

---

STATUTORY INSTRUMENTS

---

**1999 No. 441 (S. 25)**

**CONSTITUTIONAL LAW  
DEVOLUTION, SCOTLAND**

**The Scotland Act 1998 (Transitory and  
Transitional Provisions) (Finance) Order 1999**

*Made - - - - 19th February 1999*

*Coming into force in accordance with article 1*

Whereas a draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 115(1) of, and paragraphs 1 and 2 of Schedule 7 to, the Scotland Act 1998<sup>(1)</sup>.

Now, therefore, the Secretary of State, in exercise of the powers conferred upon him by sections 112(1), 113, 114(1), 124(1) and 129(1) of the Scotland Act 1998, and of all other powers enabling him in that behalf, hereby makes the following order:

**Citation and commencement**

1.—(1) This Order may be cited as the Scotland Act 1998 (Transitory and Transitional Provisions) (Finance) Order 1999.

(2) Article 15 of this Order shall come into force on the day following the date of making of this Order but only for the purpose of enabling the granting of credits to take effect from a date not earlier than 1st April 1999.

(3) Articles 16 to 19 of this Order shall come into force on the day following the date of making of this Order but only for the purpose of enabling the Treasury or, as the case may be, the Secretary of State to make or give a direction, designation or specification to take effect from a date not earlier than 1st April 1999.

(4) This Order, so far as not then in force, shall come into force on 1st April 1999<sup>(2)</sup>, except as provided in the following paragraph of this article.

---

<sup>(1)</sup> 1998 c. 46.

<sup>(2)</sup> This is the date when, in terms of article 2(2) of, and Schedule 2 to, the Scotland Act 1998 (Commencement) Order 1998 (S.I. 1998/3178), section 64(1) of the 1998 Act, which establishes the Scottish Consolidated Fund, comes into force.

(5) The provisions of this Order specified in column 1 of the following Table(3) shall come into force on the date when the provision of the 1998 Act specified in the corresponding entry in column 2 comes into force.

<i>Provision of Order</i>	<i>Provision of 1998 Act</i>
Article 5	Section 44 (other than subsection (1)(c))
Article 6	Section 21(7)
Article 7	Section 64(4)
Articles 10 and 11	Section 65
Article 21	Section 69
Article 22	Section 53
Article 23	Section 120
Article 24	Section 121

## Interpretation

### 2.—(1) In this Order—

“the 1998 Act” means the Scotland Act 1998;

“the Consolidated Fund” means the Consolidated Fund of the United Kingdom;

“the Fund” means the Scottish Consolidated Fund established by section 64(1);

“relevant function” means—

- (a) any function of the Secretary of State which will, by virtue of any provision of the 1998 Act, become exercisable instead by the Scottish Ministers, and
- (b) any function of those who are or will become, by virtue of section 126(8) of the 1998 Act, the holders of offices in the Scottish Administration which are not ministerial offices; and

“the transitional financial year” means the year ending on 31st March 2000.

(2) If any question arises before the principal appointed day(4) as to whether or to what extent a function of the Secretary of State is a relevant function for the purposes of this Order that question shall be determined by the Secretary of State, and his determination shall be final and conclusive.

(3) In this Order, any reference to a numbered section or schedule shall, unless the context otherwise requires, be read as a reference to the section or schedule bearing that number in the 1998 Act.

## Receipts of the Secretary of State etc.

### 3.—(1) The provisions of this article shall cease to apply on the principal appointed day.

(2) A provision of any enactment which requires or authorises the payment of any sum into the Consolidated Fund shall have effect in relation to any relevant function as if it required or authorised that sum to be paid into the Fund instead.

---

(3) These are provisions which relate to provisions of the 1998 Act which come into force on dates after 1st April 1999. In terms of article 2 of the Scotland Act 1998 (Commencement) Order 1998, sections 21(7), 44 (other than subsection (1)(c)) and 69 come into force on 6th May 1999, sections 53, 64(4), 65 and 121 come into force on 1st July 1999 and section 120 comes into force on 1st April 2000.

(4) Article 3 of the Scotland Act 1998 (Commencement) Order 1998 specifies 1st July 1999 as the principal appointed day for the purposes of the 1998 Act.

(3) Paragraph (2) above is subject to any other provision made by or under this Order, or any other subordinate legislation under section 129(1) (transitory and transitional provision), for the disposal of or accounting for such sums.

### **Receipts of the Lord Advocate**

4.—(1) The provisions of this article shall cease to apply when section 44(1)(c) (Lord Advocate and Solicitor General for Scotland to be members of Scottish Executive) comes into force<sup>(5)</sup>.

(2) A provision of any enactment which requires or authorises the payment of any sum into the Consolidated Fund by the Lord Advocate shall have effect in relation to him as if it required or authorised the sum to be paid into the Fund instead.

(3) Paragraph (2) above is subject to any other provision made by or under this Order, or any other subordinate legislation under section 129(1), for the disposal of or accounting for such sums.

### **Receipts of the Scottish Executive**

5.—(1) The provisions of this article shall cease to apply when section 64(3) (receipts of Scottish Administration to be paid into Fund) comes into force<sup>(6)</sup>.

(2) Sums received by any member of the Scottish Executive or junior Scottish Minister shall be paid into the Fund.

(3) Paragraph (2) above is subject to any other provision made by or under this Order or any other subordinate legislation under section 129(1), for the disposal of or accounting for such sums.

### **Modification of section 21(7)**

6. Until the coming into force of any provision made by or under an Act of the Scottish Parliament for the disposal of or accounting for sums received by the Parliamentary corporation, section 21(7) (receipts of the Parliamentary corporation) shall have effect as if the reference to an Act of the Scottish Parliament included a reference to subordinate legislation under section 129(1).

### **Modification of section 64(4)**

7. Until the coming into force of any provision made by or under an Act of the Scottish Parliament for the disposal of or accounting for sums received by the office-holders in the Scottish Administration, section 64(4) (receipts of the Scottish Administration) shall have effect as if the reference to an Act of the Scottish Parliament included a reference to subordinate legislation under section 129(1).

### **Receipts to be surrendered to the Consolidated Fund**

8.—(1) The provisions of this article shall cease to apply when an order under section 64(5) (designation of receipts) comes into force or on 1st April 2000, whichever is the earlier.

(2) Receipts of any description specified in paragraph (3) below, so far as they are payable into the Fund (or would be but for any provision made by or under this Order or any other subordinate legislation under section 129(1)), shall be designated receipts for the purposes of this article.

(3) The specified descriptions of receipts are—

(a) fines, forfeitures and fixed penalties;

---

(5) In terms of article 2(2) of and Schedule 4 to the Scotland Act 1998 (Commencement) Order 1998, section 44(1)(c) comes into force on 20th May 1999.

(6) In terms of article 2(1) of the Scotland Act 1998 (Commencement) Order 1998, section 64(3) comes into force on 1st July 1999.

- (b) dividends on public dividend capital, other than any public dividend capital of a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978<sup>(7)</sup>;
- (c) interest, other than interest on any loan made to a National health Service trust mentioned in sub-paragraph (b) above; and
- (d) sums received from the European Social Fund in respect of training expenditure incurred by Scottish Enterprise and Highlands and Islands Enterprise, bodies established by section 1 of the Enterprise and New Towns (Scotland) Act 1990<sup>(8)</sup>.

(4) In the period ending immediately before the principal appointed day, the Secretary of State shall make payments into the Consolidated Fund, at such times and by such methods as the Treasury may from time to time determine, of sums equal to the total amount then outstanding in respect of designated receipts.

(5) From the principal appointed day, the Scottish Ministers shall make payments to the Secretary of State, at such times and by such methods as the Treasury may from time to time determine, of sums equal to the total amount then outstanding in respect of designated receipts.

(6) Amounts required for the payment of sums under this article shall be charged on the Fund.

### **Sums payable out of the Fund**

**9.**—(1) The provisions of this article shall cease to apply when section 65 (payments out of the Fund) comes into force<sup>(9)</sup>.

(2) A sum may only be paid out of the Fund if—

- (a) it has been charged on the Fund by virtue of any enactment (including this Order);
- (b) it is payable out of the Fund without further approval by virtue of this Order; or
- (c) it is paid out for or in connection with any of the purposes mentioned in paragraph (3) below and forms part of sums appropriated for any such purpose out of sums forming part of the Fund by an Order in Council under section 129(1).

(3) Those purposes are—

- (a) meeting expenditure for or in connection with any relevant function;
- (b) meeting expenditure of the Secretary of State in preparation for the Scottish Parliament;
- (c) meeting expenditure of the Lord Advocate;
- (d) meeting expenditure of any member of the Scottish Executive or junior Scottish Minister;
- (e) meeting expenditure payable out of the Fund under any enactment.

(4) A sum paid out of the Fund under this article shall not be applied for any purpose other than that for which it was charged or (as the case may be) paid out.

### **Modification of section 65**

**10.** Until 1st April 2000, section 65(1)(c) (payments out of the Fund) shall have effect as if the reference to rules made by or under an Act of the Scottish Parliament were a reference to article 11 of this Order.

---

<sup>(7)</sup> 1978 c. 29; section 12A was inserted by section 31 of the National Health Service and Community Care Act 1990 (c. 19).

<sup>(8)</sup> 1990 c. 35.

<sup>(9)</sup> In terms of article 2(1) of the Scotland Act 1998 (Commencement) Order 1998, section 65 comes into force on 1st July 1999.

### **Appropriation of sums and contingencies**

**11.**—(1) Subject to paragraph (2) of this article, a sum may be paid out of the Fund under section 65(1)(c) only if, and to the extent that, it forms part of sums appropriated for any purpose falling within section 65(2) out of sums forming part of the Fund by an Order in Council under section 129(1).

(2) Notwithstanding that a sum does not form part of sums appropriated as mentioned in paragraph (1) above, or is in excess of such sums, it may be paid out of the Fund in the transitional financial year if and to the extent that the Scottish Ministers so authorise in accordance with the following paragraphs of this article.

(3) The Scottish Ministers may authorise the payment of any sum out of the Fund under paragraph (2) above only if—

- (a) the sum is necessarily required in the public interest to meet urgent expenditure for any purpose falling within section 65(2); and
- (b) it is not reasonably practicable, having regard to the urgency of the expenditure, to seek appropriation of the sum from the Fund by an Order in Council under section 129(1),

but the Scottish Ministers shall not authorise any such payment if it would result in an excess of sums paid out of the Fund over sums paid into the Fund.

(4) Where the Scottish Ministers authorise the payment of any sum out of the Fund under paragraph (2) above they shall forthwith lay a report before the Parliament setting out the circumstances of the authorisation and the reasons for which the granting of the authorisation is considered necessary.

(5) The aggregate amount which the Scottish Ministers may authorise to be paid out of the Fund under paragraph (2) above in the transitional financial year shall not exceed £50 million.

### **Appropriations in aid**

**12.**—(1) Where an Order in Council under section 129(1) provides for any sums to be appropriated in aid of sums appropriated by that Order from the Fund for any purpose, and where the Treasury so direct under paragraph (2) below, then those sums may be applied for the purposes for which they are so appropriated in aid instead of being paid into the Fund, and in so far as those sums are not so applied they shall be paid into the Fund.

(2) Where any fee, penalty, proceeds of sale, or other money of the nature of an extra receipt is, by virtue of any enactment (including this Order), payable into the Fund, the Treasury may by a minute to be laid before Parliament direct that the whole or any specified part thereof shall be applied as an appropriation in aid of sums appropriated from the Fund for the purpose mentioned in the minute.

### **Transfer of appropriations and appropriations in aid**

**13.**—(1) Paragraph (2) of this article applies where any function of the Secretary of State has, by virtue of any provision made by or under the 1998 Act, become exercisable instead by the Scottish Ministers or by the Parliamentary corporation and there is then in force an Order in Council under section 129(1) appropriating sums forming part of the Fund for the purpose of meeting expenditure of the Secretary of State in connection with that function, or appropriating sums in aid of sums so appropriated.

(2) The Order in Council shall have effect in relation to any such function from the date when it becomes exercisable by the Scottish Ministers or, as the case may be, the Parliamentary corporation, as if the sums, so far as not then applied by the Secretary of State, were appropriated or appropriated in aid for the purpose of meeting expenditure of the Scottish Ministers or, as the case may be, the Parliamentary corporation in connection with that function.

### **General modification of enactments relating to Consolidated Fund etc.**

**14.—**(1) The provisions of this article shall cease to apply when section 119 (modification of references to Consolidated Fund etc.) comes into force<sup>(10)</sup>.

(2) In this article “Scottish functions” means—

- (a) relevant functions;
- (b) functions of the Lord Advocate; and
- (c) functions of any public body, public office or holder of such an office which will become, by virtue of the 1998 Act, a Scottish public authority with mixed functions or no reserved functions.

(3) A provision of any enactment which requires or authorises the payment of any sum out of the Consolidated Fund or money provided by Parliament shall not apply in relation to any Scottish functions.

(4) A provision of any enactment which—

- (a) charges any sum on the Consolidated Fund;
- (b) requires the payment of any sum out of the Consolidated Fund without further appropriation; or
- (c) requires or authorises the payment of any sum into the Consolidated Fund,

shall have effect in relation to any Scottish functions, and any function relating to the payment of the judicial salaries mentioned in paragraph (5) below, as if it provided instead for the sum to be charged on the Fund or required it to be paid out of the Fund without further approval or required or authorised it to be paid into the Fund (as the case may be).

(5) The judicial salaries are the salaries or remuneration of the judges of the Court of Session, Sheriffs Principal, Sheriffs, members of the Lands Tribunal for Scotland and the Chairman of the Scottish Land Court.

(6) Paragraphs (3) and (4) of this article do not apply to the words from the beginning of section 2(3) of the European Communities Act 1972<sup>(11)</sup> (general implementation of Treaties) to “such Community obligation”.

(7) A provision of any enactment which authorises any sums to be applied as money provided by Parliament instead of being paid into the Consolidated Fund shall have effect in relation to any Scottish functions as if instead it authorised those sums to be applied as if they had been paid out of the Fund in accordance with article 9(2)(c) of this Order.

(8) Paragraph (9) of this article applies to any sums which, for the purpose or as a result of the exercise on or after 1st April 1999 of the power conferred on the Secretary of State by section 84(2)(a) of the Local Government etc. (Scotland) Act 1994<sup>(12)</sup> (power to lend to new water and sewerage authorities), would be required (apart from that paragraph)—

- (a) to be issued by the Treasury out of the National Loans Fund; or
- (b) to be paid into that Fund.

(9) Those sums shall instead—

- (a) be paid out of the Fund without further approval; or
- (b) be paid into that Fund,

(as the case may be).

---

<sup>(10)</sup> In terms of article 2(1) of the Scotland Act 1998 (Commencement) Order 1998, section 119 comes into force on 1st July 1999.

<sup>(11)</sup> 1972 c. 68.

<sup>(12)</sup> 1994 c. 39.

(10) References in any enactment to a body or authority whose revenue consists wholly or mainly of money provided by Parliament shall be read as including a body or authority whose revenue consists wholly or mainly of money paid out of the Fund.

(11) References in any enactment to an office the remuneration in respect of which is paid out of money provided by Parliament shall be read as including an office the remuneration in respect of which is paid out of the Fund.

### **Credits for the payment of sums out of the Fund**

**15.**—(1) The provisions of this article shall cease to apply on 1st April 2000.

(2) No payment shall be made out of the Fund except in accordance with credits granted on the Fund by the Comptroller and Auditor General.

(3) Subject to paragraph (4), the Comptroller and Auditor General shall grant credits for the payment of sums out of the Fund from time to time at the request of the Secretary of State.

(4) He shall not grant any such credit for the payment of any sum unless that sum may be paid out of the Fund under article 9 of this Order or under section 65 as modified by this Order.

(5) Any person to whom sums are paid out of the Fund shall keep such sums until required for the purposes for which they are paid out only with the Paymaster General or with one or other of the banks determined by the Treasury under section 18 of the Exchequer and Audit Departments Act 1866 Act<sup>(13)</sup>.

### **Accounts of the Fund**

**16.**—(1) An account of payments into and out of the Fund in the transitional financial year shall be prepared, in such form and manner as the Treasury may direct—

- (a) by the Secretary of State, in relation to such payments made in the period ending immediately before the principal appointed day; and
- (b) by the Scottish Ministers, in relation to such payments made in the remaining period of the transitional financial year.

(2) An account prepared under this article shall be sent to the Comptroller and Auditor General not later than the end of November in the year 2000.

(3) The Comptroller and Auditor General shall examine, certify and report on the account and—

- (a) in the case of an account prepared by the Secretary of State, shall lay copies of it and of his report on it before each House of Parliament; and
- (b) in the case of an account prepared by the Scottish Ministers, shall lay copies of it and of his report on it before the Parliament.

### **Accounts and audit of expenditure of Secretary of State, Lord Advocate etc.**

**17.**—(1) The Secretary of State, the Lord Advocate, and other persons to whom sums are paid out of the Fund shall prepare such accounts of their expenditure and receipts in the transitional financial year as the Treasury may direct and in such form and manner as the Treasury may direct.

(2) Separate such accounts shall be prepared for expenditure and receipts for the period ending immediately before the principal appointed day (referred to in this article as “pre-devolution accounts”) and for expenditure and receipts for the remaining period of the transitional financial year.

(3) The directions which the Treasury may give under paragraph (1) of this article include, in particular, directions as to—

---

(13) 1866 c. 39 (29 & 30 Vict.).

- (a) the transactions to which the accounts are to relate;
- (b) the information to be contained in the accounts and the manner in which it is to be presented;
- (c) the methods and principles in accordance with which the accounts are to be prepared; and
- (d) the additional information (if any) that is to accompany the accounts

and any such direction may have the effect of allowing or requiring any receipt or category of receipt otherwise payable into the Fund to be accounted for in such a way or on such a basis that it need not be paid into the Fund.

(4) In so far as paragraph (1) applies to the Secretary of State, it shall be taken to require the preparation by him only of pre-devolution accounts of expenditure and receipts in connection with his relevant functions.

(5) An account prepared under this article shall be sent to the Comptroller and Auditor General not later than the end of November in the year 2000, and he shall examine, certify and report on the account and he shall lay copies of it and of his report on it before the Parliament unless it is a pre-devolution account, in which case he shall lay copies of it and of his report on it before each House of Parliament.

(6) In examining any accounts sent to him under this article, the Comptroller and Auditor General shall, in particular, satisfy himself—

- (a) that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it; and
- (b) that money paid to the person by whom the accounts are prepared for a particular purpose or particular purposes has not been applied otherwise than for that purpose or those purposes.

(7) For the purposes of his examination of any accounts under this article, the Comptroller and Auditor General—

- (a) shall have a right of access at all reasonable times to all the documents relating to the accounts of the person by whom they are prepared; and
- (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for those purposes.

### **Other accounts in relation to the Scottish Administration**

**18.**—(1) The Treasury may direct any person who is, or who will become, by virtue of the 1998 Act, an office holder in the Scottish Administration to prepare accounts of his expenditure and receipts, or any part thereof, for the transitional financial year, in such form and manner as they may direct, and paragraph (3) of article 17 of this Order shall apply in relation to any direction given under this article as it applies in relation to a direction given under that article.

(2) An account prepared under this article shall be sent to the Comptroller and Auditor General not later than the end of November in the year 2000, and he shall examine, certify and report on the account and he shall lay copies of it and of his report on it before the Parliament, unless it relates only to a period ending before the principal appointed day, in which case he shall instead lay copies of it and of his report on it before each House of Parliament.

### **Accounting Officers**

**19.**—(1) Subject to paragraph (2) below, the Secretary of State shall designate a member of his staff, a member of the staff of the Lord Advocate and a member of the staff of each person to whom



sums are paid out of the Fund as, respectively, his, the Lord Advocate's and that person's principal accounting officer.

(2) Where sums are paid out of the Fund to any office-holder mentioned in paragraph (3) below, that office-holder shall be designated as his own principal accounting officer.

(3) Those office-holders are the Registrar General of Births, Deaths and Marriages for Scotland, the Keeper of the Registers of Scotland and the Keeper of the Records of Scotland.

(4) A principal accounting officer designated under this article shall have—

- (a) with respect to the accounts and finances for the transitional financial year of the person in relation to whom he is designated; and
- (b) in relation to the performance by persons designated as additional accounting officers under paragraph (5) below of their responsibilities as additional accounting officers,

the responsibilities which are from time to time specified by the Secretary of State.

(5) The Secretary of State may designate other members of the staff of any person in respect of whom a principal accounting officer is designated under paragraph (1) of this article as additional accounting officers of that person.

(6) An additional accounting officer designated under this article shall have, in relation to such of the accounts and finances for the transitional financial year of the person in relation to whom he is designated, the responsibilities which are from time to time specified by the Secretary of State.

(7) Subject to paragraph (8) below, the responsibilities that may be specified under this article with respect to a person's accounts and finances include in particular—

- (a) responsibilities in relation to the signing of accounts;
- (b) responsibilities for the propriety and regularity of the person's finances; and
- (c) responsibilities for the economy, efficiency and effectiveness with which the person uses his resources.

(8) The responsibilities of the principal accounting officer and any additional accounting officer of the Secretary of State designated under this article shall relate only to such accounts as the Secretary of State is required to prepare by virtue of this Order and to such finances of the Secretary of State as relate to his relevant functions.

(9) Any person who—

- (a) is, immediately before the principal appointed day, the principal accounting officer or an additional accounting officer of the Secretary of State designated under this article; and
- (b) on that day becomes a member of the staff of the Scottish Ministers,

shall, with effect from the principal appointed day, be deemed to have been designated as the principal accounting officer or an additional accounting officer (as the case may be) of the Scottish Ministers and shall have the same responsibilities with respect to the accounts and finances of the Scottish Ministers as he had immediately before the principal appointed day as the principal accounting officer or an additional accounting officer (as the case may be) of the Secretary of State.

### **Economy, efficiency and effectiveness examinations**

**20.**—(1) Subject to paragraph (4) of this article, the provisions of this article shall cease to apply when paragraph 20 of Schedule 8 comes into force<sup>(14)</sup>.

(2) Part II of the National Audit Act 1983<sup>(15)</sup> (economy, efficiency and effectiveness examinations) (referred to in this article as “the 1983 Act”) shall apply in relation to any person

---

<sup>(14)</sup> In terms of article 2(2) of, and Schedule 5 to, the Scotland Act 1998 (Commencement) Order 1998, paragraph 20 of Schedule 8 comes into force on 1st April 2000.

<sup>(15)</sup> 1983 c. 44.

required to prepare accounts by virtue of article 17 of this Order as it applies to any department in respect of which appropriation accounts are required to be prepared under the Exchequer and Audit Departments Act 1866, subject to the following modification.

(3) Section 9 of the 1983 Act (reports of value for money studies) shall have effect so far as it relates to a report published on or after the principal appointed day of the results of any examination carried out by virtue of this article (other than an examination in relation to the Secretary of State) as if the reference to the House of Commons were to the Parliament.

(4) The provisions of this article shall remain in force and have effect after the coming into force of paragraph 20 of Schedule 8 so far as may be necessary for the purpose of enabling the completion of any examination, and the making of a report on such an examination, in the course of being carried out under Part II of the 1983 Act, as applied by this article, before the date on which that paragraph came into force, and for the purpose of enabling the making of any report on an examination carried out under that Part of the 1983 Act, as applied by this article, before that date.

### **Auditor General for Scotland**

21.—(1) The provisions of this article shall cease to apply on the coming into force of any provision made by or under an Act of the Scottish Parliament relating to the salary and expenses of the Auditor General for Scotland.

(2) The Parliamentary corporation shall pay to the Auditor General for Scotland a salary of the same amount as the salary payable from time to time to a judge of the Court of Session, or of such other amount as the Parliament may by resolution determine.

(3) Any expenses incurred by the Auditor General for Scotland shall be paid by the Parliamentary corporation.

### **Registers of Scotland Executive Agency Trading Fund**

22.—(1) The provisions of this article shall cease to apply on 1st April 2000.

(2) The Registers of Scotland Executive Agency Trading Fund (referred to in this article as “the Trading Fund”), established by the Registers of Scotland Executive Agency Trading Fund Order 1996<sup>(16)</sup> (“the 1996 Order”), shall continue to exist, subject to the following provisions of this article, even although the operations in respect of which it was established have ceased to be operations of a department of the government for which any Minister of the Crown is responsible, and the 1996 Order shall remain in force and have effect accordingly.

(3) The Government Trading Funds Act 1973<sup>(17)</sup> (referred to in this article as “the 1973 Act”) shall continue to apply in relation to the Trading Fund subject to the following modifications—

- (a) sections 2(2) to (6), 2A(3), 2B, 3(3), 4(4), (6B) and (7) and 4A and any provision authorising or requiring the issuing or payment of sums out of money provided by Parliament, shall not apply;
- (b) any function of the responsible Minister or the Treasury shall be exercisable instead by the Scottish Ministers and any requirement for such a function to be exercised with the concurrence or approval of the Treasury shall not apply;
- (c) references to the Consolidated Fund shall have effect as if they were references to the Scottish Consolidated Fund;
- (d) references to Parliament or to the House of Commons shall have effect as if they were references to the Parliament;

---

<sup>(16)</sup> S.I. 1996/1004.

<sup>(17)</sup> 1973 c. 63. The 1973 Act was amended by sections 1 and 2 of the Government Trading Act 1990 (c. 30). The 1973 Act as amended is set out in Schedule 1 to the 1990 Act.

- (e) section 3(2) shall have effect as if for the words from “accruing liabilities of” to the end there were substituted “the Scottish Ministers under section 51(7) of the Scotland Act 1998 and it shall be for the Scottish Ministers to determine the sums so payable”; and
- (f) section 4(5) shall have effect as if, after “United Kingdom” there were inserted “or of the Scottish Administration”.

(4) The Keeper of the Registers of Scotland shall pay out of the Trading Fund into the Scottish Consolidated Fund such sums as may be appropriate as representing accruing liabilities of the Scottish Ministers in respect of principal or interest on any sum treated by virtue of section 71(6) as an advance made by the Secretary of State to the Scottish Ministers.

(5) Section 51(5) (salaries and allowances of civil servants in the Scottish Administration) shall not apply so far as any salary or allowance mentioned in that subsection is payable out of the Trading Fund by virtue of the 1973 Act as applied by this article, and the provisions of this Order relating to receipts, expenditure and accounting, so far as they apply in relation to the operations in respect of which the Trading Fund was established, shall have effect subject to the provisions of section 3 of the 1973 Act as modified by this Order.

(6) Paragraph (3)(b) of this article shall not affect the validity of anything done by the responsible Minister or the Treasury in relation to the Trading Fund before the coming into force of this article in the exercise of any function to which that paragraph applies.

(7) Anything done by the responsible Minister or the Treasury in relation to the Trading Fund in connection with any function transferred to the Scottish Ministers by virtue of paragraph (3)(b) of this article shall, if in force immediately before the coming into force of this article, continue in force and have effect as if done by the Scottish Ministers insofar as may be necessary for the purpose of continuing its effect on or after that date.

(8) Anything which is, immediately before the coming into force of this article, in the process of being done by the responsible Minister or the Treasury in relation to the Trading Fund in connection with any function transferred to the Scottish Ministers by virtue of paragraph (3)(b) of this article may be continued on and after that date by the Scottish Ministers.

### **Application of section 120**

**23.** Section 120 (accounts and audit) shall not apply in relation to any account relating only to a period ending before 1st April 2000.

### **Application of section 121**

**24.** Section 121 (requirements to lay reports etc. before Parliament) shall not apply in relation to any account relating only to a period ending before the principal appointed day, or any report on such an account.

### **Transfer of Treasury and Secretary of State functions**

**25.—(1)** The functions conferred on the Treasury by articles 12, 16, 17 and 18, and the functions conferred on the Secretary of State by articles 15 and 19, of this Order shall, with effect from the principal appointed day, be exercisable instead by the Scottish Ministers, subject to the following provisions of this article.

(2) Article 12(2) shall have effect, in relation to the exercise by the Scottish Ministers by virtue of this article of the function conferred by it, as if the reference to Parliament were to the Parliament.

(3) Paragraph (1) of this article shall not affect the validity of anything done, by or in relation to, the Treasury or the Secretary of State before the principal appointed day in the exercise of any function to which that paragraph applies.

---

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

---

(4) Anything done by or in relation to the Treasury or the Secretary of State in connection with any function transferred to the Scottish Ministers by virtue of paragraph (1) of this article shall, if in force immediately before the principal appointed day, continue in force and have effect as if done by or in relation to the Scottish Ministers in so far as may be necessary for the purpose of continuing its effect on or after that date.

(5) Anything which is, immediately before the principal appointed day, in the process of being done by or in relation to the Treasury or the Secretary of State in connection with any function transferred to the Scottish Ministers by virtue of paragraph (1) of this article may be continued on and after that date by or in relation to the Scottish Ministers.

St Andrew's House Edinburgh  
19th February 1999

*Henry McLeish*  
Minister of State, The Scottish Office

---

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision for transitory and transitional purposes in connection with the coming into force of provisions in Part III (financial provision) of the Scotland Act 1998 (c. 46) (“the 1998 Act”) and other connected provisions of the 1998 Act.

The provision made by the Order applies in relation to the financial year from 1st April 1999 (when the Scottish Consolidated Fund (“the SCF”) is established) until 31st March 2000 (“the transitional financial year”), after which provision made by the Scottish Parliament in accordance with Part III of the 1998 Act is expected to come into effect.

The Order (articles 3 to 12) makes provision as to the payment of receipts and expenditure into and out of the SCF for the transitional financial year in connection with the functions of the Secretary of State which will transfer to the Scottish Ministers under the 1998 Act, and the functions of other persons (including the Lord Advocate, the members of the Scottish Executive and junior Scottish Ministers) who will form the Scottish Administration.

The Order (articles 15 to 20) also makes provision for the transitional financial year as to the granting of credits for the payment of sums out of the SCF, the preparation of accounts of the SCF and of the expenditure and receipts of those who receive sums out of the SCF and those who will form the Scottish Administration, the appointment of accounting officers, and the conduct of examinations into the economy, efficiency and effectiveness with which those who receive sums out of the SCF have used their resources.

The Order also makes provision as to the salary and expenses of the Auditor general for Scotland (article 21) until provisions is made by the Scottish Parliament. It also provides for the Registers of Scotland Executive Agency Trading Fund to continue in existence for the transitional financial year and for the Government Trading Funds Act 1973 (c. 63) to apply with modifications (article 22). It also disapplies the general modifications made by sections 120 and 121 of the 1998 Act in relation to accounts which relate only to periods before those sections come into force.

The other provisions of the Order are consequential and supplementary.