

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 30.

RESERVED MATTERS

PART I

GENERAL RESERVATIONS

The Constitution

- 1 The following aspects of the constitution are reserved matters, that is—
- (a) the Crown, including succession to the Crown and a regency,
 - (b) the Union of the Kingdoms of Scotland and England,
 - (c) the Parliament of the United Kingdom,
 - (d) the continued existence of the High Court of Justiciary as a criminal court of first instance and of appeal,
 - (e) the continued existence of the Court of Session as a civil court of first instance and of appeal.
- 2 (1) Paragraph 1 does not reserve—
- (a) Her Majesty’s prerogative and other executive functions,
 - (b) functions exercisable by any person acting on behalf of the Crown, or
 - (c) any office in the Scottish Administration.
- (2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of honours and dignities or the functions of the Lord Lyon King of Arms so far as relating to the granting of arms; but this sub-paragraph does not apply to the Lord Lyon King of Arms in his judicial capacity.
- (3) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the management (in accordance with any enactment regulating the use of land) of the Crown Estate.
- (4) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the functions of the Security Service, the Secret Intelligence Service and the Government Communications Headquarters.
- [^{F1}(5) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the functions exercisable through the Export Credits Guarantee Department.]

Textual Amendments

F1 Sch. 5 Pt. I para. 2(5) inserted (1.7.1999) by [S.I. 1999/1749](#), [arts. 1, 3](#); [S.I. 1998/3178](#), [art. 3](#)

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- 3 (1) Paragraph 1 does not reserve property belonging to Her Majesty in right of the Crown or belonging to any person acting on behalf of the Crown or held in trust for Her Majesty for the purposes of any person acting on behalf of the Crown.
- (2) Paragraph 1 does not reserve the ultimate superiority of the Crown or the superiority of the Prince and Steward of Scotland.
- (3) Sub-paragraph (1) does not affect the reservation by paragraph 1 of—
- (a) the hereditary revenues of the Crown, other than revenues from bona vacantia, ultimus haeres and treasure trove,
 - (b) the royal arms and standard,
 - (c) the compulsory acquisition of property held or used by a Minister of the Crown or government department.
- 4 (1) Paragraph 1 does not reserve property held by Her Majesty in Her private capacity.
- (2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the subject-matter of the Crown Private Estates Acts 1800 to 1873.
- 5 Paragraph 1 does not reserve the use of the Scottish Seal.

Political parties

- 6 The registration and funding of political parties is a reserved matter [^{F2}but this paragraph does not reserve making payments to any political party for the purpose of assisting members of the Parliament who are connected with the party to perform their Parliamentary duties].

Textual Amendments

F2 Words in Sch. 5 Pt. I para. 6 inserted (1.7.1999) by S.I. 1999/1749, arts. 1, 2(2); S.I. 1998/3178, art. 3

Foreign affairs etc.

- 7 (1) International relations, including relations with territories outside the United Kingdom, the European Communities (and their institutions) and other international organisations, regulation of international trade, and international development assistance and co-operation are reserved matters.
- (2) Sub-paragraph (1) does not reserve—
- (a) observing and implementing international obligations, obligations under the Human Rights Convention and obligations under Community law,
 - (b) assisting Ministers of the Crown in relation to any matter to which that sub-paragraph applies.

Public service

- 8 (1) The Civil Service of the State is a reserved matter.
- (2) Sub-paragraph (1) does not reserve the subject-matter of—
- (a) Part I of the Sheriff Courts and Legal Officers (Scotland) Act 1927 (appointment of sheriff clerks and procurators fiscal etc.),

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- (b) Part III of the Administration of Justice (Scotland) Act 1933 (officers of the High Court of Justiciary and of the Court of Session).

Defence

- 9 (1) The following are reserved matters—
- (a) the defence of the realm,
 - (b) the naval, military or air forces of the Crown, including reserve forces,
 - (c) visiting forces,
 - (d) international headquarters and defence organisations,
 - (e) trading with the enemy and enemy property.
- (2) Sub-paragraph (1) does not reserve—
- (a) the exercise of civil defence functions by any person otherwise than as a member of any force or organisation referred to in sub-paragraph (1)(b) to (d) or any other force or organisation reserved by virtue of sub-paragraph (1)(a),
 - (b) the conferral of enforcement powers in relation to sea fishing.

Treason

- 10 Treason (including constructive treason), treason felony and misprision of treason are reserved matters.

PART II

SPECIFIC RESERVATIONS

Preliminary

- 1 The matters to which any of the Sections in this Part apply are reserved matters for the purposes of this Act.
- 2 A Section applies to any matter described or referred to in it when read with any illustrations, exceptions or interpretation provisions in that Section.
- 3 Any illustrations, exceptions or interpretation provisions in a Section relate only to that Section (so that an entry under the heading “exceptions” does not affect any other Section).

Reservations

Head A – Financial and Economic Matters

A1. Fiscal, economic and monetary policy

Section A1.

Fiscal, economic and monetary policy, including the issue and circulation of money, taxes and excise duties, government borrowing and lending, control over United Kingdom public expenditure, the exchange rate and the Bank of England.

Exception

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Local taxes to fund local authority expenditure (for example, council tax and non-domestic rates).

A2. The currency

Section A2.

Coinage, legal tender and bank notes.

A3. Financial services

Section A3.

Financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance.

Exception

The subject-matter of section 1 of the Banking and Financial Dealings Act 1971 (bank holidays).

A4. Financial markets

Section A4.

Financial markets, including listing and public offers of securities and investments, transfer of securities and insider dealing.

A5. Money laundering

Section A5.

The subject-matter of the Money Laundering Regulations 1993, but in relation to any type of business.

Head B – Home Affairs

B1. Misuse of drugs

Section B1.

The subject-matter of—

- (a) the Misuse of Drugs Act 1971,
- (b) sections 12 to 14 of the Criminal Justice (International Co-operation) Act 1990 (substances useful for manufacture of controlled drugs), and
- (c) Part V of the Criminal Law (Consolidation) (Scotland) Act 1995 (drug trafficking) and, so far as relating to drug trafficking, the Proceeds of Crime (Scotland) Act 1995.

B2. Data protection

Section B2.

The subject-matter of—

- (a) the Data Protection Act 1998, and
- (b) Council Directive [95/46/EC](#) (protection of individuals with regard to the processing of personal data and on the free movement of such data).

Interpretation

If any provision of the Data Protection Act 1998 is not in force on the principal appointed day, it is to be treated for the purposes of this reservation as if it were.

B3. Elections

Section B3.

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Elections for membership of the House of Commons, the European Parliament and the Parliament, including the subject-matter of—

- (a) the European Parliamentary Elections Act 1978,
- (b) the Representation of the People Act 1983 and the Representation of the People Act 1985, and
- (c) the Parliamentary Constituencies Act 1986,

so far as those enactments apply, or may be applied, in respect of such membership.

The franchise at local government elections.

B4. Firearms

Section B4.

The subject-matter of the Firearms Acts 1968 to 1997.

B5. Entertainment

Section B5.

The subject-matter of—

- (a) the Video Recordings Act 1984, and
- (b) sections 1 to 3 and 5 to 16 of the Cinemas Act 1985 (control of exhibitions).

The classification of films for public exhibition by reference to their suitability for viewing by persons generally or above a particular age, with or without any advice as to the desirability of parental guidance.

B6. Immigration and nationality

Section B6.

Nationality; immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens; free movement of persons within the European Economic Area; issue of travel documents.

B7. Scientific procedures on live animals

Section B7.

The subject-matter of the Animals (Scientific Procedures) Act 1986.

B8. National security, interception of communications, official secrets and terrorism

Section B8.

National security.

The interception of communications; but not

- (a) [F3the interception of any communication made to or by a person detained at a place of detention, if the communication-
 - (i) is a written communication and is intercepted there, or
 - (ii) is intercepted in the course of its transmission by means of a private telecommunication system running there,]
- (b) the subject matter of Part III of the Police Act 1997 (authorisation to interfere with property etc.) or surveillance not involving interference with property.

The subject-matter of—

- (a) the Official Secrets Acts 1911 and 1920, and
- (b) the Official Secrets Act 1989, except so far as relating to any information, document or other article protected against disclosure by section 4(2) (crime) and not by any other provision of sections 1 to 4.

Special powers, and other special provisions, for dealing with terrorism.

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^{F4} Interpretation

“Place of detention” means a prison, young offenders institution, remand centre or legalised police cell (as those expressions are defined for the purposes of the Prisons (Scotland) Act 1989 or a hospital (within the meaning of the Mental Health (Scotland) Act 1984; and “person detained”, in relation to a hospital, means a person detained there within the meaning given by section 6(1) of the Sex Offenders Act 1997 as it extends to Scotland. “Private telecommunication system” means a telecommunication system which is not a public telecommunication system (as those expressions are defined for the purposes of the Telecommunications Act 1984).

Textual Amendments

- F3** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by S.I. 1999/1749, **arts. 1, 4(1)**; S.I. 1998/3178, **art. 3**
F4 Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by The Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999 (S.I. 1999/1749), **arts. 1, 4(1)**; S.I. 1998/3178, **art. 3**

Textual Amendments

- F3** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by S.I. 1999/1749, **arts. 1, 4(1)**; S.I. 1998/3178, **art. 3**
F4 Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by The Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999 (S.I. 1999/1749), **arts. 1, 4(1)**; S.I. 1998/3178, **art. 3**

B9. Betting, gaming and lotteries

Section B9.

Betting, gaming and lotteries.

B10. Emergency powers

Section B10.

Emergency powers.

B11. Extradition

Section B11.

Extradition.

B12. Lieutenancies

Section B12.

The subject-matter of the Lieutenancies Act 1997.

Access to information

^{F5}B13 Public access to information held by public bodies or holders of public offices (including government departments and persons acting on behalf of the Crown).

Exception

Information held by—

- (a) the Parliament,
- (b) any part of the Scottish Administration,
- (c) the Parliamentary corporation,

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(d) any Scottish public authority with mixed functions or no reserved functions, unless supplied by a Minister of the Crown or government department and held in confidence.]

Textual Amendments

F5 Sch. 5 Pt. II Section B13 inserted (1.7.1999) by [S.I. 1999/1749](#), [arts. 1, 5](#); [S.I. 1998/3178](#), [art. 3](#)

Head C – Trade and Industry

C1. Business associations

Section C1.

The creation, operation, regulation and dissolution of types of business association.

Exceptions

The creation, operation, regulation and dissolution of—

- (a) particular public bodies, or public bodies of a particular type, established by or under any enactment, and
- (b) charities.

Interpretation

“Business association” means any person (other than an individual) established for the purpose of carrying on any kind of business, whether or not for profit; and “business” includes the provision of benefits to the members of an association.

C2. Insolvency

Section C2.

In relation to business associations—

- (a) the modes of, the grounds for and the general legal effect of winding up, and the persons who may initiate winding up,
- (b) liability to contribute to assets on winding up,
- (c) powers of courts in relation to proceedings for winding up, other than the power to sist proceedings,
- (d) arrangements with creditors, and
- (e) procedures giving protection from creditors.

Preferred or preferential debts for the purposes of the Bankruptcy (Scotland) Act 1985, the Insolvency Act 1986, and any other enactment relating to the sequestration of the estate of any person or to the winding up of business associations, the preference of such debts against other such debts and the extent of their preference over other types of debt.

Regulation of insolvency practitioners.

Co-operation of insolvency courts.

Exceptions

In relation to business associations—

- (a) the process of winding up, including the person having responsibility for the conduct of a winding up or any part of it, and his conduct of it or of that part,
- (b) the effect of winding up on diligence, and
- (c) avoidance and adjustment of prior transactions on winding up.

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Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

[^{F6}In relation to business associations which are social landlords, the following additional exceptions–

- (a) the general legal effect of winding up,
- (b) procedures for the initiation of winding up,
- (c) powers of courts in relation to proceedings for winding up, and
- (d) procedures giving protection from creditors,

but only in so far as they relate to a moratorium on the disposal of property held by a social landlord and the management and disposal of such property.]

Floating charges and receivers, except in relation to preferential debts, regulation of insolvency practitioners and co-operation of insolvency courts.

Interpretation

“Business association” has the meaning given in Section C1 of this Part of this Schedule, but does not include any person whose estate may be sequestrated under the Bankruptcy (Scotland) Act 1985 or any public body established by or under an enactment.

[^{F7}“Social landlord” means a body which is–

- (a) a society registered under the Industrial and Provident Societies Act 1965 which has its registered office for the purposes of that Act in Scotland and satisfies the relevant conditions, or
- (b) a company registered under the Companies Act 1985 which has its registered office for the purposes of that Act in Scotland and satisfies the relevant conditions.

“The relevant conditions” are that the body does not trade for profit and is established for the purpose of, or has among its objects and powers, the provision, construction, improvement or management of–

- (a) houses to be kept available for letting,
- (b) houses for occupation by members of the body, where the rules of the body restrict membership to persons entitled or prospectively entitled (as tenants or otherwise) to occupy a house provided or managed by the body, or
- (c) hostels,

“house” and “hostel” having the meanings given in section 338(1) of the Housing (Scotland) Act 1987.]

“Winding up”, in relation to business associations, includes winding up of solvent, as well as insolvent, business associations.

Textual Amendments

- F6** Words in Sch. 5 Pt. 2 Section C2 inserted (12.4.2001) by [S.I. 2001/1456](#) , [art. 2\(1\)](#)
- F7** Definitions of "Social landlord", "The relevant conditions", "house" and "hostel" in Sch. 5 Pt. II Section C2 inserted (12.4.2001) by [S.I. 2001/1456](#) , [art. 2\(2\)](#)

Textual Amendments

- F6** Words in Sch. 5 Pt. 2 Section C2 inserted (12.4.2001) by [S.I. 2001/1456](#) , [art. 2\(1\)](#)
- F7** Definitions of "Social landlord", "The relevant conditions", "house" and "hostel" in Sch. 5 Pt. II Section C2 inserted (12.4.2001) by [S.I. 2001/1456](#) , [art. 2\(2\)](#)

C3. Competition

Section C3.

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Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers.

Exception

Regulation of particular practices in the legal profession for the purpose of regulating that profession or the provision of legal services.

Interpretation

“The legal profession” means advocates, solicitors and qualified conveyancers and executry practitioners within the meaning of Part II of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.

C4. Intellectual property

Section C4.

Intellectual property.

Exception

The subject-matter of Parts I and II of the Plant Varieties Act 1997 (plant varieties and the Plant Varieties and Seeds Tribunal).

C5. Import and export control

Section C5.

The subject-matter of the Import, Export and Customs Powers (Defence) Act 1939.

Prohibition and regulation of the import and export of endangered species of animals and plants.

Exceptions

Prohibition and regulation of movement into and out of Scotland of—

- (a) food, animals, animal products, plants and plant products for the purposes of protecting human, animal or plant health, animal welfare or the environment or observing or implementing obligations under the Common Agricultural Policy, and
- (b) animal feeding stuffs, fertilisers and pesticides [^{F8}(including anything treated as if it were a pesticide by virtue of section 16(16) of the Food and Environment Protection Act 1985)] for the purposes of protecting human, animal or plant health or the environment.

Textual Amendments

F8 Words in Sch. 5 Pt. 2 Section C5 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 4**

Textual Amendments

F8 Words in Sch. 5 Pt. 2 Section C5 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 4**

C6. Sea fishing

Section C6.

Regulation of sea fishing outside the Scottish zone (except in relation to Scottish fishing boats).

Interpretation

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“Scottish fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging.

C7. Consumer protection

Section C7.

Regulation of—

- (a) the sale and supply of goods and services to consumers,
- (b) guarantees in relation to such goods and services,
- (c) hire-purchase, including the subject-matter of Part III of the Hire-Purchase Act 1964,
- (d) trade descriptions, except in relation to food,
- (e) misleading and comparative advertising, except regulation specifically in relation to food, tobacco and tobacco products,
- (f) price indications,
- (g) trading stamps,
- (h) auctions and mock auctions of goods and services, and
- (i) hallmarking and gun barrel proofing.

Safety of, and liability for, services supplied to consumers.

The subject-matter of—

- (a) the Hearing Aid Council Act 1968,
- (b) the Unsolicited Goods and Services Acts 1971 and 1975,
- (c) Parts I to III and XI of the Fair Trading Act 1973,
- (d) the Consumer Credit Act 1974,
- (e) the Estate Agents Act 1979,
- (f) the Timeshare Act 1992,
- (g) the Package Travel, Package Holidays and Package Tours Regulations 1992, and
- (h) the Commercial Agents (Council Directive) Regulations 1993.

Exception

The subject-matter of section 16 of the Food Safety Act 1990 (food safety and consumer protection).

C8. Product standards, safety and liability

Section C8.

Technical standards and requirements in relation to products in pursuance of an obligation under Community law.

[^{F9}The national accreditation body and the accreditation of bodies which certify or assess conformity to technical standards in relation to products or environmental management systems.]

Product safety and liability.

Product labelling.

Exceptions

Food, agricultural and horticultural produce, fish and fish products, seeds, animal feeding stuffs, fertilisers and pesticides [^{F10}(including anything treated as if it were a pesticide by virtue of section 16(16) of the Food and Environment Protection Act 1985)].

In relation to food safety, materials which come into contact with food.

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Textual Amendments

F9 Words in Sch. 5 Pt. 2 s. C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 5**

F10 Words in Sch. 5 Pt. 2 Section C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 4**

Textual Amendments

F9 Words in Sch. 5 Pt. 2 s. C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 5**

F10 Words in Sch. 5 Pt. 2 Section C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 4**

C9. Weights and measures

Section C9.

Units and standards of weight and measurement.

Regulation of trade so far as involving weighing, measuring and quantities.

C10. Telecommunications and wireless telegraphy

Section C10.

Telecommunications and wireless telegraphy.

Internet services.

Electronic encryption.

The subject-matter of Part II of the Wireless Telegraphy Act 1949 (electromagnetic disturbance).

Exception

The subject-matter of Part III of the Police Act 1997 (authorisation to interfere with property etc.).

[^{F11}C11 Posts

The subject matter of the Postal Services Act 2000. *Exception*

Financial assistance for the provision of services (other than postal services and services relating to money or postal orders) to be provided from public post offices. *Interpretation* Paragraph 5(1) of Part III of this Schedule does not apply to this Section.

The reference to the subject matter of the Postal Services Act 2000 is to be read as a reference to the subject matter of that Act as at the date when it received Royal Assent.

“postal services” and “public post offices” have the same meaning as in the Postal Services Act 2000.]

Textual Amendments

F11 Sch. 5 Pt. 2 Section C11 substituted (14.12.2000) by [S.I. 2000/3252](#) , **art. 2(1)**

C12. Research Councils

Section C12.

Research Councils within the meaning of the Science and Technology Act 1965.

The subject-matter of section 5 of that Act (funding of scientific research) so far as relating to Research Councils.

C13. Designation of assisted areas

Section C13.

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Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

The subject-matter of section 1 of the Industrial Development Act 1982.

C14. Industrial Development Advisory Board

Section C14.

The Industrial Development Advisory Board.

C15. Protection of trading and economic interests

Section C15.

The subject-matter of—

- (a) section 2 of the Emergency Laws (Re-enactments and Repeals) Act 1964 (Treasury power in relation to action damaging to economic position of United Kingdom),
- (b) Part II of the Industry Act 1975 (powers in relation to transfer of control of important manufacturing undertakings), and
- (c) the Protection of Trading Interests Act 1980.

Head D – Energy

D1. Electricity

Section D1.

Generation, transmission, distribution and supply of electricity.

The subject-matter of Part II of the Electricity Act 1989.

Exception

The subject-matter of Part I of the Environmental Protection Act 1990.

D2. Oil and gas

Section

Oil and gas, including—

- (a) the ownership of, exploration for and exploitation of deposits of oil and natural gas,
- (b) the subject-matter of section 1 of the Mineral Exploration and Investment Grants Act 1972 (contributions in connection with mineral exploration) so far as relating to exploration for oil and gas,
- (c) offshore installations and pipelines,
- (d) the subject-matter of the Pipe-lines Act 1962 (including section 5 (deemed planning permission)) so far as relating to pipelines within the meaning of section 65 of that Act,
- (e) the application of Scots law and the jurisdiction of the Scottish courts in relation to offshore activities,
- (f) pollution relating to oil and gas exploration and exploitation, but only outside controlled waters (within the meaning of section 30A(1) of the Control of Pollution Act 1974),
- (g) the subject-matter of Part II of the Food and Environment Protection Act 1985 so far as relating to oil and gas exploration and exploitation, but only in relation to activities outside such controlled waters,
- (h) restrictions on navigation, fishing and other activities in connection with offshore activities,
- (i) liquefaction of natural gas, and
- (j) the conveyance, shipping and supply of gas through pipes.

Exceptions

The subject-matter of—

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Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

- (a) sections 10 to 12 of the Industry Act 1972 (credits and grants for construction of ships and offshore installations),
- (b) the Offshore Petroleum Development (Scotland) Act 1975, other than sections 3 to 7, and
- (c) Part I of the Environmental Protection Act 1990.

The manufacture of gas.

The conveyance, shipping and supply of gas other than through pipes.

D3. Coal

Section D3.

Coal, including its ownership and exploitation, deep and opencast coal mining and coal mining subsidence.

Exceptions

The subject-matter of—

- (a) Part I of the Environmental Protection Act 1990, and
- (b) sections 53 (environmental duties in connection with planning) and 54 (obligation to restore land affected by coal-mining operations) of the Coal Industry Act 1994.

D4. Nuclear energy

Section D4.

Nuclear energy and nuclear installations, including—

- (a) nuclear safety, security and safeguards, and
- (b) liability for nuclear occurrences.

Exceptions

The subject-matter of—

- (a) Part I of the Environmental Protection Act 1990, and
- (b) the Radioactive Substances Act 1993.

D5. Energy conservation

Section D5.

The subject-matter of the Energy Act 1976, other than section 9.

Exception

The encouragement of energy efficiency other than by prohibition or regulation.

Head E – Transport

E1. Road transport

Section E1.

The subject-matter of—

- (a) the Motor Vehicles (International Circulation) Act 1952,
- (b) the Public Passenger Vehicles Act 1981 and the Transport Act 1985, so far as relating to public service vehicle operator licensing,
- (c) section 17 (traffic regulation on special roads), section 25 (pedestrian crossings), Part V (traffic signs) and Part VI (speed limits) of the Road Traffic Regulation Act 1984,
- (d) the Road Traffic Act 1988 and the Road Traffic Offenders Act 1988,

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- (e) the Vehicle Excise and Registration Act 1994,
- (f) the Road Traffic (New Drivers) Act 1995, and
- (g) the Goods Vehicles (Licensing of Operators) Act 1995.

Regulation of proper hours or periods of work by persons engaged in the carriage of passengers or goods by road.

The conditions under which international road transport services for passengers or goods may be undertaken.

Regulation of the instruction of drivers of motor vehicles.

Exceptions

The subject-matter of sections 39 and 40 (road safety information and training) and 157 to 159 (payments for treatment of traffic casualties) of the Road Traffic Act 1988.

E2. Rail transport

Section E2.

Provision and regulation of railway services.

Rail transport security.

The subject-matter of the Channel Tunnel Act 1987.

The subject-matter of the Railway Heritage Act 1996.

Exceptions

Grants so far as relating to railway services; but this exception does not apply in relation to—

- (a) the subject-matter of section 63 of the Railways Act 1993 (government financial assistance where railway administration orders made),
- (b) “railway services” as defined in section 82(1)(b) of the Railways Act 1993 (carriage of goods by railway), or
- (c) the subject-matter of section 136 of the Railways Act 1993 (grants and subsidies).

[^{F12}Imposing requirements about the preparation and submission of strategies relating to the provision of rail services on Scottish public authorities with mixed functions relating to such services.]

[^{F13}The transfer of functions of passenger transport executives or passenger transport authorities relating to the provision and regulation of rail services conferred by Part II of the Transport Act 1968 ^{F14} and sections 32 to 36 of the Railways Act 1993 ^{F15} to, and the allocation of such functions among, Scottish public authorities (other than cross-border public authorities and public authorities exercising functions solely in relation to reserved matters) which may be set up wholly or mainly to exercise functions relating to transport.]

Interpretation

“Railway services” has the meaning given by section 82 of the Railways Act 1993 (excluding the wider meaning of “railway” given by section 81(2) of that Act).

Textual Amendments

F12 Sch. 5 Pt. II Section E2: paragraph inserted (14.12.2000) by [S.I. 2000/3252](#), **art. 3(1)**

F13 Sch. 5 Pt. II Section E2: paragraph inserted (14.12.2000) by [S.I. 2000/3252](#), **art. 3(2)**

F14 [1968 c.73](#).

F15 [1993 c.43](#).

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

Textual Amendments

F12 Sch. 5 Pt. II Section E2: paragraph inserted (14.12.2000) by [S.I. 2000/3252](#) , [art. 3\(1\)](#)

F13 Sch. 5 Pt. II Section E2: paragraph inserted (14.12.2000) by [S.I. 2000/3252](#) , [art. 3\(2\)](#)

F14 [1968 c.73.](#)

F15 [1993 c.43.](#)

E3. Marine transport

Section E3.

The subject-matter of—

- (a) the Coastguard Act 1925,
- (b) the Hovercraft Act 1968, except so far as relating to the regulation of noise and vibration caused by hovercraft,
- (c) the Carriage of Goods by Sea Act 1971,
- (d) section 2 of the Protection of Wrecks Act 1973 (prohibition on approaching dangerous wrecks),
- (e) the Merchant Shipping (Liner Conferences) Act 1982,
- (f) the Dangerous Vessels Act 1985,
- (g) the Aviation and Maritime Security Act 1990, other than Part I (aviation security),
- (h) the Carriage of Goods by Sea Act 1992,
- (i) the Merchant Shipping Act 1995,
- (j) the Shipping and Trading Interests (Protection) Act 1995, and
- (k) sections 24 (implementation of international agreements relating to protection of wrecks), 26 (piracy) and 27 and 28 (international bodies concerned with maritime matters) of the Merchant Shipping and Maritime Security Act 1997.

Navigational rights and freedoms.

Financial assistance for shipping services which start or finish or both outside Scotland.

Exceptions

Ports, harbours, piers and boatslips, except in relation to the matters reserved by virtue of paragraph (d), (f), (g) or (i).

Regulation of works which may obstruct or endanger navigation.

The subject-matter of the Highlands and Islands Shipping Services Act 1960 in relation to financial assistance for bulk freight services.

E4. Air transport

Section E4.

Regulation of aviation and air transport, including the subject-matter of—

- (a) the Carriage by Air Act 1961,
- (b) the Carriage by Air (Supplementary Provisions) Act 1962,
- (c) the Carriage by Air and Road Act 1979 so far as relating to carriage by air,
- (d) the Civil Aviation Act 1982,
- (e) the Aviation Security Act 1982,
- (f) the Airports Act 1986, and
- (g) sections 1 (endangering safety at aerodromes) and 48 (powers in relation to certain aircraft) of the Aviation and Maritime Security Act 1990,

and arrangements to compensate or repatriate passengers in the event of an air transport operator's insolvency.

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

Exceptions

The subject-matter of the following sections of the Civil Aviation Act 1982—

- (a) section 25 (Secretary of State’s power to provide aerodromes),
- (b) section 30 (provision of aerodromes and facilities at aerodromes by local authorities),
- (c) section 31 (power to carry on ancillary business in connection with local authority aerodromes),
- (d) section 34 (financial assistance for certain aerodromes),
- (e) section 35 (facilities for consultation at certain aerodromes),
- (f) section 36 (health control at Secretary of State’s aerodromes and aerodromes of Civil Aviation Authority), and
- (g) sections 41 to 43 and 50 (powers in relation to land exercisable in connection with civil aviation) where land is to be or was acquired for the purpose of airport development or expansion.

The subject-matter of Part II (transfer of airport undertakings of local authorities), sections 63 and 64 (airport byelaws) and 66 (functions of operators of designated airports as respects abandoned vehicles) of the Airports Act 1986.

The subject-matter of sections 59 (acquisition of land and rights over land) and 60 (disposal of compulsorily acquired land) of the Airports Act 1986 where land is to be or was acquired for the purpose of airport development or expansion.

[^{F16}Imposing requirements about the preparation and submission of strategies relating to the provision of air services on Scottish public authorities with mixed functions relating to such services.]

Textual Amendments

F16 Paragraph in Sch. 5 Pt. II Section E4 inserted (14.12.2000) by [S.I. 2000/3252](#) , [art. 3\(3\)](#)

Textual Amendments

F16 Paragraph in Sch. 5 Pt. II Section E4 inserted (14.12.2000) by [S.I. 2000/3252](#) , [art. 3\(3\)](#)

E5. Other matters

Section E5.

Transport of radioactive material.

Technical specifications for public passenger transport for disabled persons, including the subject-matter of—

- (a) section 125(7) and (8) of the Transport Act 1985 (Secretary of State’s guidance and consultation with the Disabled Persons Transport Advisory Committee), and
- (b) Part V of the Disability Discrimination Act 1995 (public transport).

Regulation of the carriage of dangerous goods.

Interpretation

“Radioactive material” has the same meaning as in section 1(1) of the Radioactive Material (Road Transport) Act 1991.

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

Head F – Social Security

F1. Social security schemes

Section F1.

Schemes supported from central or local funds which provide assistance for social security purposes to or in respect of individuals by way of benefits.

Requiring persons to—

- (a) establish and administer schemes providing assistance for social security purposes to or in respect of individuals, or
- (b) make payments to or in respect of such schemes,

and to keep records and supply information in connection with such schemes.

The circumstances in which a person is liable to maintain himself or another for the purposes of the enactments relating to social security and the Child Support Acts 1991 and 1995.

The subject-matter of the Vaccine Damage Payment Scheme.

Illustrations

National Insurance; Social Fund; administration and funding of housing benefit and council tax benefit; recovery of benefits for accident, injury or disease from persons paying damages; deductions from benefits for the purpose of meeting an individual's debts; sharing information between government departments for the purposes of the enactments relating to social security; making decisions for the purposes of schemes mentioned in the reservation and appeals against such decisions.

Exceptions

The subject-matter of Part II of the Social Work (Scotland) Act 1968 (social welfare services), section 2 of the Chronically Sick and Disabled Persons Act 1970 (provision of welfare services), section 50 of the Children Act 1975 (payments towards maintenance of children), section 15 of the Enterprise and New Towns (Scotland) Act 1990 (industrial injuries benefit), and sections 22 (promotion of welfare of children in need), 29 and 30 (advice and assistance for young persons formerly looked after by local authorities) of the Children (Scotland) Act 1995.

Interpretation

“Benefits” includes pensions, allowances, grants, loans and any other form of financial assistance.

Providing assistance for social security purposes to or in respect of individuals includes (among other things) providing assistance to or in respect of individuals—

- (a) who qualify by reason of old age, survivorship, disability, sickness, incapacity, injury, unemployment, maternity or the care of children or others needing care,
- (b) who qualify by reason of low income, or
- (c) in relation to their housing costs or liabilities for local taxes.

F2. Child support

Section F2.

The subject-matter of the Child Support Acts 1991 and 1995.

Exception

The subject-matter of sections 1 to 7 of the Family Law (Scotland) Act 1985 (aliment).

Interpretation

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

If section 30(2) of the Child Support Act 1991 (collection of payments other than child support maintenance) is not in force on the principal appointed day, it is to be treated for the purposes of this reservation as if it were.

F3. Occupational and personal pensions

Section F3.

The regulation of occupational pension schemes and personal pension schemes, including the obligations of the trustees or managers of such schemes.

Provision about pensions payable to, or in respect of, any persons, except—

- (a) the persons referred to in section 81(3),
- (b) in relation to a Scottish public authority with mixed functions or no reserved functions, persons who are or have been a member of the public body, the holder of the public office, or a member of the staff of the body, holder or office.

The subject-matter of the Pensions (Increase) Act 1971.

Schemes for the payment of pensions which are listed in Schedule 2 to that Act, except those mentioned in paragraphs 38A and 38AB.

Where pension payable to or in respect of any class of persons under a public service pension scheme is covered by this reservation, so is making provision in their case—

- (a) for compensation for loss of office or employment, for their office or employment being affected by constitutional changes, or circumstances arising from such changes, in any territory or territories or for loss or diminution of emoluments, or
- (b) for benefits in respect of death or incapacity resulting from injury or disease.

Interpretation

“Pension” includes gratuities and allowances.

F4. War pensions

Section F4.

Schemes for the payment of pensions for or in respect of persons who have a disablement or have died in consequence of service as members of the armed forces of the Crown.

The subject-matter of any scheme under the Personal Injuries (Emergency Provisions) Act 1939, sections 3 to 5 and 7 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 or section 1 of the Polish Resettlement Act 1947

Illustration

The provision of pensions under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983.

Interpretation

“Pension” includes grants, allowances, supplements and gratuities.

Head G – Regulation of the Professions

G1. Architects

Section G1.

Regulation of the profession of architect.

G2. Health professions

Section G2.

Regulation of the health professions.

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

Exceptions

The subject-matter of—

- (a) section 21 of the National Health Service (Scotland) Act 1978 (requirement of suitable experience for medical practitioners), and
- (b) section 25 of that Act (arrangements for the provision of general dental services), so far as it relates to vocational training and disciplinary proceedings.

Interpretation

“The health professions” means the professions regulated by—

- (a) the Pharmacy Act 1954,
- (b) the Professions Supplementary to Medicine Act 1960,
- (c) the Veterinary Surgeons Act 1966,
- (d) the Medical Act 1983,
- (e) the Dentists Act 1984,
- (f) the Opticians Act 1989,
- (g) the Osteopaths Act 1993,
- (h) the Chiropractors Act 1994, and
- (i) the Nurses, Midwives and Health Visitors Act 1997.

G3. Auditors

Section G3.

Regulation of the profession of auditor.

Head H – Employment

H1. Employment and industrial relations

Section H1.

Employment rights and duties and industrial relations, including the subject-matter of—

- (a) the Employers’ Liability (Compulsory Insurance) Act 1969,
- (b) the Employment Agencies Act 1973,
- (c) the Pneumoconiosis etc. (Workers’ Compensation) Act 1979,
- (d) the Transfer of Undertakings (Protection of Employment) Regulations 1981,
- (e) the Trade Union and Labour Relations (Consolidation) Act 1992,
- (f) [^{F17}the Employment Tribunals Act 1996],
- (g) the Employment Rights Act 1996, and
- (h) the National Minimum Wage Act 1998.

Exception

The subject-matter of the Agricultural Wages (Scotland) Act 1949.

Textual Amendments

F17 Words in Sch. 5 Pt. II Section H1 substituted (E.W.S.) (1.8.1998) by 1998 c. 8, s. 1(2)(c) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

Textual Amendments

F17 Words in Sch. 5 Pt. II Section H1 substituted (E.W.S.) (1.8.1998) by 1998 c. 8, s. 1(2)(c) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

H2. Health and safety

Section H2.

The subject-matter of

[^{F18}Part I of the Health and Safety at Work etc. Act 1974

The Health and Safety Commission, the Health and Safety Executive and the Employment Medical Advisory Service

Interpretation

For the purposes of the reservation of the subject-matter of Part I of the Health and Safety at Work etc. Act 1974—

- (a) “work” and “at work” in that Part are to be taken to have the meaning they have on the principal appointed day;
- (b) that subject-matter includes—
 - (i) process fire precautions;
 - (ii) fire precautions in relation to petroleum and petroleum spirit;
 - (iii) fire safety on construction sites, ships and hovercraft, in mines and on offshore installations; and
 - (iv) fire safety on any other premises which, on the principal appointed day, are of a description specified in Part I of Schedule 1 to the Fire Certificates (Special Premises) Regulations 1976 ^{M1}

but does not include any other aspect of fire safety.]

Textual Amendments

F18 Sch. 5 Pt II Section H2: words substituted (1.7.1999) by S.I. 1999/1749, arts. 1, 6(1); S.I. 1998/3178, art. 3

Marginal Citations

M1 S.I. 1976/2003.

Textual Amendments

F18 Sch. 5 Pt II Section H2: words substituted (1.7.1999) by S.I. 1999/1749, arts. 1, 6(1); S.I. 1998/3178, art. 3

Marginal Citations

M1 S.I. 1976/2003.

H3. Job search and support

Section H3.

The subject-matter of—

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

- (a) the Disabled Persons (Employment) Act 1944, and
- (b) the Employment and Training Act 1973, except so far as relating to training for employment.

Exception

The subject-matter of—

- (a) sections 8 to 10A of the Employment and Training Act 1973 (careers services), and
- (b) the following sections of Part I of the Enterprise and New Towns (Scotland) Act 1990 (Scottish Enterprise and Highlands and Islands Enterprise)—
 - (i) section 2(3)(c) (arrangements for the purpose of assisting persons to establish themselves as self-employed persons), and
 - (ii) section 12 (disclosure of information).

Head J – Health and Medicines

J1. Abortion

Section J1.

Abortion.

J2. Xenotransplantation

Section J2.

Xenotransplantation.

J3. Embryology, surrogacy and genetics

Section J3.

Surrogacy arrangements, within the meaning of the Surrogacy Arrangements Act 1985, including the subject-matter of that Act.

The subject-matter of the Human Fertilisation and Embryology Act 1990.

Human genetics.

J4. Medicines, medical supplies and poisons

Section J4.

The subject-matter of—

- (a) the Medicines Act 1968, the Marketing Authorisations for Veterinary Medicinal Products Regulations 1994 and the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994,
- (b) the Poisons Act 1972, and
- (c) the Biological Standards Act 1975.

Regulation of prices charged for medical supplies or medicinal products which (in either case) are supplied for the purposes of the health service established under section 1 of the National Health Service (Scotland) Act 1978.

Interpretation

“Medical supplies” has the same meaning as in section 49(3) of the National Health Service (Scotland) Act 1978.

“Medicinal products” has the same meaning as in section 130(1) of the Medicines Act 1968.

J5. Welfare foods

Section J5.

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

Schemes made by regulations under section 13 of the Social Security Act 1988 (schemes for distribution of welfare foods).

Head K – Media and Culture

K1. Broadcasting

Section K1.

The subject-matter of the Broadcasting Act 1990 and the Broadcasting Act 1996.

The British Broadcasting Corporation.

K2. Public lending right

Section K2.

The subject-matter of the Public Lending Right Act 1979.

K3. Government Indemnity Scheme

Section K3.

The subject-matter of sections 16 and 16A of the National Heritage Act 1980 (public indemnities for objects on loan to museums, art galleries, etc.).

K4. Property accepted in satisfaction of tax

Section K4.

The subject-matter of sections 8 and 9 of the National Heritage Act 1980 (payments to Inland Revenue in respect of property accepted in satisfaction of tax, and disposal of such property).

Head L – Miscellaneous

L1. Judicial remuneration

Section L1.

Determination of the remuneration of—

- (a) judges of the Court of Session,
- (b) sheriffs principal and sheriffs,
- (c) members of the Lands Tribunal for Scotland, and
- (d) the Chairman of the Scottish Land Court.

L2. Equal opportunities

Section L2.

Equal opportunities, including the subject-matter of—

- (a) the Equal Pay Act 1970,
- (b) the Sex Discrimination Act 1975,
- (c) the Race Relations Act 1976, and
- (d) the Disability Discrimination Act 1995.

Exceptions

The encouragement (other than by prohibition or regulation) of equal opportunities, and in particular of the observance of the equal opportunity requirements.

Imposing duties on—

- (a) any office-holder in the Scottish Administration, or any Scottish public authority with mixed functions or no reserved functions, to make arrangements with a view

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

to securing that the functions of the office-holder or authority are carried out with due regard to the need to meet the equal opportunity requirements, or

- (b) any cross-border public authority to make arrangements with a view to securing that its Scottish functions are carried out with due regard to the need to meet the equal opportunity requirements.

Interpretation

“Equal opportunities” means the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.

“Equal opportunity requirements” means the requirements of the law for the time being relating to equal opportunities.

“Scottish functions” means functions which are exercisable in or as regards Scotland and which do not relate to reserved matters.

L3. Control of weapons

Section L3.

Control of nuclear, biological and chemical weapons and other weapons of mass destruction.

L4. Ordnance survey

Section L4.

The subject-matter of the Ordnance Survey Act 1841.

L5. Time

Section L5.

Timescales, time zones and the subject-matter of the Summer Time Act 1972.

The calendar; units of time; the date of Easter.

Exceptions

The computation of periods of time.

The subject-matter of—

- (a) section 1 of the Banking and Financial Dealings Act 1971 (bank holidays), and
(b) the Term and Quarter Days (Scotland) Act 1990.

L6. Outer space

Section L6.

Regulation of activities in outer space.

PART III

GENERAL PROVISIONS

Scottish public authorities

- 1 (1) This Schedule does not reserve any Scottish public authority if some of its functions relate to reserved matters and some do not, unless it is a cross-border public authority.
- (2) Sub-paragraph (1) has effect as regards—

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

- (a) the constitution of the authority, including its establishment and dissolution, its assets and liabilities and its funding and receipts,
 - (b) conferring or removing any functions specifically exercisable in relation to the authority.
- (3) Sub-paragraph (2)(b) does not apply to any function which is specifically exercisable in relation to a particular function of the authority if the particular function relates to reserved matters.
- (4) An authority to which this paragraph applies is referred to in this Act as a Scottish public authority with mixed functions.

Modifications etc. (not altering text)

C1 Sch. 5 Pt. III para. 1(4) applied (S.) (30.9.2002) by Freedom of Information (Scotland) Act 2002 (asp 13), s. 4; S.S.I. 2002/437, art. 2

- 2 Paragraph 1 of Part I of this Schedule does not reserve any Scottish public authority with functions none of which relate to reserved matters (referred to in this Act as a Scottish public authority with no reserved functions).

Modifications etc. (not altering text)

C2 Sch. 5 Pt. III para. 2 applied (S.) (30.9.2002) by Freedom of Information (Scotland) Act 2002 (asp 13), s. 4; S.S.I. 2002/437, art. 2

Reserved bodies

- 3 (1) The reservation of any body to which this paragraph applies has effect to reserve—
- (a) its constitution, including its establishment and dissolution, its assets and liabilities and its funding and receipts,
 - (b) conferring functions on it or removing functions from it,
 - (c) conferring or removing any functions specifically exercisable in relation to it.
- (2) This paragraph applies to—
- (a) a body reserved by name by Part II of this Schedule,
 - (b) each of the councils reserved by Section C12 of that Part,
 - (c) the Commission for Racial Equality, the Equal Opportunities Commission and [^{F19}the Disability Rights Commission].

Textual Amendments

F19 Words in Sch. 5 Pt. III para. 3(2)(c) substituted (6.8.1999) by 1999 c. 17, s. 14(1), Sch. 4 para. 4 (with s. 15); S.I. 1999/2210, art. 2(4)(7)

Modifications etc. (not altering text)

C3 Sch. 5 Pt. III para. 3 applied (28.7.1999) (temp.) by S.I. 1999/2210, art. 3

Status: Point in time view as at 12/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5. (See end of Document for details)

Financial assistance to industry

- 4 (1) This Schedule does not reserve giving financial assistance to commercial activities for the purpose of promoting or sustaining economic development or employment.
- (2) Sub-paragraph (1)—
- (a) does not apply to giving financial assistance to any activities in pursuance of a power exercisable only in relation to activities which are reserved,
 - (b) does not apply to Part I of this Schedule, except paragraph 9, or to a body to which paragraph 3 of this Part of this Schedule applies,
 - (c) is without prejudice to the exceptions from the reservations in Sections [F²⁰C11,] E2 and E3 of Part II of this Schedule.
- (3) Sub-paragraph (1) does not affect the question whether any matter other than financial assistance to which that sub-paragraph applies is reserved.

Textual Amendments

F20 Words in Sch. 5 Pt. III para. 4(2)(c) inserted (14.12.2000) by S.I. 2000/3252, art. 2(2)

Interpretation

- 5 (1) References in this Schedule to the subject-matter of any enactment are to be read as references to the subject-matter of that enactment as it has effect on the principal appointed day or, if it ceased to have effect at any time within the period ending with that day and beginning with the day on which this Act is passed, as it had effect immediately before that time.
- (2) Subordinate legislation under section 129(1) may, in relation to the operation of this Schedule at any time before the principal appointed day, modify the references to that day in sub-paragraph (1).

Status:

Point in time view as at 12/04/2001.

Changes to legislation:

There are currently no known outstanding effects for the Scotland Act 1998, SCHEDULE 5.