
STATUTORY INSTRUMENTS

1999 No. 1756

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND**

The Scotland Act 1998 (Modification of Functions) Order 1999

Made - - - - 24th 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 in accordance with section 115 of, and paragraphs 1, 2 and 3 of Schedule 7 to, the Scotland Act 1998⁽¹⁾;

Now, therefore, in exercise of the powers conferred upon me by sections 106, 112(1), and 113 of that Act and of all other powers enabling me in that behalf, and having consulted the Scottish Ministers in accordance with section 106(4) of that Act, I hereby make the following Order:

Citation, commencement, interpretation and application

1.—(1) This Order may be cited as the Scotland Act 1998 (Modification of Functions) Order 1999 and shall come into force immediately before the principal appointed day⁽²⁾.

(2) In this Order—

“the 1998 Act” means the Scotland Act 1998;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds and the use of land for woodlands where that is ancillary to the farming of land for other purposes and “agricultural” shall be construed accordingly;

“the Agriculture Acts” means any enactments for the time being in force relating to agriculture or agricultural products;

“Scottish fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995⁽³⁾ and whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging; to

“the Sea Fisheries Acts” means any enactments for the time being in force relating to sea-fishing, including any enactment relating to fishing in the sea for shellfish, salmon or migratory trout but excluding any Order in Council under section 111 of the 1998 Act.

(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).

(3) 1995 c. 21.

(3) This Order is to be treated as a pre-commencement enactment for the purposes of the 1998 Act.

Modification of functions: General

2. For the purpose of enabling or otherwise facilitating the transfer of a function to the Scottish Ministers by virtue of section 53 or 63 of the 1998 Act, the enactments mentioned in the Schedule to this Order are hereby modified to the extent specified in that Schedule.

Modification of Ministerial functions relating to sea fisheries, aquaculture and agriculture

3. So far as a function under the Sea Fisheries Acts is exercisable by a Minister of the Crown—
- (a) in relation to fishing in the Scottish zone, or
 - (b) in relation to fishing outside that zone by Scottish fishing boats,

it shall be treated as exercisable in or as regards Scotland and may be exercised separately.

4. So far as a function under any other enactment is exercisable by a Minister of the Crown in relation to aquaculture, fish health or fish disease in the Scottish zone, it shall be treated as exercisable in or as regards Scotland and may be exercised separately.

5. So far as a function under Community law, or to which section 53(2)(a) of the 1998 Act applies, is exercisable by a Minister of the Crown—

- (a) in relation to fishing or aquaculture in the Scottish zone, or
- (b) in relation to fishing outside that zone by Scottish fishing boats,
- (c) in relation to any fish or aquaculture organisation applying for recognition as a producers' Organisation, or recognised as such in accordance with Community law⁽⁴⁾, whose area covered by the application for recognition, in so far as within the United Kingdom or British fishery limits, is wholly or mainly within Scotland or the Scottish zone,

it may be exercised separately.

6. So far as a function of a Minister of the Crown to which articles 3 to 5 do not apply—

- (a) under the Sea Fisheries Acts,
- (b) under any enactment relating to aquaculture, fish health or fish disease,
- (c) under Community law, or to which section 53(2)(a) of the 1998 Act applies, relating to fishing or aquaculture or fishing or aquaculture products,

is exercisable in or as regards Scotland it may be exercised separately.

7.—(1) So far as a specified function under Community law, or a function to which section 53(2)(a) of the 1998 Act applies, is exercisable by a Minister of the Crown in relation to a Scottish farmer it may be exercised separately.

(2) In this article—

“Scottish farmer” means a farmer whose holding is situated wholly or partly in Scotland and “farmer” and “holding” shall have the same meaning as in Article 1.4 of Council Regulation 3508/92 establishing an integrated administration and control system for certain Community aid schemes; and

(4) See Article 2 of Council Regulation (EEC) No. 105/76 O.J. No. L120 28.1.76, p.39, amended by Commission Regulation (EEC) No. 3940/87 O.J. L373, 31.12.87, p.6; Commission Regulation (EEC) No. 3527/92 O.J. No.L358, 8,12.92, p.5; Commission Regulation (EC) No. 2939/94 O.J. No. L310, 3.12.94, p.12 and Commission Regulation (EC) No. 1762/96 O.J. No. L231, 12.9.96, p.6.

“specified function under Community law” means any function related to the implementation of any legislative instrument of the European Community adopted in pursuance of its common agricultural policy, which applies in relation to agricultural activities by reference to a holding.

Savings and transitional provision

8.—(1) The modification by this Order of any function exercisable by a Minister of the Crown 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 coming into force of this Order.

(2) A requirement imposed by any of the following enactments, namely—

- (a) section 53(1A) of the Sex Discrimination Act 1975⁽⁵⁾;
- (b) section 43(1A) of the Race Relations Act 1976⁽⁶⁾;
- (c) paragraph 2(1A) of Schedule 8 to the Broadcasting Act 1990⁽⁷⁾;
- (d) paragraph 3(3A) of Schedule 5 to the Disability Discrimination Act 1995⁽⁸⁾; and
- (e) paragraph 3(1A) of Schedule 3 to the Broadcasting Act 1996⁽⁹⁾,

shall not apply in relation to any appointment of a Commissioner or member of the relevant body made before the appointment of the successor of the Commissioner or member of that body who holds office on 1st July 1999 and who is designated for that purpose by the Secretary of State.

St Andrew’s House Edinburgh
1999

Secretary of State for Scotland

(5) 1975 c. 65; section 53(1A) is inserted by paragraph 5 of the Schedule to this Order.
(6) 1976 c. 74; section 43(1A) is inserted by paragraph 6 of the Schedule to this Order.
(7) 1990 c. 42; paragraph 2(1A) is inserted by paragraph 12(2) of the Schedule to this Order.
(8) 1995 c. 50; paragraph 3(3A) is inserted by paragraph 18 of the Schedule to this Order.
(9) 1996 c. 55; paragraph 3(1A) is inserted by paragraph 19(2) of the Schedule to this Order.

SCHEDULE

Article 2

Pipe-lines Act 1962 (c. 58)

1. The Secretary of State's functions under sections 1, 4, 5, 9, 9A, 10, 11, 12, 13 (except subsection (7)), 15, 26A, 35, 36, 38, 39(2), 43 and 44 of, and Schedules 1 and 2 to, the Pipe-lines Act 1962(10) so far as relating to pipe-lines which begin and end in Scotland shall be treated as exercisable in or as regards Scotland and may be exercised separately.

Nuclear Installations Act 1965 (c. 46)

2. In section 23(2)(b) of the Nuclear Installations Act 1965 (registration in connection with certain occurrences), after "concerned" there is inserted "or where any part of the Scottish Administration is concerned the Minister".

Forestry Act 1967 (c. 10)

3. In section 8A(11) of the Forestry Act 1967 (general duty of Ministers), for "of Great Britain" there is substituted "of England and Wales and the Scottish Ministers shall have regard to the national interest in maintaining and expanding the forestry resources of Scotland".

Chronically Sick and Disabled Persons Act 1970 (c. 44)

4. The functions of the Ministers of the Crown under section 21(7) of the Chronically Sick and Disabled Persons Act 1970 (badges for display on motor vehicles used by disabled persons) shall be treated as exercisable in or as regards Scotland and may be exercised separately.

Sex Discrimination Act 1975 (c. 65)

5. In section 53 of the Sex Discrimination Act 1975 (Equal Opportunities Commission), after subsection (1) there is inserted—

“(1A) One of the Commissioners shall be a person who appears to the Secretary of State to have special knowledge of Scotland.”.

Race Relations Act 1976 (c. 74)

6. In section 43 of the Race Relations Act 1976 (Commission for Racial Equality), after subsection (1) there is inserted—

“(1A) One of the Commissioners shall be a person who appears to the Secretary of State to have special knowledge of Scotland.”.

National Heritage Act 1980 (c. 17)

7.—(1) In section 9 of the National Heritage Act 1980 (disposal of property accepted by Commissioners), at the end there is inserted—

“(8) The functions of the Ministers under this section in relation to the disposal or transfer of property in which there is a Scottish interest may be exercised separately.

(10) 1962 c. 58; section 26A was inserted by the Petroleum Act 1987 (c. 12), section 26(1); section 9A was inserted, and sections 1, 4, 5, 9, 10, 12, 35, 36 and 43 and Schedule 1 amended, by S.I. 1999/742; the functions of the Minister of Power under the Act were transferred to the Minister of Technology by S.I. 1969/1498 and to the Secretary of State by S.I. 1970/1537.

(11) Section 8A was inserted by the Forestry Act 1981 (c. 37), section 4.

- (9) For the purposes of subsection (8) a Scottish interest in the property exists where—
- (a) the property is located in Scotland;
 - (b) the person liable to pay the tax has imposed a condition on his offer of the property in satisfaction of tax that it be displayed in Scotland or disposed of or transferred to a body or institution in Scotland; or
 - (c) only a body or institution in Scotland has expressed an interest in acquiring the property; or
 - (d) a body or institution in Scotland and another body or institution have expressed an interest in acquiring the property.”.

(2) In section 16 of the National Heritage Act 1980 (indemnities for objects on loan), at the end add—

“(8) The power of either of the Ministers to give an undertaking under this section regarding any object lost or damaged while on loan to an institution, body or person in Scotland may be exercised separately.”.

(3) In section 16A(12) of the National Heritage Act 1980 (reporting of indemnities) at the end add—

“(4) The duties of each of the Ministers under subsections (1) and (2) in relation to undertakings given under section 16 above regarding any object lost or damaged while on loan to an institution, body or person in Scotland may be exercised separately.”.

Inheritance Tax Act 1984 (c. 51)

8. In section 230 of the Inheritance Tax Act 1984 (acceptance of property in satisfaction of tax), at the end there is inserted—

“(6) The functions of the Ministers under this section in relation to the acceptance, in satisfaction of tax, of property in which there is a Scottish interest may be exercised separately.

- (7) For the purposes of subsection (6) a Scottish interest in the property exists—
- (a) where the property is located in Scotland; or
 - (b) the person liable to pay the tax has expressed a wish or imposed a condition on his offer of the property in satisfaction of tax that it be displayed in Scotland or disposed of or transferred to a body or institution in Scotland.”.

Business Names Act 1985 (c. 7)

9. The function of the Secretary of State under section 2 of the Business Names Act 1985 (prohibition of use of certain business names) so far as relating to an individual to whom that Act applies who—

- (a) has a place of business in Scotland; and
- (b) carries on business in Scotland under a name to which either paragraphs (a) or (b) of subsection (1) of that section applies,

shall be treated as exercisable in or as regards Scotland and may be exercised separately.

(12) Section 16A was inserted by the Museums and Galleries Act 1992 (c. 44), section 10(2). The Secretary of State is the sole remaining Minister for the purposes of this section by virtue of S.I. 1992/1311.

Food and Environment Protection Act 1985 (c. 48)

- 10.**—(1) The Food and Environment Protection Act 1985(**13**) is amended as follows.
- (2) In section 1(2) for the definition of “designating authority” there is substituted—
- ““designating authority” in relation to England and Wales means the Minister of Agriculture, Fisheries and Food and, in relation to Scotland and the Scottish zone means the Secretary of State; and the functions of that authority in relation to Scotland and the Scottish zone shall be treated as exercisable in or as regards Scotland and may be exercised separately”.
- (3) In section 1(2) the word “and” is omitted and at the end there is inserted—
- “; and
- “Scottish zone” has the meaning assigned to it by section 126(1) of the Scotland Act 1998.”.
- (4) In section 1(4) for “The Ministers may jointly” there is substituted “A designating authority may”.
- (5) In section 2 for the words “Either of the Ministers”, “either of the Ministers” and “the Minister”, in each place where they appear, there is substituted “A designating authority”, “a designating authority” and “the designating authority”, respectively.
- (6) In section 3 for the words “Either of the Ministers” and “the Minister’s” wherever they appear there is substituted “A designating authority” and “the designating authority’s”.
- (7) In subsection (1) of section 7 (exemptions) for “The Ministers may jointly” there shall be substituted “A licensing authority may”.
- (8) In section IO (power to take remedial action)—
- (a) in subsection (1) for “Either of the Ministers” there shall be substituted “A licensing authority”; and
- (b) in subsection (2) for “either of the Ministers” and “the Minister” there shall be substituted “a licensing authority” and “the licensing authority” respectively.
- (9) In section 11(1) (enforcement) for “Either of the Ministers” there shall be substituted “A licensing authority”.
- (10) In section 12(1) (enforcement of conventions) for “The Ministers may jointly” there shall be substituted “A licensing authority may”.
- (11) In section 24(1)—
- (a) there shall be inserted before the definition of “agricultural” the following—
- ““adjacent to Scotland”, in relation to United Kingdom waters or United Kingdom controlled waters, means—
- (a) those waters so far as lying within the Scottish zone; and
- (b) United Kingdom controlled waters outside that zone, which are nearer to any point on the baselines from which the breadth of the territorial sea adjacent to Scotland is measured than to any point on the baselines in any other part of the United Kingdom;”
- (b) for the definition of “licensing authority” there shall be substituted—
- ““licensing authority” means,
- (a) in relation to England and Wales whichever of the Ministers is responsible for fisheries in the place where an operation to which a licence would relate would, or have been, be carried out or commenced and,

(13) 1985 c. 48. The Act was amended by the Environment Protection Act 1990 c. 43, the Merchant Shipping Act 1995 c. 21 and the Petroleum Act 1998 c. 17.

- (b) in relation to Scotland—
 - (i) as regards operations, so far as relating to oil and gas exploration and exploitation, to which a licence would relate and which would be, or have been, carried out in United Kingdom waters, or United Kingdom controlled waters, adjacent to Scotland but lying outside controlled waters within the meaning of section 3OA(1) of the Control of Pollution Act 1974⁽¹⁴⁾ or which commence in Scotland, the Secretary of State;
 - (ii) as regards operations falling within the subject matter of Part VI of the Merchant Shipping Act 1995⁽¹⁵⁾, to which a licence would relate and which would be, or have been, carried out in United Kingdom waters, or United Kingdom controlled waters, adjacent to Scotland, the Secretary of State;
 - (iii) as regards any other operations to which a licence would relate and which would be, or have been, carried out in United Kingdom waters, or United Kingdom controlled waters, adjacent to Scotland or which commence in Scotland, the Secretary of State and the functions of that authority under this sub-paragraph shall be treated as exercisable in or as regards Scotland and may be exercised separately;” and
- (c) after the definition of “plants” there shall be inserted the following—
 - ““Scottish zone” has the meaning assigned to it by section 126(1) of the Scotland Act 1998;”
- (12) In paragraph 3 of Schedule 1 the words “anywhere in the United Kingdom or in United Kingdom waters” are omitted.
- (13) After paragraph 3 of Schedule 1 there is inserted—
 - “4. A prohibition of a kind specified in paragraph 3 above shall apply in every part of the United Kingdom and United Kingdom waters.”.

Scotch Whisky Act 1988 (c. 22)

11. The functions of the Ministers under sections 2 and 3 of the Scotch Whisky Act 1988 shall be treated as exercisable in or as regards Scotland and may be exercised separately.

Broadcasting Act 1990 (c. 42)

12.—(1) The functions of the Secretary of State under paragraph 15(1) of Schedule 1, paragraph 15(1) of Schedule 8 and paragraph 12(3) of Schedule 19 to the Broadcasting Act 1990 (annual reports of certain broadcasting bodies) shall be treated as exercisable in or as regards Scotland and may be exercised separately.

(2) In Schedule 8 to that Act (Radio Authority: supplementary provisions) in paragraph 2 (appointment of members) after sub-paragraph (1) there is inserted—

“(1A) One of the members of the Authority other than the chairman and deputy chairman shall be a person who appears to the Secretary of State to be suited to make the interests of Scotland his special care.”.

⁽¹⁴⁾ 1974 c. 40. Section 3OA(1) was inserted by the [Water Act 1989, \(c. 15\)](#), Schedule 23.

⁽¹⁵⁾ 1995 c. 21.

Further and Higher Education Act 1992 (c. 13)

13. In section 82 of the Further and Higher Education Act 1992 (joint exercise of functions) after sub-section (2) there is inserted—

“(2A) The power of the Secretary of State to give directions under subsection (2) above shall, as regards the Scottish Higher Education Funding Council, be treated as exercisable in or as regards Scotland and may be exercised separately.”.

Museums and Galleries Act 1992 (c. 44)

14. In section 6 of the Museums and Galleries Act 1992 (transfers of objects between institutions), at the end add—

“(8) The power of the Secretary of State to make an order under subsection (6) may, for the purpose of this section’s application to transfers of objects by bodies in Scotland, be exercised separately.”.

National Lottery etc. Act 1993 (c. 39)

15.—(1) The functions of the Secretary of State under section 14 of the National Lottery etc. Act 1993 (annual report of National Lottery Commission) shall be treated as exercisable in or as regards Scotland and may be exercised separately.

(2) After section 25C(16) of that Act there is inserted—

“Strategic plans for distributing bodies in or as regards Scotland

25D. The functions of the Secretary of State—

(a) under section 25C(1) shall, as regards instructions to—

- (i) any body specified in section 23(1)(17) whose functions exclusively or mainly relate to the arts in Scotland; or
- (ii) any body specified in section 23(2)(18) whose functions exclusively or mainly relate to sport in Scotland; and

(b) under section 25C(5)(c) and (d) and (6) shall, as regards strategic plans prepared by any body other than—

- (i) any body specified in section 23(1) whose functions relate exclusively or mainly to the arts in any one of England, Wales or Northern Ireland; or
- (ii) any body specified in section 23(2) whose functions relate exclusively or mainly to sport in any one of England, Wales or Northern Ireland,

be treated as exercisable in or as regards Scotland and may be exercised separately.”.

(3) After section 26 of that Act there is inserted—

“Directions to distributing bodies in or as regards Scotland

26A.—(1) The functions of the Secretary of State—

(a) under section 26(1), (3), (3A)(19) (4)(20) and (5) shall, as regards directions to—

(16) Section 25C was inserted by the National Lottery Act 1998 (c. 22) (“the 1999 Act”), section 13.

(17) Section 23(1) was amended by S.I. 1994/1342 and 1995/2088.

(18) Section 23(2) was amended by S.I. 1996/3095.

(19) Section 26(3A) was inserted by the 1998 Act section 11(2).

(20) Section 26(4) was amended by the 1998 Act, section 11(3).

- (i) any body specified in section 23(1)(**21**) whose functions exclusively or mainly relate to the arts in Scotland; or
 - (ii) any body specified in section 23(2)(**22**) whose functions exclusively or mainly relate to sport in Scotland; and
 - (b) under section 26(3A) shall, as regards directions to any other body except–
 - (i) any body specified in section 23(1) whose functions relate exclusively or mainly to the arts in any one of England, Wales or Northern Ireland; or
 - (ii) any body specified in section 23(2) whose functions relate exclusively or mainly to sport in any one of England, Wales or Northern Ireland,be treated as exercisable in or as regards Scotland and may be exercised separately.
- (2) Directions given to the National Lottery Charities Board or the New Opportunities Fund under section 26(1) or to the Trustees of the National Heritage Memorial Fund under section 26(2) may be made–
- (a) to apply to the whole of the United Kingdom and provide for all matters other than those to be provided specifically for Scotland in accordance with subsection (3); or
 - (b) to apply only to Scotland and provide for the matters specified in subsection (3).
- (3) Directions given in accordance with subsection (2)(b) may, in relation to any distribution made for a purpose which does not concern reserved matters, provide for priorities and other matters to be taken into account in determining the persons to whom and the purposes for which the money available for distribution in Scotland is distributed and in determining conditions of distribution for the purpose of specific cases but may not provide for–
- (a) the total allocation of resources to Scotland or between Scotland and other parts of the United Kingdom; or
 - (b) except in relation to any initiative specified in an order made under section 43B(**23**) which applies only in Scotland, the general conditions subject to which lottery money is distributed in accordance with directions applying to the whole of the United Kingdom.”.
- (4) In section 27 of that Act (power to prohibit distribution in certain cases) at the end add–
- “(9) The function of the Secretary of State–
- (a) under subsection (1) to prohibit a body from distributing money; or
 - (b) under subsection (8) to require information,
- may, in relation to–
- (i) any body specified in section 23(1) whose functions exclusively or mainly relate to the arts in Scotland; or
 - (ii) any body specified in section 23(2) whose functions exclusively or mainly relate to sport in Scotland,
- be exercised separately.”.
- (5) In section 29 of that Act (power to amend section 23) at the end add–
- “(6) The functions of the Secretary of State under this section shall, in so far as they relate to–

(21) Section 23(1) was amended by S.I. 1994/1342 and 1995/2088.

(22) Section 23(2) was amended by S.I. 1996/3095,

(23) Section 43B was inserted by the 1998 Act section 7(2).

- (a) substitution of a different body for, or addition of another body to, the body specified in section 23(3) or (4) or omission of a body specified in either of those subsections; or
 - (b) substitution of a different percentage for the total aggregate percentage specified as held in the Distribution Fund for—
 - (i) any body or bodies specified in section 23(1) whose functions exclusively or mainly relate to the arts in Scotland, or
 - (ii) any body or bodies specified in section 23(2) whose functions exclusively or mainly relate to sport in Scotland;
 - (c) substitution of a different body for, or addition of another body to, any such body specified in section 23(1) or (2) as is mentioned in paragraph (b) above or omission of any such body specified in section 23(1) or (2); or
 - (d) where more than one such body is specified in section 23(1) or (2), specification of the particular percentage held in the Distribution Fund for distribution by any one of those bodies,
- be treated as exercisable in or as regards Scotland and may be exercised separately.”
- (6) In section 34 of that Act (annual reports of distributing bodies) at the end add—
- “(5) The functions of the Secretary of State under this section shall, in so far as they relate to any body other than—
- (a) any body specified in section 23(1) whose functions relate exclusively or mainly to the arts in any one of England, Wales or Northern Ireland; or
 - (b) any body specified in section 23(2) whose functions relate exclusively or mainly to sport in any one of England, Wales or Northern Ireland,
- be treated as exercisable in or as regards Scotland and may be exercised separately.”.
- (7) In section 35 of that Act (accounts of distributing bodies) at the end add—
- “(8) The functions of the Secretary of State—
- (a) under subsection (3) to give directions shall, in so far as they relate to—
 - (i) any body specified in section 23(1) whose functions exclusively or mainly relate to the arts in Scotland; or
 - (ii) any body specified in section 23(2) whose functions exclusively or mainly relate to sport in Scotland; and
 - (b) under subsection (4) to receive copies of the statement shall, in so far as they relate to any body other than—
 - (i) any body specified in section 23(1) whose functions relate exclusively or mainly to the arts in any one of England, Wales or Northern Ireland; or
 - (ii) any body specified in section 23(2) whose functions relate exclusively or mainly to sport in any one of England, Wales or Northern Ireland,
 be treated as exercisable in or as regards Scotland and may be exercised separately.”.
- (8) In section 39 of that Act (accounts of National Lottery Charities Board) at the end add—
- “(6) The function of the Secretary of State under subsection (3) to receive copies of the statement shall be treated as exercisable in or as regards Scotland and may be exercised separately.”.
- (9) In section 43B of that Act (functions of the New Opportunities Fund) at the end add—

“(5) The function of the Secretary of State under subsection (1) to specify initiatives may, in relation to initiatives applying in Scotland only, be exercised separately.”.

(10) After section 43C(24) of that Act there is inserted—

“Directions to New Opportunities Fund in or as regards Scotland

43CC.—(1) The function of the Secretary of State to give directions under section 43C(1) may be exercised separately.

(2) Directions given to the New Opportunities Fund under section 43C(1) may be made—

- (a) to apply to the whole of the United Kingdom and provide for all matters other than those to be provided specifically for Scotland in accordance with subsection (3); or
- (b) to apply only to Scotland and provide for the matters specified in subsection (3).

(3) Directions given in accordance with subsection (2)(b) may, as regards any initiative relating to a purpose which does not concern reserved matters, provide for priorities and other matters to be taken into account in determining the projects which may be funded or the arrangements which may be made or entered into to give effect to any initiative applying in Scotland and in determining, conditions of grant for the purpose of specific cases, but may not provide for—

- (a) the total allocation of resources to Scotland or between Scotland and other parts of the United Kingdom; or
- (b) except in relation to any initiative specified in an order made under section 43B which applies only in Scotland, the general conditions subject to which grant is made money is distributed in accordance with directions applying to the whole of the United Kingdom.”.

(11) In section 43D(25) of that Act (accounts of New Opportunities Fund) at the end add—

“(6) The Secretary of State’s function under subsection (3) to receive copies of the statement shall be treated as exercisable in or as regards Scotland and may be exercised separately.”.

(12) In paragraph 2 of Schedule 3A(26) to that Act (joint schemes: supplementary provisions) at the end add—

“(6) The Secretary of State’s functions under sub-paragraphs (1) and (2) shall, in relation to any particular joint scheme applying—

- (a) only in Scotland; or
- (b) in one or more parts of the United Kingdom, including Scotland,

be treated as exercisable in or as regards Scotland and may be exercised separately.”.

Criminal Justice and Public Order Act 1994 (c. 33)

16. The functions of the Secretary of State under section 128 of the Criminal Justice and Public Order Act 1994 (pay and related conditions of the prison service) so far as relating to the part of the prison service in Scotland comprising all the individuals who are prison officers within the meaning of section 127(4)(b) of that Act shall be treated as exercisable in or as regards Scotland and may be exercised separately.

(24) Section 43C was inserted by the 1998 Act, section 7(2).

(25) Section 43D was inserted by the 1998 Act, section 7(2).

(26) Schedule 3A was inserted by the 1998 Act, section 12 and Schedule 3.

Merchant Shipping Act 1995 (c. 21)

17. The function of the Secretary of State under section 10(2)(f) of the Merchant Shipping Act 1995(27) (registration regulations) so far as exercisable in relation to Scottish fishing boats, is to be treated as exercisable in or as regards Scotland and may be exercised separately.

Disability Discrimination Act 1995 (c. 50)

18. In paragraph 3 of Schedule 5 to the Disability Discrimination Act 1995 (the National Disability Council), after subparagraph (3) there is inserted–

“(3A) One of the members shall be a person who appears to the Secretary of State to have special knowledge of Scotland.”.

Broadcasting Act 1996 (c. 55)

19.—(1) The functions of the Secretary of State under section 125(1) of the Broadcasting Act 1996 (annual reports of Broadcasting Standards Commission) shall be treated as exercisable in or as regards Scotland and may be exercised separately.

(2) In paragraph 3 of Schedule 3 to that Act (Broadcasting Standards Commission: supplementary provisions), after sub-paragraph (1) there is inserted–

“(1A) One of the members of the BSC other than the chairman and the deputy chairman shall be a person who appears to the Secretary of State to be suited to make the interests of Scotland his special care.”.

Electricity and Pipe-line Works (Assessment of Environmental Effects) Regulations 1990 (S.I.1990/442)

20. The functions of the Secretary of State under the Electricity and Pipe-line Works (Assessment of Environmental Effects) Regulations 1990(28) so far as relating to pipe-lines which begin and end in Scotland shall be treated as exercisable in or as regards Scotland and may be exercised separately.

Novel Foods and Novel Food Ingredients Regulations 1997 (S.I. 1997/1335)

21. For regulation 3 of the Novel Foods and Novel Food Ingredients Regulations 1997 there shall be substituted–

“**3.**—(1) Any request made pursuant to Article 4.1 of Regulation 258/97–

- (a) where placing on the market for the first time is in Scotland, shall be submitted for processing to the Secretary of State for Scotland who shall be the food assessment body in Scotland for the purposes of that Regulation; and
- (b) where placing on the market for the first time is in England and Wales, shall be submitted for processing to the Minister of Agriculture, Fisheries and Food, who shall act jointly with the Secretary of State for Health as the food assessment body in England and Wales, for the purposes of that Regulation.

(2) The functions of the Secretary of State for Scotland under this regulation shall be treated as exercisable in or as regards Scotland and may be exercised separately.”.

(27) 1995 c. 21.

(28) S.I. 1990/442, amended by S.I. 1996/422, 1997/629.

Novel Foods and Novel Food Ingredients (Fees) Regulations 1997 (S.I. 1997/1336)

22. Regulation 3 of the Novel Foods and Novel Food Ingredients (Fees) Regulations 1997 shall be renumbered “3(1)” and shall be modified as follows—

- (a) after “submits” (where it first appears), insert “to the Secretary of State for Scotland or”;
- (b) in place of “pay to the Minister,” there is substituted “pay to the Secretary of State for Scotland or, as the case may be, the Minister”; and
- (c) by inserting new paragraph (2) as follows—

“(2) The functions of the Secretary of State for Scotland under this regulation shall be treated as exercisable in or as regards Scotland and may be exercised separately.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision under section 106 of the Scotland Act 1998.

In particular, it makes provision modifying certain functions for the purposes of enabling or otherwise facilitating the transfer of the relevant function to the Scottish Ministers by virtue of section 53 or 63 of that Act.

Article 2 of, and the Schedule to, the Order make general provision about a number of functions. Articles 3 to 7 make provision about certain functions relating to sea fisheries, aquaculture and agriculture. Article 8 contains savings and transitional provision.