
STATUTORY INSTRUMENTS

1999 No. 1749

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND**

**The Scotland Act 1998 (Modifications
of Schedules 4 and 5) Order 1999**

Made - - - - 22nd June 1999

Coming into force in accordance with article 1(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;

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 30(2) and (4) of the Scotland Act 1998(1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999 and shall come into force on the principal appointed day(2)

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

Financial assistance for political parties

2.—(1) In Part I of Schedule 4 to the Act (enactments etc. protected from modification by the Parliament), in paragraph 4 (protection of the Act), in sub-paragraph (2), for “and 93” there is substituted “, 93 and 97”.

(2) In Part I of Schedule 5 to the Act (general reservations), at the end of paragraph 6 (political parties) there is inserted “but this paragraph does not reserve making payments to any political party for the purpose of assisting members of the Parliament who are connected with the party to perform their Parliamentary duties”.

Export Credits Guarantee Department

3. In Part I of Schedule 5 to the Act, at the end of paragraph 2 (Crown functions) there is inserted—

“(5) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the functions exercisable through the Export Credits Guarantee Department.”.

(1) 1998 c. 46.

(2) The principal appointed day is 1st July 1999 by virtue of the Scotland Act 1998 (Commencement) Order 1998 (S.I.1998/3178).

Interception of communications

4.—(1) In Part II of Schedule 5 to the Act (specific reservations), in Section B8, after “but not” there is inserted—

- “(a) the interception of any communication made to or by a person detained at a place of detention, if the communication—
- (i) is a written communication and is intercepted there, or
 - (ii) is intercepted in the course of its transmission by means of a private telecommunication system running there,
- (b)”.

(2) At the end of that Section there is inserted—

“Interpretation

“Place of detention” means a prison, young offenders institution, remand centre or legalised police cell (as those expressions are defined for the purposes of the Prisons (Scotland) Act 1989(3) or a hospital (within the meaning of the Mental Health (Scotland) Act 1984(4); and “person detained”, in relation to a hospital, means a person detained there within the meaning given by section 6(1) of the Sex Offenders Act 1997(5)as it extends to Scotland.

“Private telecommunication system” means a telecommunication system which is not a public telecommunication system (as those expressions are defined for the purposes of the Telecommunications Act 1984(6)

Access to information

5. In Part II of Schedule 5 to the Act, after Section B12, there is inserted—

“Access to information

B13. Public access to information held by public bodies or holders of public offices (including government departments and persons acting on behalf of the Crown).

Exception

Information held by—

- (a) the Parliament,
- (b) any part of the Scottish Administration,
- (c) the Parliamentary corporation,
- (d) any Scottish public authority with mixed functions or no reserved functions,

unless supplied by a Minister of the Crown or government department and held in confidence.”.

Health and safety at work

6.—(1) In Part II of Schedule 5 to the Act, in Section H2, for the words from “the following” to “not reserved” there is substituted

(3) 1989 c. 45.

(4) 1984 c. 36. The definition of hospital in section 125(1) was amended by the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, paragraph 28(4)(a).

(5) 1997 c. 51.

(6) 1984 c. 12.

“Part I of the Health and Safety at Work etc. Act 1974(7)

The Health and Safety Commission, the Health and Safety Executive and the Employment Medical Advisory Service.

Interpretation

For the purposes of the reservation of the subject-matter of Part I of the Health and Safety at Work etc. Act 1974–

- (a) “work” and “at work” in that Part are to be taken to have the meaning they have on the principal appointed day;
- (b) that subject-matter includes–
 - (i) process fire precautions;
 - (ii) fire precautions in relation to petroleum and petroleum spirit;
 - (iii) fire safety on construction sites, ships and hovercraft, in mines and on offshore installations; and
 - (iv) fire safety on any other premises which, on the principal appointed day, are of a description specified in Part I of Schedule 1 to the Fire Certificates (Special Premises) Regulations 1976(8)

but does not include any other aspect of fire safety.”.

(2) In section 13 of the Health and Safety at Work etc. Act 1974 (other powers of the Health and Safety Commission), any reference in subsection (1)(b) or (2) to a Minister of the Crown (other than the reference in subsection (1)(b) to the Secretary of State) includes the Scottish Ministers.

A. K. Galloway
Clerk of the Privy Council

(7) 1974 c. 37.

(8) S.I. 1976/2003.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes certain modifications to Schedules 4 and 5 to the Scotland Act 1998 (c. 46). Those Schedules are concerned with matters which are outwith the legislative competence of the Scottish Parliament.

Article 2 excepts from the reservation of funding for political parties the making of payments to any political party for the purpose of assisting members of the Scottish Parliament who are connected with the party to perform their parliamentary duties.

Article 3 has the effect of reserving the functions of the Secretary of State which are exercisable through the Export Credits Guarantee Department.

Article 4 excepts from the reservation of the interception of communications in Section B8 of Schedule 5 the interception of certain communications made to or by a person detained at a place of detention such as a prison or a hospital.

Article 5 reserves public access information held by public bodies or holders of public offices (including government departments and persons acting on behalf of the Crown). This is subject to an exception which would permit the Scottish Parliament to legislate about public access to information held by the Parliament, any part of the Scottish administration, the Parliamentary corporation and any Scottish public authority with mixed functions or no reserved functions, unless such information is supplied in confidence by a Minister of the Crown or government department.

Article 6 modifies the reservation for health and safety and makes it clear that the Health and Safety Commission, the Health and Safety Executive and the Employment Medical Advisory Service are reserved bodies.