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STATUTORY INSTRUMENTS

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**1999 No. 1098**

**CONSTITUTIONAL LAW  
DEVOLUTION, SCOTLAND**

**The Scotland Act 1998 (Transitory and Transitional Provisions) (Administration of the Parliament) Order 1999**

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|-------------------------------|---------|------------------------|
| <i>Made</i>                   | - - - - | <i>8th April 1999</i>  |
| <i>Laid before Parliament</i> |         | <i>12th April 1999</i> |
| <i>Coming into force</i>      | - -     | <i>6th May 1999</i>    |

The Secretary of State, in exercise of the powers conferred on him by sections 112(1), 113, 114(1) and 129(1) of the Scotland Act 1998<sup>(1)</sup> and of all other powers enabling him in that behalf hereby makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Scotland Act 1998 (Transitory and Transitional Provisions) (Administration of the Parliament) Order 1999 and shall come into force on 6th May 1999.

(2) In this Order “the Act” means the Scotland Act 1998.

**Temporary Clerk of the Parliament and Temporary Assistant Clerks**

2.—(1) The Secretary of State shall appoint, on such terms and conditions as he may determine, a Temporary Clerk of the Parliament to exercise the functions of the Clerk of the Parliament until the first Clerk of the Parliament is appointed by the Parliamentary corporation in accordance with section 20(2) of the Act.

(2) The Secretary of State may appoint, on such terms and conditions as he may determine, Temporary Assistant Clerks to exercise the functions of any Assistant Clerk until the first Assistant Clerk is appointed by the Parliamentary corporation in accordance with paragraph 3(1) of Schedule 2 to the Act.

(3) In the period during which the functions of the Clerk of the Parliament are exercisable by the Temporary Clerk of the Parliament under paragraph (1), section 20(3) of the Act shall have effect as if for the references to the Clerk there were substituted references to the Temporary Clerk of the Parliament.

(4) So far as may be necessary for the purpose of or in consequence of the exercise, by virtue of this article, of the functions of the Clerk of the Parliament by the Temporary Clerk of the Parliament, references in any enactment, prerogative instrument and any other instrument or document to the Clerk of the Parliament shall be read as if they were or included references to the Temporary Clerk of the Parliament.

(5) So far as may be necessary for the purpose of or in consequence of the exercise, by virtue of this article, of the functions of any Assistant Clerk by a Temporary Assistant Clerk, references in any enactment, prerogative instrument and any other instrument or document to an Assistant Clerk shall be read as if they were or included references to a Temporary Assistant Clerk.

### **Exercise of the Parliamentary corporation's functions until 1st June 1999**

**3.—**(1) In the period from the coming into force of section 21 of the Act (establishment of the Parliamentary corporation)<sup>(2)</sup> until 1st June 1999 the functions of the Parliamentary corporation (other than any function relating to the appointment of the Clerk and the other staff of the Parliament) shall be exercisable instead by the Secretary of State.

(2) During that period, all rights and liabilities to which the Parliamentary corporation is entitled or subject in connection with those functions shall be treated as rights and liabilities of the Secretary of State.

(3) So far as may be necessary for the purpose or in consequence of the exercise of any function of the Parliamentary corporation by the Secretary of State by virtue of this article, references in any enactment, prerogative instrument and any other instrument or document to the Parliamentary corporation shall be read as if they were or included references to the Secretary of State.

(4) Anything (including legal proceedings) which, at the end of the period mentioned in paragraph (1), is in the process of being done by or in relation to the Secretary of State may, so far as it relates to any function of the Parliamentary corporation exercisable by him under that paragraph, be continued by or in relation to the Parliamentary corporation.

(5) Anything done (or having effect as if done) by or in relation to the Secretary of State for the purposes of or in connection with any function of the Parliamentary corporation exercisable by him under paragraph (1) shall, if in force at the end of the period mentioned in that paragraph, have effect as if done by or in relation to the Parliamentary corporation in so far as that is required for continuing its effect after that time.

### **Provision of staff and services for the Parliament from 1st June 1999**

**4.—**(1) In the period from 1st June 1999 until 1st April 2002, or such earlier date as the Parliamentary corporation may specify by notice in writing given to the Secretary of State, the Secretary of State shall provide such staff and services as the Parliamentary corporation may request in accordance with paragraph (2).

(2) The Parliamentary corporation may request the provision of staff or services under paragraph (1) only if—

- (a) the staff or services are necessarily required for the purposes of the Parliament; and
- (b) it is not reasonably practicable for the Parliamentary corporation to provide the staff or services itself.

(3) The Parliamentary corporation may give different notices under paragraph (1) specifying different dates for different purposes.

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(2) In terms of article 2(2) of and Schedule 3 to the Scotland Act 1998 (Commencement) Order 1998 (S.I. 1998/3178), section 21 of the Act comes into force on 6th May 1999.

### **Transfer of Secretary of State's functions to the Scottish Ministers**

5.—(1) With effect from the principal appointed day<sup>(3)</sup>, any function of the Secretary of State under article 4 of this Order shall transfer to and be exercisable instead by the Scottish Ministers.

(2) Paragraph (1) shall not affect the validity of anything done by or in relation to the Secretary of State in the exercise of any function transferred by paragraph (1) before the principal appointed day.

(3) Anything (including legal proceedings) which, at the principal appointed day, is in the process of being done by or in relation to the Secretary of State may, so far as it relates to any function transferred to the Scottish Ministers by virtue of paragraph (1), be continued by or in relation to the Scottish Ministers.

(4) Anything done (or having effect as if done) by or in relation to the Secretary of State for the purposes of or in connection with any function transferred to the Scottish Ministers by virtue of paragraph (1) shall, if in force at the principal appointed day, have effect as if done by or in relation to the Scottish Ministers in so far as that is required for continuing its effect after that time.

(5) So far as may be necessary for the purpose or in consequence of the exercise by the Scottish Ministers of any function of the Secretary of State transferred by paragraph (1), references in article 4, any other enactment, prerogative instrument and any other instrument or document to the Secretary of State shall be treated as if they were or included references to the Scottish Ministers.

### **Expenditure of the Secretary of State**

6. Any expenditure incurred by the Secretary of State by virtue of this Order shall be payable out of the Scottish Consolidated Fund, subject to any other provision made by or under any other subordinate legislation under section 129(1) of the Act (transitory and transitional provisions).

St Andrew's House,  
Edinburgh  
8th April 1999

*Henry McLeish*  
Minister of State, Scottish Office

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

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

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## 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, on 6th May 1999, of sections 20 (Clerk of the Parliament) and 21 (Scottish Parliamentary Corporate Body (“SPCB”)) of the Scotland Act 1998 (c. 46) (“the 1998 Act”).

It requires the Secretary of State to appoint a Temporary Clerk of the Parliament to exercise the functions of the Clerk of the Parliament until a person has been appointed to that office by the SPCB under section 20(2) of the 1998 Act. It also enables the Secretary of State to appoint Temporary Assistant Clerks to exercise the functions of any Assistant Clerk until an Assistant Clerk is appointed by the SPCB under paragraph 3(1) of Schedule 2 to the 1998 Act.

The Order also provides for the SPCB’s functions to be exercisable instead by the Secretary of State until 1st June 1999, by which time it is expected that the members of the SPCB will have been appointed in accordance with section 21(2) of the Act and the staff of the Parliament will have been appointed by the SPCB. The Order requires the Secretary of State in the period from 1st June 1999 until the principal appointed day (1st July 1999) and the Scottish Ministers from 1st July 1999 until 1st April 2002 to provide such staff and services for the Parliament’s purposes at the SPCB may request.