
STATUTORY INSTRUMENTS

2000 No. 2040

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND**

**The Scotland Act 1998 (Consequential
Modifications) Order 2000**

Made - - - - 26th July 2000

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 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 105, 112(1) and 113 of that Act and of all other powers enabling me in that behalf, I hereby make the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Scotland Act 1998 (Consequential Modifications) Order 2000 and, except for paragraph 23 in Part II of the Schedule, shall come into force on the day following that on which it is made.

(2) Paragraph 23 in Part II of the Schedule to this Order shall come into force on the day following that on which the rest of this Order comes into force.

Amendments and repeals

2.—(1) Parts I and II of the Schedule to this Order (which contain modifications of pre-commencement enactments, and transitional and saving provisions in connection therewith) shall have effect.

(2) The enactments mentioned in Part III of the Schedule are repealed to the extent specified in that Part of the Schedule.

Saving

3. Nothing in this Order prejudices the general operation of the modifications in sections 117 to 122 of the Scotland Act 1998.

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Dover House, London
26th July 2000

JOHN REID
Secretary of State for Scotland

SCHEDULE

Article 2

PART I

MODIFICATIONS OF ACTS OF PARLIAMENT

Agriculture (Scotland) Act 1948 (c. 45)

1.—(1) Section 35(9) of the Agriculture (Scotland) Act 1948 (special directions to secure production) is amended as follows.

(2) For “each House of Parliament” wherever it appears, there is substituted “the Scottish Parliament”.

(3) For “Parliament is dissolved or prorogued or both Houses are adjourned”, there is substituted “the Scottish Parliament is dissolved or is in recess”.

(4) Before “Parliament” in the third place where it occurs there is inserted “the Scottish”.

(5) For “that House”, there is substituted “the Scottish Parliament”.

Agriculture Act 1967 (c. 22)

2. In section 34 of the Agriculture Act 1967 (power to vary sites, and extend scope, of grants for agricultural investment), at the end there is inserted—

“(5) Where an order under this section is made for Scotland only—

(a) any reference in this section to the House of Commons (however expressed) or to Parliament shall be construed as a reference to the Scottish Parliament, and

(b) in subsection (3) for “prorogued or during which the House of Commons is adjourned” there is substituted “is in recess”.”.

Sea Fish (Conservation) Act 1967 (c. 84)

3.—(1) Section 22A(11)(2) of the Sea Fish (Conservation) Act 1967 (application to Scotland) is amended as follows.

(2) At the end of paragraph (b), “and” is omitted.

(3) At the end of paragraph (c) there is inserted—
“and

(d) in subsection (4) for “House of Commons is adjourned” there is substituted “Scottish Parliament is in recess”.”.

Equal Pay Act 1970 (c. 41)

4. In section 1(10) of the Equal Pay Act 1970 (definition of “statutory body” for equal treatment purposes), after “enactment” there is inserted “(including an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament)”.

(2) Section 22A was inserted by S.I. 1999/1820, Schedule 2, paragraph 43(13).

Superannuation Act 1972 (c. 11)

5.—(1) Section 1 of the Superannuation Act 1972 is amended as follows.

(2) After subsection (2A)(3) there is inserted—

“(2B) The Minister may, to such extent and subject to such conditions as he thinks fit, delegate to the Scottish Parliamentary Corporate Body any function exercisable by him by virtue of this section or any scheme made thereunder so far as that function or scheme relates to any employees of that Body.”.

(3) In subsection (3), after “particular scheme” there is inserted “(other than a scheme mentioned in subsection (3A) below)”.

(4) After subsection (3) there is inserted—

“(3A) Before making any scheme under this section relating to any employees of the Scottish Parliamentary Corporate Body (referred to as “the Parliamentary corporation”) the Minister, or, if the Minister so directs, the Parliamentary corporation, shall consult with—

- (a) persons appearing to the Minister or the Parliamentary corporation, as the case may be, to represent persons likely to be affected by the proposed scheme, or
- (b) the last-mentioned persons.”.

Horticulture (Special Payments) Act 1974 (c. 5)

6. In section 1 of the Horticulture (Special Payments) Act 1974, after subsection (5) there is inserted—

“(5A) Where a scheme under subsection (5) is made for Scotland only—

- (a) any reference in that subsection to Parliament or to a House of Parliament shall be construed as a reference to the Scottish Parliament;
- (b) the reference to a period during which Parliament is prorogued shall be omitted; and
- (c) the reference to a period during which both Houses are adjourned shall be construed as a reference to a period during which the Scottish Parliament is in recess.”.

Local Government (Scotland) Act 1975 (c. 30)

7. Section 6(8) of the Local Government (Scotland) Act 1975 (procedure in the Lords House of Parliament) is omitted.

Sex Discrimination Act 1975 (c. 65)

8. In section 82(1) of the Sex Discrimination Act 1975 (general interpretation provisions), after the definition of “employment agency” there is inserted—

““enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;”.

Race Relations Act 1976 (c. 74)

9. In section 78(1) of the Race Relations Act 1976 (general interpretation provisions), after the definition of “employment Agency” there is inserted—

(3) Section 1(2A) was inserted by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), section 8(1).

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;”.

Fisheries Act 1981 (c. 29)

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

(2) In section 18A(5)(4)–

(a) “and” where it appears at the end of paragraph (a) is omitted; and

(b) at the end of paragraph (b) there is inserted–

“and

(c) for “adjourned” there is substituted “in recess”.”.

(3) In section 31(9)(5)–

(a) “and” where it appears at the end of paragraph (e)(ii) is omitted; and

(b) at the end of paragraph (e)(iii) there is inserted–

“and

(iv) for “adjourned” there is substituted “in recess”.”.

Road Traffic Regulation Act 1984 (c. 27)

11.—(1) In section 85(5A) of the Road Traffic Regulation Act 1984 (evidence of road classification etc.)(6), after “Secretary of State” there is inserted “or, where the function of specifying under section 82(1)(b) of this Act a classification or type of road is, by virtue of section 63 of the Scotland Act 1998, exercisable by the Scottish Ministers, a certificate of an officer of the Scottish Ministers”.

(2) Any certificate issued by an officer of the Secretary of State under section 85(5A) of the Road Traffic Regulation Act 1984 shall, if in force immediately before the time when subparagraph (1) of this paragraph takes effect, and to the extent that it relates to a function exercisable by the Scottish Ministers, have effect as if done by an officer of the Scottish Ministers insofar as that is required for continuing its effect after that time.

Food and Environment Protection Act 1985 (c. 48)

12. In section 1 of the Food and Environment Protection Act 1985 (power to make emergency orders)–

(a) in subsection (2), in the definition of “designating authority”(7), for “Secretary of State” in the second place where it occurs there is substituted “Scottish Ministers”; and

(b) after subsection (11) there is inserted–

“(12) Where an order under this section is made by the Scottish Ministers, or is made on their behalf by the Food Standards Agency in accordance with an arrangement made under section 17 of the Food Standards Act 1999(8), this section shall have effect subject to the following modifications–

(4) Section 18A was inserted by S.I. 1999/1820, Schedule 2, paragraph 68(4).

(5) Section 31(9) was inserted by S.I. 1999/1820, Schedule 2, paragraph 68(6)(d).

(6) Section 85(5A) was inserted by the Roads (Scotland) Act 1984 (c. 54), section 126 and Schedule 7, paragraph 3.

(7) The definition of “designating authority” in section 1(2) was substituted by the Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1756), Schedule, paragraph 10(2), and was amended by the Food Standards Act 1999 (c. 28), Schedule 5, paragraph 6.

(8) 1999 c. 28.

- (a) any reference to Parliament or to a House of Parliament shall be construed as a reference to the Scottish Parliament; and
- (b) in subsection (9), for “Parliament is dissolved or prorogued or during which both Houses are adjourned” there shall be substituted “the Scottish Parliament is dissolved or is in recess”.

Housing (Scotland) Act 1987 (c. 26)

13. Section 77(6) of the Housing (Scotland) Act 1987 (procedure in relation to hybrid instruments) is omitted.

Local Government Finance Act 1992 (c. 14)

14.—(1) The Local Government Finance Act 1992 is amended as follows.

(2) In section 86 (valuation of dwellings)(9)–

- (a) in subsection (5) for “Commissioners of Inland Revenue” there is substituted “Scottish Ministers”; and
- (b) for subsection (6) there is substituted–

“(6) The Scottish Ministers may, for the purpose of preparing any directions under subsection (5) above, make such investigations and set up such facilities as appear to them to be appropriate.”

(3) For “House of Commons” in subsections (5) and (6) of section 108A(10), there is substituted “Scottish Parliament”.

(4) Anything done by the Commissioners of Inland Revenue in exercise of the functions transferred to the Scottish Ministers by virtue of paragraph (2) above, shall, if in force at the time when the transfer takes effect, have effect as if done by the Scottish Ministers in so far as that is required for continuing its effect after that time.

Local Government etc. (Scotland) Act 1994 (c. 39)

15. Section 157 of the Local Government etc. (Scotland) Act 1994 is omitted.

Deregulation and Contracting Out Act 1994 (c. 40)

16. Section 69 of the Deregulation and Contracting Out Act 1994 applies in relation to any function of the Scottish Ministers or the Scottish Parliamentary Corporate Body which is a function delegated to them or it by a Minister of the Crown by virtue of section 1(2) or (2B)(11) of the Superannuation Act 1972 and, so far as may be necessary for enabling any provision to be made under section 69 of the Act of 1994 in respect of any such function, references in that section to–

- (a) an office-holder shall be read as if they included the Scottish Ministers and the Scottish Parliamentary Corporate Body, and
- (b) an officer, in relation to the Scottish Ministers, means any member of the staff of the Scottish Administration, and, in relation to the Scottish Parliamentary Corporate Body, means any member of the staff of the Scottish Parliament.

(9) Section 86 was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), section 180(2) and Schedule 14.

(10) Section 108A was inserted by the Local Government etc. (Scotland) Act 1994 (c. 39), section 167.

(11) Subsection (2B) of section 1 of the 1972 Act is inserted by paragraph 5(2) of the Schedule to this Order.

Requirements of Writing (Scotland) Act 1995 (c. 7)

17. In section 12(1) of the Requirements of Writing (Scotland) Act 1995 (interpretation), in the definition of “enactment” there is added at the end “and an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament”.

Disability Discrimination Act 1995 (c. 50)

18. In section 68(1) of the Disability Discrimination Act 1995 (interpretation), at the end of the definition of “enactment” there is inserted—

“, and (except in section 56(5)) includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament”.

Employment Rights Act 1996 (c. 18)

19.—(1) Section 43E of the Employment Rights Act 1996 (disclosure to Minister of the Crown)(12) is amended as follows.

(2) After “enactment” there is inserted “(including any enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament)”.

(3) After “Minister of the Crown”, in both places where it occurs, there is inserted “or a member of the Scottish Executive”.

Town and Country Planning (Scotland) Act 1997 (c. 8)

20. In section 216 of the Town and Country Planning (Scotland) Act 1997, in subsection (6) (which defines certain terms relating to what constitutes specific planning permission for the purposes of the section)—

(a) at the end of paragraph (b)(ii), “or” is omitted; and

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

“,or

(iv) by an order which has been brought into operation in accordance with the provisions of the Scotland Act 1998 (Transitory and Transitional Provisions) (Orders subject to Special Parliamentary Procedure) Order 1999(13) or of an enactment comprised in, or contained in an instrument made under, an Act of the Scottish Parliament providing, or making provision for, the special procedure referred to in section 94(2) of the Scotland Act 1998”.

Human Rights Act 1998 (c. 42)

21. In Schedule 2 to the Human Rights Act 1998 (procedure in relation to remedial orders), after paragraph 6 there is inserted—

“7.—(1) This paragraph applies in relation to—

(a) any remedial order made, and any draft of such an order proposed to be made,—

(i) by the Scottish Ministers; or

(ii) within devolved competence (within the meaning of the Scotland Act 1998) by Her Majesty in Council; and

(12) Section 43E was inserted by the Public Interest Disclosure Act 1998 (c. 23), section 1.

(13) S.I. 1999/1593.

(b) any document or statement to be laid in connection with such an order (or proposed order).

(2) This Schedule has effect in relation to any such order (or proposed order), document or statement subject to the following modifications.

(3) Any reference to Parliament, each House of Parliament or both Houses of Parliament shall be construed as a reference to the Scottish Parliament.

(4) Paragraph 6 does not apply and instead, in calculating any period for the purposes of this Schedule, no account is to be taken of any time during which the Scottish Parliament is dissolved or is in recess for more than four days.”.

PART II

MODIFICATIONS OF SUBORDINATE LEGISLATION

The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (S.I.1992/223)

22.—(1) The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 is amended as follows.

(2) In article 4(2)–

(a) after “by any Act” there is inserted “(including any Act of the Scottish Parliament)”;

(b) after “both Houses of Parliament” there is inserted “or of the Scottish Parliament”.

(3) In Class 29 of Schedule 1–

(a) in sub paragraph (1)(a) after “Parliament” there is inserted “or of the Scottish Parliament”;

(b) in sub paragraph (1)(b) after “Parliament” there is inserted “or by the Scottish Parliament”.

The Contracting Out (Administration of Civil Service Pension Schemes) Order 1996 (S.I. 1996/1746)

23.—(1) Article 2 of the Contracting Out (Administration of Civil Service Pension Schemes) Order 1996 is amended as follows.

(2) At the end of the definition of “the 1972 Act” the word “and” is omitted.

(3) In the definition of “the function”, after “1(2)” there is inserted “or (2B)”.

(4) After that definition there is inserted–

“;and

“office-holder” includes the Scottish Ministers and the Scottish Parliamentary Corporate Body.”.

PART III

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1967 c. 84.	Sea Fish (Conservation) Act 1967.	In section 22A(11), at the end of paragraph (b), the word “and”.

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1975 c. 30.	Local Government (Scotland) Act 1975.	Section 6(8).
1981 c. 29.	Fisheries Act 1981.	In section 18A(5), the word “and” where it appears at the end of paragraph (a). In section 31(9), the word “and” where it appears at the end of paragraph (e)(ii).
1987 c. 26.	Housing (Scotland) Act 1987.	Section 77(6).
1994 c. 39.	Local Government etc. (Scotland) Act 1994.	Section 157.
1997 c. 8.	Town and Country Planning (Scotland) Act 1997.	In section 216, at the end of subsection (6)(b)(ii), the word “or”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes modifications to pre-commencement enactments, within the meaning of the Scotland Act 1998 (c. 46) (“the Act”), which appear to be necessary or expedient in consequence of the Act.

Article 2 provides for the modification of the enactments specified in Parts I and II of the Schedule to the Order. The Schedule also contains transitional and saving provisions in connection with certain of the modifications. Repeals are listed in Part III of the Schedule.

Article 3 contains a saving provision which ensures that, in interpreting enactments which have not been textually amended because reliance is placed on the general modifications in the Act no adverse implication can be drawn because of the presence in the Schedule of textual amendments to some enactments which replicate the effect of the general modifications.

This is the third Order making modifications in consequence of the Act. The other 2 are—

- (a) the Scotland Act 1998 (Consequential Modifications) (No. 1) Order 1999 (S.I. 1999/1042); and
- (b) the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820).