SCHEDULE 1

(introduced by section 25(1))

DEFINITIONS OF WORDS AND EXPRESSIONS

"Act" means, as the context requires, an Act of Parliament or an Act of the Scottish Parliament,

"Act of Parliament" includes an Act of Parliament whenever passed,

"Act of the Scottish Parliament" includes an Act of the Scottish Parliament whenever passed,

"civil partnership" means a civil partnership which exists by virtue of the Civil Partnership Act 2004 (c. 33) (and any reference to a civil partner is to be read accordingly),

"commencement", in relation to an Act or subordinate legislation, means the time at which the Act or subordinate legislation comes into force,

"constable" has the meaning given by section 51(1) of the Police (Scotland) Act 1967 (c. 77),

"document" means anything in which information is recorded in any form (and references to producing a document are to be read accordingly),

"enactment" means any of the following, whenever passed or made—

(a) an Act of Parliament,

(b) an Act of the Scottish Parliament,

(c) an instrument made under an Act of Parliament,

(d) a Scottish instrument,

(e) a provision of any such Act or instrument,

"the EU", "the Treaties", "the EU Treaties", "EU instrument" and other expressions defined by section 1 of and Schedule 1 to the European Communities Act 1972 (c. 68) have the meanings given by that Act,

"financial year" means a year ending with 31 March,

"functions" includes powers and duties; and "confer", in relation to functions, includes impose,

"High Court" means the High Court of Justiciary,

"land" includes buildings and other structures, land covered with water, and any right or interest in or over land,

"Lands Clauses Acts" means the Lands Clauses Consolidation (Scotland) Act 1845 (c. 19) and the Lands Clauses Consolidation Acts Amendment Act 1860 (c. 106), and any Acts for the time being in force amending those Acts,

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39), and "area" in relation to a local authority, means the local government area for which the authority is constituted,

"member of the Scottish Executive" has the same meaning as in section 44(1) of the Scotland Act 1998 (c. 46),

"modify" includes amend or repeal,

"month" means calendar month,

"oath" and "affidavit" include affirmation and declaration; and "swear" includes affirm and declare,

"ordnance map" means a map made under powers conferred by the Ordnance Survey Act 1841 (c. 30),

"person" includes a body of persons corporate or unincorporated and a partnership constituted under the law of Scotland,

"police area" has the meaning given by section 50(a) of the Police (Scotland) Act 1967 (c. 77),

"police authority" has the meaning given by section 50(b) of the Police (Scotland) Act 1967 (c. 77),

"police force" has the meaning given by section 50(c) of the Police (Scotland) Act 1967 (c. 77),

"the Privy Council" means the Lords and others of Her Majesty's Most Honourable Privy Council,

"registered", in relation to nurses and midwives, means registered in the register maintained under article 5 of the Nursing and Midwifery Order 2001 (S.I.2001/253) by virtue of qualifications in nursing or midwifery, as the case may be,

"registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983 (c. 54) who holds a licence to practise under that Act,

"rules of court", in relation to a court, means rules made by the authority having power to make rules or orders regulating the practice and procedure of that court; and includes acts of adjournal and acts of sederunt,

"Scotland" is to be construed in accordance with section 126(1) and (2) of the Scotland Act 1998 (c. 46),

"the Scottish Administration" is to be construed in accordance with section 126(6) of the Scotland Act 1998 (c. 46),

"Scottish instrument" has the meaning given by section 1(4),

"the Scottish Ministers" is to be construed in accordance with section 44(2) of the Scotland Act 1998 (c. 46),

"Scottish public authority" has the meaning given by section 126(1) of the Scotland Act 1998 (c. 46),

"Secretary of State" means one of Her Majesty's Principal Secretaries of State,

"sheriff" includes sheriff principal,

"standard scale", with reference to a fine or penalty for an offence triable only summarily, has the meaning given by section 225(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46),

"statutory declaration" means a declaration made by virtue of the Statutory Declarations Act 1835 (c. 62),

"statutory maximum", with reference to a fine or penalty on summary conviction for an offence, means the prescribed sum within the meaning of section 225(8) of the Criminal Procedure (Scotland) Act 1995 (c. 46),

"subordinate legislation" means an instrument made or to be made by virtue of an Act of Parliament or an Act of the Scottish Parliament,

"United Kingdom" means Great Britain and Northern Ireland,

"writing" includes typing, printing, lithography, photography and other modes of representing or reproducing words in a visible form; and expressions referring to writing are to be construed accordingly.

SCHEDULE 2

(introduced by section 27(6))

SCOTTISH STATUTORY INSTRUMENTS: TRANSITIONAL AND CONSEQUENTIAL PROVISION

Interpretation

1 (1) In this schedule—

"devolved Scottish public authority" means an authority to which paragraph 1 or 2 of Part 3 of Schedule 5 to the Scotland Act 1998 (c. 46) applies (Scottish public authorities with mixed or no reserved functions), and

"pre-commencement enactment" means an enactment passed or made before Part 2 comes into force.

(2) A reference in this schedule to a function's being exercisable within devolved competence is to be construed in accordance with section 54 of the Scotland Act 1998 (c. 46).

(3) For the purpose of the definition of "pre-commencement enactment" in sub-paragraph (1), an Act of the Scottish Parliament is to be taken to have been passed on the date on which the Bill for the Act was passed by the Parliament.

Ministerial functions of making orders or regulations under pre-commencement enactments

2 (1) This paragraph applies in relation to any function of the Scottish Ministers, the First Minister or the Lord Advocate of making, confirming or approving orders, regulations or rules under a pre-commencement enactment.

(2) If a provision of any pre-commencement enactment provides for the function to be exercisable by statutory instrument, that provision ceases to have effect so far as it relates to the exercise of the function.

(3) If no provision is made in any pre-commencement enactment for the function to be exercisable by statutory instrument, then the function is not to be exercisable by Scottish statutory instrument.

Functions of making Orders in Council

3 (1) This paragraph applies in relation to any function of Her Majesty of making Orders in Council under a pre-commencement enactment, so far as the function is exercisable within devolved competence.

(2) Section 1 of the Statutory Instruments Act 1946 (c. 36) (definition of "statutory instrument") ceases to have effect in relation to the exercise of the function.

(3) If provision is made in any pre-commencement enactment which disapplies that section in relation to the function, then the function is not to be exercisable by Scottish statutory instrument.

Functions of making acts of adjournal or acts of sederunt

4 (1) This paragraph applies in relation to any function of the High Court of Justiciary of making acts of adjournal or the Court of Session of making acts of sederunt under a pre-commencement enactment.

(2) If provision is made in the pre-commencement enactment conferring the function for the function to be exercisable otherwise than by statutory instrument, then the function is not to be exercisable by Scottish statutory instrument.

Other functions of making etc. subordinate legislation under pre-commencement enactments

5 (1) This paragraph applies in relation to—

(a) a function of the Scottish Ministers, the First Minister or the Lord Advocate of making, confirming or approving subordinate legislation under a pre-commencement enactment,

(b) a function of a devolved Scottish public authority of making, confirming or approving subordinate legislation under such an enactment, and

(c) a function of any other person (other than a Minister of the Crown) of making, confirming or approving subordinate legislation under such an enactment, so far as the function is exercisable within devolved competence.

(2) A provision of any pre-commencement enactment which provides for the function to be exercisable by statutory instrument has effect in relation to the exercise of the function as if it provided instead for the function to be exercisable by Scottish statutory instrument.

(3) This paragraph does not apply in relation to a function to which paragraph 2 or 3 applies.

Functions to which this schedule does not apply

6 Nothing in this schedule applies in relation to—

(a) a function of agreeing or consenting to, or otherwise approving, subordinate legislation made by a Minister of the Crown,

(b) a function which is exercised jointly with a Minister of the Crown, or

(c) a function of making an Order in Council which is, or a draft of which is, to be laid before each House of Parliament as well as the Scottish Parliament.

SCHEDULE 3

(introduced by section 35)

MODIFICATION OF PRE-COMMENCEMENT ENACTMENTS

Interpretation

1 (1) In this schedule, "pre-commencement enactment" means an enactment passed or made before Part 2 comes into force.

(2) For the purposes of that definition, an Act of the Scottish Parliament is to be taken to have been passed on the date on which the Bill for the Act was passed by the Parliament.

Instruments subject to annulment in pursuance of a resolution of the Parliament

2 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the

legislation, or the Scottish statutory instrument containing the legislation, is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(2) The enactment is to be read as if it instead provided for the legislation to be subject to the negative procedure.

Instruments laid in draft which cannot be made where the Parliament so resolves within 40 days

3 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the Scottish statutory instrument containing the legislation, may be laid in draft but cannot be made if the Scottish Parliament so resolves within 40 days of the draft being laid.

(2) The enactment is to be read as if it instead provided for the legislation to be subject to the negative procedure.

Instruments required to be laid for a specified period before coming into force and subject to annulment by the Parliament

4 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the Scottish statutory instrument containing the legislation—

(a) is to be laid before the Scottish Parliament for a specified period before it comes into force, and

(b) is subject to annulment in pursuance of a resolution of the Parliament.

(2) The enactment is to be read as if it instead provided for the legislation to be subject to the negative procedure.

Instruments which cannot be made unless a draft is laid before and approved by resolution of the Parliament

5 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation cannot be made unless a draft of the Scottish statutory instrument containing it is laid before and approved by resolution of the Scottish Parliament.

(2) The enactment is to be read as if it instead provided for the legislation to be subject to the affirmative procedure.

Instruments made but which cannot come into force unless laid before, and approved by resolution of, the Parliament

6 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the Scottish statutory instrument containing the legislation, may be made, but cannot come into force, unless it is laid before and approved by resolution of the Scottish Parliament.

(2) The enactment is to be read as if it instead provided for the legislation to be subject to the affirmative procedure.

Instruments required to be laid for a specified period before coming into force

7 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the Scottish statutory instrument containing the legislation, is to be laid before the Scottish Parliament for a specified period before it comes into force.

(2) The enactment is to be read as if it did not so provide, or have the effect of so providing, in relation to the legislation.

(3) Sub-paragraph (2) does not affect the operation of section 30 in relation to the legislation.

Instruments not required to be laid before the Parliament

8 (1) Sub-paragraph (2) applies where, in relation to devolved subordinate legislation, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the Scottish statutory instrument containing the legislation, need not be laid before the Scottish Parliament.

(2) The enactment is to be read as if it did not so provide, or have the effect of so providing, in relation to the legislation.

(3) Sub-paragraph (2) does not affect the operation of section 30 in relation to the legislation.

SCHEDULE 4

(introduced by section 36)

APPLICATION OF PART 2 TO STATUTORY INSTRUMENTS LAID BEFORE THE PARLIAMENT

Interpretation

1 In this schedule—

"pre-commencement enactment" means an enactment passed or made before Part 2 comes into force, and

"statutory instrument" means a statutory instrument within the meaning of section 1 of the Statutory Instruments Act 1946 (c. 36).

Instruments subject to annulment in pursuance of a resolution of the Parliament

2 (1) This paragraph applies where, in relation to subordinate legislation which is to be made by statutory instrument, a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the statutory instrument containing it, is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(2) The enactment is to be read as if it instead provided for the subordinate legislation to be subject to the negative procedure in the Scottish Parliament.

(3) Sections 28 and 31 apply in relation to the subordinate legislation as they apply in relation to devolved subordinate legislation which is subject to the negative procedure, but as if the references in them to a Scottish statutory instrument were references to a statutory instrument.

Instruments which cannot be made unless a draft is laid before and approved by resolution of the Parliament

3 (1) This paragraph applies where, in relation to subordinate legislation which is to be made by statutory instrument, a pre-commencement enactment provides, or has the effect of providing, that the legislation cannot be made unless a draft of the statutory instrument containing it is laid before, and approved by resolution of, the Scottish Parliament.

(2) The enactment is to be read as if it instead provided for the subordinate legislation to be subject to the affirmative procedure in the Scottish Parliament.

(3) Section 29 applies in relation to the subordinate legislation as it applies in relation to devolved subordinate legislation which is subject to the affirmative procedure, but as if the reference in it to a draft of a Scottish statutory instrument were a reference to a draft of a statutory instrument.

Other instruments laid before the Parliament

4 (1) This paragraph applies where, in relation to subordinate legislation which is to be made by statutory instrument—

(a) a pre-commencement enactment provides, or has the effect of providing, that the legislation, or the statutory instrument containing it, must be laid before the Scottish Parliament, and

(b) paragraphs 2 and 3 do not apply.

(2) Sections 30 and 31 apply in relation to the subordinate legislation as they apply in relation to devolved subordinate legislation which is not subject to the negative procedure or the affirmative procedure, but as if the references in them to a Scottish statutory instrument were references to a statutory instrument.

Laying of statutory instruments before the Parliament

5 Section 32 applies in relation to the laying of a statutory instrument, or a draft of a statutory instrument, before the Scottish Parliament as it applies in relation to the laying of a Scottish statutory instrument or, as the case may be, a draft of a Scottish statutory instrument, before the Parliament