

SCHEDULE 1

Article 3

MODIFICATIONS WHICH COME INTO FORCE ON 6TH MAY 1999

PART I

MODIFICATIONS OF PUBLIC GENERAL ACTS

Documentary Evidence Act 1868 (c. 37)

- 1.—(1) The Documentary Evidence Act 1868 is amended as follows.
- (2) In section 2 (mode of proving certain documents)—
- (a) after “officer”, in the first place where it appears, there is inserted “or office-holder in the Scottish Administration”; and
 - (b) in paragraph (3), after “officers” there is inserted “or office-holders” and after “officer” there is inserted “or office-holder”.
- (3) In section 5(1) (definition of terms)—
- (a) in the definition of “Government printer”, after “Her Majesty,” there is inserted “the Queen’s Printer for Scotland,”; and
 - (b) in the appropriate place there is inserted ““office-holder in the Scottish Administration” has the same meaning as in the Scotland Act 1998.”.
- (4) In the Schedule—
- (a) in the appropriate place in column 1, there is inserted “any office-holder in the Scottish Administration”; and
 - (b) in the corresponding place in column 2, there is inserted “a member of the staff of the Scottish Administration”.

Promissory Oaths Act 1868 (c. 72)

- 2.—(1) The Promissory Oaths Act 1868 is amended as follows.
- (2) After section 5 (persons to take the oath of allegiance and official oath), there is inserted—
- “Taking of oaths by members of Scottish Executive**
- 5A.** Where the official oath or oath of allegiance is required to be taken by any member of the Scottish Executive in accordance with section 84(4) of the Scotland Act 1998, it shall be tendered to him by the Lord President of the Court of Session at a sitting of the Court.”.
- (3) In section 7 (penalty on not taking required oath)—
- (a) after “hereto” there is inserted “or any member of the Scottish Executive”; and
 - (b) after “Act” there is inserted “or section 84(4) of the Scotland Act 1998”.
- (4) In section 9 (prohibition of oath of allegiance except in accordance with Act), after “the Parliamentary Oaths Act 1866,” there is inserted “and the Scotland Act 1998,”.

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Documentary Evidence Act 1882 (c. 9)

3. In section 2 of the Documentary Evidence Act 1882 (documents printed under superintendence of Stationery Office receivable in evidence), after “Queen’s Printer,” there is inserted “or the Queen’s Printer for Scotland.”.

Secretary for Scotland Act 1885 (c. 61)

4. Section 8 of the Secretary for Scotland Act 1885 (Secretary to be Keeper of the Great Seal) is omitted.

Parliamentary Commissioner Act 1967 (c. 13)

5. In section 4 of the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation), after subsection (3A)(1) there is inserted–

“(3B) No entry shall be made in respect of any member of the Scottish Executive or in respect of the Scottish Parliamentary Corporate Body.”.

Post Office Act 1969 (c. 48)

6. In section 84 of the Post Office Act 1969 (exemption from postage of certain petitions and addresses, and limitation of amount of postage recoverable in respect of Parliamentary proceedings), at the end there is inserted–

“(4) In the application of this section to Scotland, the references to either House of Parliament include the Scottish Parliament and the reference to Parliamentary proceedings includes proceedings of the Scottish Parliament.”.

Juries Act 1974 (c. 23)

7. In Part III of Schedule 1 to the Juries Act 1974 (persons excusable as of right from jury service), after the entries under the heading “National Assembly for Wales”(2) there is inserted–

“Public Officials

The Auditor General for Scotland.”.

Solicitors (Scotland) Act 1980 (c. 46)

8. In section 59(2) of the Solicitors (Scotland) Act 1980 (authority of notaries public to administer oaths), at the end there is inserted “or before the Scottish Parliament or any committee thereof”.

Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)

9. In Part III of Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (persons excusable as of right from jury service), before Group C(3) there is inserted–

(1) Subsection (3A) is prospectively inserted by paragraph 6 of Schedule 12 to the Government of Wales Act 1998 (c. 38).
(2) The entries for the National Assembly for Wales are prospectively inserted by paragraph 18 of Schedule 12 to the Government of Wales Act 1998.
(3) Paragraph 20 of Schedule 2 to the Government of Wales Act 1998 prospectively inserts Group BA “National Assembly for Wales”.

“Group BB

Public Officials

The Auditor General for Scotland.”.

British Nationality Act 1981 (c. 61)

10. In section 50(1) of the British Nationality Act 1981 (interpretation), in the definition of “Crown service under the government of the United Kingdom”, after “Northern Ireland” there is inserted “or under the Scottish Administration”.

Legal Aid (Scotland) Act 1986 (c. 47)

- 11.**—(1) The Legal Aid (Scotland) Act 1986 is amended as follows.
- (2) In section 21 (scope and nature of criminal legal aid), after subsection (1)(b) there is inserted—
- “(c) any reference, appeal or application for special leave to appeal to the Judicial Committee of the Privy Council under paragraph 11 or 13(a) of Schedule 6 to the Scotland Act 1998”.
- (3) In section 25AA(4) (legal aid in respect of appeals under section 303A of the 1995 Act)—
- (a) in subsection (1) for the words “section 25 of this Act applies” there is substituted “sections 25 and 25AB of this Act apply”;
- (b) in subsection (2) after the words “section 25” there are inserted the words “or section 25AB”;
- (c) in subsection (3)(a) after the words “section 25” there are inserted the words “or section 25AB”; and
- (d) in subsection (4)(a) for the words “section 25(2)(a)” there is substituted “sections 25(2)(a) and 25AB(2)”.
- (4) After section 25AA there is inserted—

“Legal aid in references, appeals or applications for special leave to appeal to the Judicial Committee of the Privy Council

25AB.—(1) This section shall apply to criminal legal aid in connection with any reference, appeal or application for special leave to appeal to the Judicial Committee of the Privy Council under paragraph 11 or 13(a) of Schedule 6 to the Scotland Act 1998.

(2) Subject to regulations made under section 21(2) of this Act criminal legal aid to which this section applies shall be available on an application made to the Board if—

- (a) the Board is satisfied after consideration of the financial circumstances of the applicant that the expenses of the reference, appeal or application for special leave to appeal cannot be met without undue hardship to the applicant or his dependants; and
- (b) in the case of an application for special leave to appeal, the Board is satisfied in all the circumstances of the case that it is in the interests of justice that the applicant should receive legal aid.

(3) The Board may require a person receiving criminal legal aid under this section to comply with such conditions as it considers expedient to enable it to satisfy itself from time to time that it is reasonable for him to continue to receive criminal legal aid.

(4) Section 25AA was inserted by the Crime and Punishment (Scotland) Act 1997 (c. 48).

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(4) Criminal legal aid shall not be available under this section in connection with a reference under paragraph 11 of Schedule 6 to the Scotland Act 1998 where criminal legal aid was made available under section 23, 24 or 25 of this Act in connection with the proceedings in which the reference is made.”

(5) In paragraph 1 of Part I of Schedule 2 (courts in which civil legal aid is available), after “in relation to civil proceedings in” there is inserted—

“the Judicial Committee of the Privy Council, in references, appeals and applications for special leave to appeal under paragraphs 10, 12 and 13(b) of Schedule 6 to the Scotland Act 1998;”.

Olympic Symbol etc. (Protection) Act 1995 (c. 32)

12. In section 4(16) of the Olympic Symbol etc. (Protection) Act 1995 (limits on effect), in the definition of “parliamentary proceedings” after “includes proceedings” there is inserted “of the Scottish Parliament,”.

Criminal Procedure (Scotland) Act 1995 (c. 46)

13.—(1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.

(2) In section 112 (admission of appellant to bail), after subsection (5) there is inserted—

“(6) Subject to subsection (7) below, the High Court may, if it thinks fit, on the application of a convicted person, admit him to bail pending the determination of any appeal under paragraph 13(a) of Schedule 6 to the Scotland Act 1998 and the disposal of the proceedings by the High Court thereafter.

(7) The High Court shall not admit a convicted person to bail under subsection (6) above unless the application for bail states reasons why it should be granted and the High Court considers there to be exceptional circumstances justifying admitting the convicted person to bail.

(8) A person who is admitted to bail under subsection (6) above shall, unless the High Court otherwise directs, appear personally in the High Court at any subsequent hearing in the High Court in relation to the proceedings; and if he fails to do so the court may, without prejudice to section 27 of this Act, make such order as it thinks fit.”.

(3) In section 121 (suspension of disqualification, forfeiture, etc.), after subsection (4) there is inserted—

“(5) In this section—

(a) “appeal” includes an appeal under paragraph 13(a) of Schedule 6 to the Scotland Act 1998; and

(b) in relation to such an appeal, references to an appeal being determined are to be read as references to the disposal of the proceedings by the High Court following determination of the appeal.”.

(4) In section 121A(5) (suspension of certain sentences pending determination of appeal), after subsection (4) there is inserted—

“(5) Subsections (1), (2) and (4) above apply to an appeal under paragraph 13(a) of Schedule 6 to the Scotland Act 1998 and, in relation to such an appeal—

(5) Section 121A was inserted by section 24(1) of the Crime and Punishment Act 1997 (c. 48).

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- (a) references to an appeal being determined are to be read as references to the disposal of the proceedings by the High Court following determination of the appeal; and
 - (b) the reference in subsection (2) to the hearing of the appeal is to be read as a reference to any subsequent hearing in the High Court in relation to the proceedings.
- (6) Where a person fails to appear personally in court as mentioned in subsection (2) as read with subsection (5) above, the court may make such order as it thinks fit.”
- (5) In section 122 (fines and caution)–
- (a) in subsection (4), after “Advocate” there is inserted “or any appeal by the Lord Advocate or the Advocate General for Scotland under paragraph 13(a) of Schedule 6 to the Scotland Act 1998”; and
 - (b) after subsection (4), there is inserted–
“**(5)** In subsections (1) and (3) above, “appeal” includes an appeal under paragraph 13(a) of Schedule 6 to the Scotland Act 1998.”
- (6) In section 124(2) (finality of proceedings)–
- (a) after “subsection (3) below” there is inserted “and paragraph 13(a) of Schedule 6 to the Scotland Act 1998”; and
 - (b) after “whatsoever and” there is inserted “, except for the purposes of an appeal under paragraph 13(a) of that Schedule,”.
- (7) In section 177 (procedure where appellant in custody), after subsection (7) there is inserted–
“**(8)** Subsections (6) and (7) of section 112 of this Act (bail pending determination of appeals under paragraph 13(a) of Schedule 6 to the Scotland Act 1998) shall apply to appeals arising in summary proceedings as they do to appeals arising in solemn proceedings.”.

PART II

MODIFICATIONS OF SUBORDINATE LEGISLATION

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(S.I.1981/228)

14. In Part I of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, after paragraph 7 there is inserted–

“**8.** Proceedings in any devolution issue arising before any court in Northern Ireland or on appeal to the Judicial Committee of the Privy Council.”.

Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989 (S.I. 1989/1212)

15. In paragraph 4 of Schedule 1 to the Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989, after “Northern Ireland department,” there is inserted “or as part of the Scottish Administration”.

Civil Legal Aid (Scotland) (Fees) Regulations 1989 (S.I. 1989/1490)

16.—(1) The Civil Legal Aid (Scotland) (Fees) Regulations 1989 are amended as follows.

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(2) In regulation 5(3) after “proceedings in the” there is inserted “Judicial Committee of the Privy Council under paragraph 10, 12 or 13(b) of Schedule 6 to the Scotland Act 1998”.

(3) In regulation 10(2) after “sheriff court” there is inserted “Judicial Committee of the Privy Council”.

Criminal Legal Aid (Scotland) (Fees) Regulations 1989 (S.I. 1989/1491)

17.—(1) The Criminal Legal Aid (Scotland) (Fees) Regulations 1989 are amended as follows.

(2) In regulation 2(1) in the definition of “right of audience” after “a right of audience in” there is inserted “the Judicial Committee of the Privy Council or”.

(3) In Schedule 1—

(a) in the title to the table after “Remuneration of solicitors” there is inserted “in the Judicial Committee of the Privy Council and”; and

(b) in paragraph (6), in the definition of “court” after “means the” there is inserted “the Judicial Committee of the Privy Council,”.

Official Secrets Act 1989 (Prescription) Order 1990 (S.I. 1990/200)

18. In Schedule 2 to the Official Secrets Act 1989 (Prescription) Order 1990, after the entry for “Member of staff of the Northern Ireland Audit Office” there is inserted “Auditor General for Scotland”.

Public Lending Right Scheme 1982 (Commencement of Variations) Order 1990 (S.I. 1990/2360)

19. In article 14A(ii) of Appendix 2 to the Public Lending Right Scheme 1982 (Commencement of Variations) Order 1990 (forms of application in respect of posthumously eligible books) and paragraph 5 of Schedule 1 (application for first registration), after “Parliament,” there is inserted “a member of the Scottish Parliament,”.

Public Works Contracts Regulations 1991 (S.I. 1991/2680)

20.—(1) The Public Works Contracts Regulations 1991 are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “government department”, at the end there is inserted “and any part of the Scottish Administration”; and

(b) in the definition of “Minister of the Crown”, at the end there is inserted “and a reference to a Minister of the Crown shall be read as including a reference to the Scottish Ministers”.

(3) In regulation 3(1) (contracting authorities), after paragraph (e) there is inserted—

“(ee) the Scottish Parliamentary Corporate Body,”.

Public Services Contracts Regulations 1993 (S.I. 1993/3228)

21.—(1) The Public Services Contracts Regulations 1993 are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “government department”, at the end there is inserted “and any part of the Scottish Administration”; and

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- (b) in the definition of “Minister of the Crown”, at the end there is inserted “and a reference to a Minister of the Crown shall be read as including a reference to the Scottish Ministers”.
- (3) In regulation 3(1) (contracting authorities), after sub-paragraph (e) there is inserted—
 - “(ee) the Scottish Parliamentary Corporate Body,”.

Public Supply Contracts Regulations 1995 (S.I. 1995/201)

- 22.**—(1) The Public Supply Contracts Regulations 1995 are amended as follows.
- (2) In regulation 2(1) (interpretation)—
 - (a) in the definition of “government department”, at the end there is inserted “and any part of the Scottish Administration”; and
 - (b) in the definition of “Minister of the Crown”, at the end there is inserted “and a reference to a Minister of the Crown shall be read as including a reference to the Scottish Ministers”.
 - (3) In regulation 3(1) (contracting authorities), after sub-paragraph (e) there is inserted—
 - “(ee) the Scottish Parliamentary Corporate Body,”.
 - (4) In Schedule 1 (GATT contracting authorities), after the entry for “Royal Mint” there is inserted “The Scottish Administration or any part thereof”.

Juries (Northern Ireland) Order 1996 (S.I. 1996/1141)

- 23.** In Schedule 3 to the Juries (Northern Ireland) Order 1996 (persons excusable from jury service as of right)—
 - (a) after the entries under the heading “Northern Ireland Assembly” there is inserted—

“Scottish Parliament and Scottish Executive

Members of the Scottish Parliament.

Members of the Scottish Executive.

Junior Scottish Ministers.”; and

- (b) after the entry “The Comptroller and Auditor General for Northern Ireland” there is inserted “The Auditor General for Scotland”.

Civil Legal Aid (Scotland) Regulations 1996 (S.I. 1996/2444)

- 24.**—(1) The Civil Legal Aid (Scotland) Regulations 1996 are amended as follows.
- (2) After regulation 4(1)(j) there is inserted—
 - “(k) proceedings in the Judicial Committee of the Privy Council on appeal from the Court of Session under paragraph 10, 12 or 13(b) of Schedule 6 to the Scotland Act 1998 including any application for special leave to appeal.”.
 - (3) In regulation 21(1)(a) after “for the employment in” there is inserted “the Judicial Committee of the Privy Council or”.

Criminal Legal Aid (Scotland) Regulations 1996 (S.I. 1996/2555)

- 25.**—(1) The Criminal Legal Aid (Scotland) Regulations 1996 are amended as follows.

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(2) In regulation 2(1) in the definition of “right of audience” after “a right of audience in” there is inserted “the Judicial Committee of the Privy Council or”.

(3) After regulation 4(1)(j) there is inserted–

“(k) proceedings in the Judicial Committee of the Privy Council on appeal from the High Court of Justiciary under paragraph 11 and 13(a) of Schedule 6 to the Scotland Act 1998 including any application for special leave to appeal.”.

(4) In regulation 14(1)(a) after “proceedings are in” there is inserted “the Judicial Committee of the Privy Council or”.

Copyright and Rights in Databases Regulations 1997 (S.I. 1997/3032)

26. In regulation 14 of the Copyright and Rights in Databases Regulations 1997 (the maker of a database), after paragraph (4) there is inserted–

“(4A) Where a database is made by or under the direction or control of the Scottish Parliament, the Scottish Parliamentary Corporate Body shall be regarded as the maker of the database.”.

PART III

REPEAL

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1885 c. 61.	The Secretary for Scotland Act 1885.	Section 8.