

Draft Order in Council laid before Parliament and the Scottish Parliament under section 115 of, and paragraphs 1 and 2 of Schedule 7 to, the Scotland Act 1998, for approval by resolution of each House of Parliament and of the Scottish Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND**

The Scotland Act 1998 (Modification of Schedule 5) Order 2014

Made - - - -

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the day of

Present,

The Queen's Most Excellent Majesty in Council

This Order is made by Her Majesty in Council in exercise of the powers conferred upon Her by section 30(2) of the Scotland Act 1998⁽¹⁾.

In accordance with section 115 of, and paragraphs 1 and 2 of Schedule 7 to, that Act⁽²⁾, a draft of this Order has been—

- (a) laid before and approved by a resolution of each House of Parliament; and
- (b) laid before and approved by a resolution of the Scottish Parliament.

Accordingly Her Majesty, by and with the advice of Her Privy Council, makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Scotland Act 1998 (Modification of Schedule 5) Order 2014.

(2) This Order comes into force on the day after the day on which it is made.

(3) In this Order, a reference to a Section is to a Section of Part 2 of Schedule 5 to the Scotland Act 1998.

⁽¹⁾ 1998 c.46.

⁽²⁾ Paragraphs 1 and 2 of Schedule 7 have been modified by paragraph 3(2) of schedule 4 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

Import and export control

2.—(1) Section C5 (import and export control) is amended as follows.

(2) After the exceptions, insert—

“Interpretation

“Food” has the same meaning as it has in Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽³⁾ (as at 7th December 2004).”.

Consumer protection

3.—(1) Section C7 (consumer protection) is amended as follows.

(2) After the exception, insert—

“Interpretation

“Food” has the same meaning as it has in Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (as at 7th December 2004).

The reference to the subject-matter of section 16 of the Food Safety Act 1990 is to be construed as a reference to it as at 7th December 2004 (and, accordingly, paragraph 5(1) of Part 3 of this Schedule does not apply to that reference).”.

Product standards, safety and liability

4.—(1) Section C8 (product standards, safety and liability) is amended as follows.

(2) After the exceptions, insert—

“Interpretation

“Food” has the same meaning as it has in Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (as at 7th December 2004).”.

Medicines, medical supplies and poisons

5.—(1) Section J4 (medicines, medical supplies and poisons) is amended as follows.

(2) For paragraph (a) of the first reservation substitute—

“(a) the Medicines Act 1968⁽⁴⁾, except so far as it applies in relation to—

- (i) medicinal products which are for use in relation to animals, and
- (ii) animal feeding stuffs,

(aa) the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994⁽⁵⁾.”.

(3) After the second reservation, insert—

“Regulation of—

(3) OJ No L 31, 1.2.2002, p.1.

(4) 1968 c.67. The reference to the subject-matter of that Act is to be read in accordance with Scotland Act 1998, Schedule 5, Part 3, paragraph 5(1).

(5) S.I. 1994/3144. The reference to the subject-matter of those Regulations is to be read in accordance with Scotland Act 1998, Schedule 5, Part 3, paragraph 5(1).

- (a) veterinary medicinal products,
- (b) specified feed additives, and
- (c) animal feeding stuffs, in relation to—
 - (i) the incorporation in them of veterinary medicinal products or specified feed additives,
 - (ii) matters arising in consequence of such incorporation.”.
- (4) In the interpretation provision—
 - (a) in the definition of “medicinal products” after “has” insert “, in relation to the reservation of the regulation of prices charged for medical supplies or medicinal products supplied for the purposes of the health service,”;
 - (b) after the definition of “medicinal products” insert—
 - ““Specified feed additives” has the same meaning as in Schedule 5 to the Veterinary Medicines Regulations 2013(6) (as at 1st October 2013).
 - “Veterinary medicinal products” has the same meaning as in regulation 2(1) of the Veterinary Medicines Regulations 2013 (as at 1st October 2013).”.

Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order modifies Schedule 5 to the Scotland Act 1998 (c.46). Schedule 5 defines reserved matters for the purposes of that Act (matters which are outside the legislative competence of the Scottish Parliament).

Articles 2, 3 and 4 insert definitions of “food” into Sections C5, C7 and C8 of Part 2 of Schedule 5. Those Sections set out reserved matters from which certain matters are excepted by reference to the word “food”. The new definition has the same meaning as that found in Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principle and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, as the text of that Regulation stood at 7th December 2004 (OJ No L 31, 1.2.2001, p.1.).

Article 3 also amends Section C7 so that the existing reference to the subject-matter of section 16 of the Food Safety Act 1990 (which is an exception to the reservation of the matters specified in Section C7) is to be construed as a reference to that subject-matter as at 7th December 2004 (rather than 1st July 1999). 7th December 2004 was the date on which the definition of “food” in section 1 of the Food Safety Act 1990 was amended by Food Safety Act 1990 (Amendment) Regulations 2004 (S.I. 2004/2990) to be the same as in Regulation (EC) No. 178/2002 mentioned above.

The above amendments ensure that the exceptions to the reserved matters specified in Sections C5, C7 and C8 that apply to food, are understood by reference to the definition of food in Regulation (EC) No. 178/2002.

Article 5 amends Section J4. It makes an exception from the reservation of the subject-matter of the Medicines Act 1968 so far as it applies in relation to medicinal products which are for use in relation to animals and to animal feeding stuffs. (As at 1 July 1999 that Act applied to such matters). The reservation of those matters is replaced with a new reservation for the regulation of veterinary medicinal products, specified feed additives (both of which terms are defined in the Veterinary Medicines Regulations 2013 (S.I. 2013/2033)) and certain aspects of animal feeding stuffs. The effect is that the regulation of substances which fell within the meaning of medicinal products for use in relation to animals (as at 1st July 1999) but which do not fall within the meaning of veterinary medicinal products or specified feed additives (as at 1st October 2013), will now come within the legislative competence of the Scottish Parliament.

A full impact assessment has not been published for this instrument as it has no impact on the private sector and civil society organisations.