLICATION AND INTERPRETATION

- 1.—(1) This Schedule shall apply to the Sea Fish Industry Authority.
- (2) In this Schedule—
- “the 1981 Act” means the Fisheries Act 1981(68);
 - “the Authority” means the Sea Fish Industry Authority.

PART II

MODIFICATIONS

Modification of application of section 88 of the Act

2.—(1) Section 88(1) of the Act shall not apply in relation to any function under section 16 of the 1981 Act which is specifically exercisable in relation to the Authority.

(2) Section 88(2)(a) of the Act shall not apply in relation to the appointment or removal of members, or of the chairman or deputy chairman, of the Authority under section 1 of, and paragraph 5 of Schedule 1 to, the 1981 Act.

(3) Section 88(2)(b) of the Act shall not apply in relation to the exercise by a Minister of the Crown of any other function under the 1981 Act which is specifically exercisable in relation to the Authority.

(4) Section 88(3) of the Act shall not apply in relation to the following reports laid before Parliament or each House of Parliament, under the provisions of the 1981 Act specified—

- (a) any statement setting out directions under section 2(4);
- (b) any statement as to a guarantee, any sums paid in fulfilment of a guarantee, or sums remaining to be repaid, under section 9(2), (3) or (4); and
- (c) copies of the report of the Authority for any financial year, the statement of accounts, and the auditor’s report, under section 11(8).

(68) 1981 c. 29.

Modification of the 1981 Act

3.—(1) The 1981 Act is amended as follows.

(2) In each of sections 2(4) (duties of the Authority), 9(2) and (3) (Government guarantees) and 11(8) (accounts and reports), after “Parliament” there is inserted “, and the Scottish Ministers shall lay before the Scottish Parliament,”.

(3) In section 2(5), after “Crown” there is inserted “or by the Scottish Ministers”.

(4) In section 9(4), after “Parliament” there is inserted “, and the Scottish Ministers shall lay before the Scottish Parliament,”.

(5) In section 11(9) for “and the Comptroller and Auditor General” there is substituted “, the Comptroller and Auditor General and the Auditor General for Scotland”.

(6) In section 14(1) (interpretation of Part I), for the definition of “the Ministers” there is substituted—

““the Ministers” means—

- (a) except as provided for in paragraphs (b) and (c) below, the Minister of Agriculture, Fisheries and Food, the Scottish Ministers and the Secretaries of State respectively concerned with the sea fish industry in Wales and Northern Ireland;
- (b) in relation to laying any report, accounts or statement before Parliament or each House of Parliament under sections 2(4), 9(2), (3) and (4), and 11(8), the said Minister and the said Secretaries of State; and
- (c) in relation to making an order or, as the case may be, regulations under sections 4(2) or (7), 6(2) or (4) or 7(3), the said Minister and the said Secretaries of State, with the agreement of the Scottish Ministers.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to the bodies mentioned in Schedule 1 to the Order, (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)) which is considered necessary or expedient in consequence of the Scotland Act 1998 (c. 46).

Article 2 of the Order provides that the modifications in Part II of Schedules 2 to 23 of the Order which relate to the cross-border public authorities mentioned in Part I of those Schedules, are to have effect.

Article 4 re-applies sections 118 to 121 of the Scotland Act 1998 to any functions which, by virtue of the provisions of the Order, are exercisable by Scottish Ministers alone.

Article 5 makes transitional and savings provision.

This Order will come into force on the principal appointed day, which is currently 1st July 1999 by virtue of the Scotland Act 1998 (Commencement) Order 1998 (S.I. 1998/3178).