

Status: Point in time view as at 27/06/2018.

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 [^{F1}(that is, the property, rights and interests under the management of the Crown Estate Commissioners)].
- [^{F2}(3A) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the requirements of section 90B(5) to (8).]
- (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.
- [^{F3}(5) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the functions exercisable through the Export Credits Guarantee Department.]

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Textual Amendments

- F1** Words in Sch. 5 Pt 1 para. 2(3) inserted (with effect in accordance with s. 72(2) of the amending Act) by [Scotland Act 2016 \(c. 11\)](#), [ss. 36\(3\)](#), 72(2)
- F2** Sch. 5 Pt 1 para. 2(3A) inserted (with effect in accordance with s. 72(2) of the amending Act) by [Scotland Act 2016 \(c. 11\)](#), [ss. 36\(4\)](#), 72(2)
- F3** 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](#)

- 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—
- the hereditary revenues of the Crown, other than revenues from bona vacantia, ultimus haeres and treasure trove,
 - the royal arms and standard,
 - 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.

^{F4}5A.

Textual Amendments

- F4** Sch. 5 para. 5A omitted (18.5.2017) by virtue of [Scotland Act 2016 \(c. 11\)](#), [ss. 10\(5\)](#), 72(4)(a); [S.I. 2017/608](#), [reg. 2\(1\)\(h\)](#)

Political parties

- 6 The registration and funding of political parties is a reserved matter [^{F5}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

- F5** 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 [^{F6}European Union](and their institutions) and other international

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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 [F7EU] law,
 - (b) assisting Ministers of the Crown in relation to any matter to which that sub-paragraph applies.

Textual Amendments

- F6** Words in Sch. 5 Pt. 1 para. 7(1) substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 3, 4
- F7** Words in Sch. 5 Pt. 1 para. 7(2)(a) substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 3, 6

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.),
 - (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.

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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.

[^{F8}Exceptions

Devolved taxes, including their collection and management.]

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

Textual Amendments

F8 Words in Sch. 5 Pt. II substituted (1.7.2012) by [Scotland Act 2012 \(c. 11\)](#) , **ss. 23(5)** , 44(2)(b)

Textual Amendments

F8 Words in Sch. 5 Pt. II substituted (1.7.2012) by [Scotland Act 2012 \(c. 11\)](#) , **ss. 23(5)** , 44(2)(b)

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

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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

[^{F9}(A) *Elections for membership of the House of Commons and the European Parliament*]

Section B3.

Elections for membership of the House of Commons [^{F10}and the European Parliament] , including the subject-matter of—

- (a) [^{F11}the European Parliamentary Elections Act 2002.]
- (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.

^{F12} ...

[^{F13}(B) *Elections for membership of the Parliament and local government elections in Scotland*]

The subject-matter of sections 2(2A) and 12A of this Act.

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The subject-matter of section 43(1AA) of the Representation of the People Act 1983.

The combination of—

- (a) polls at elections or referendums that are outside the legislative competence of the Parliament with polls at—
 - (i) elections for membership of the Parliament, or
 - (ii) local government elections in Scotland, and
- (b) polls at ordinary general elections for membership of the Parliament with polls at ordinary local government elections in Scotland.

Any digital service provided by a Minister of the Crown for the registration of electors.

The subject matter of—

- (a) Parts 5 and 6 of the Political Parties, Elections and Referendums Act 2000 (expenditure in connection with elections) where a limit applies to expenditure in relation to a period determined by reference both to the date of the poll for an election within the legislative competence of the Parliament and to the date of the poll at an election for membership of the House of Commons or the European Parliament, and
- (b) sections 145 to 148 and 150 to 154 of that Act (enforcement) as they apply for the purposes of Part 5 or 6, so far as the subject-matter of that Part is reserved by paragraph (a).

The subject-matter of the following sections of the Political Parties, Elections and Referendums Act 2000 in relation to elections for membership of the Parliament—

- (a) section 1, except in relation to—
 - (i) financing the Electoral Commission,
 - (ii) preparation, laying and publication by the Commission of reports about the performance of its functions, and
 - (iii) provision by the Commission of copies of regulations made by it or notice of the alteration or revocation of such regulations,
- (b) sections 2 to 4, 6(1)(e) and (f) (and (g) to the extent that it relates to the law mentioned in those paragraphs),
- (c) sections 12, 21 to 33, 35 to 37, 39 to 57, 58 to 67, 69, 71, 71F, 71G, 71H to 71Y and 140A,
- (d) section 149 (except in relation to the register kept under section 89),
- (e) sections 157 and 159 to 163, and
- (f) sections 145 to 148 and 150 to 154 as they apply for the purposes of a provision mentioned in paragraphs (a) to (e), so far as the subject matter of that provision is reserved by those paragraphs.]

[^{F14}Exceptions

[^{F15}Exception 1]

The reduction of the minimum voting age to 16 at elections to the Parliament and local government elections.

[^{F16}Exception 2]

The registration of electors, in order to give effect to provision reducing the minimum voting age at those elections to 16, including—

- (a) disregarding alterations in a register of electors,
- (b) the content of a register and the effect of registration, and
- (c) supplying or otherwise dealing with a register,

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but not including the use of the digital service for applications for registration or for verifying information contained in applications for registration.

[^{F17}Exception 3

The day of the poll at the first ordinary general election for membership of the Parliament after 2016.

That day must not be the same as the day of the poll at—

- (a) a parliamentary general election, other than an early parliamentary general election,
- (b) a European parliamentary general election, or
- (c) an ordinary local election.

If under section 3(3) the ordinary general election that would have been the first after 2016 is not held, this exception does not apply to any later election.]

[^{F18}Interpretation

Paragraph 5(1) of Part 3 of this Schedule does not apply to the subject-matter of the European Parliamentary Elections Act 2002; and the reference to the subject-matter of that Act is to be construed as a reference to it as at the date that Act received Royal Assent.]

F19
...
F19
...

[^{F20}Paragraph 5(1) of Part 3 of this Schedule does not apply to the subject-matter of the Political Parties, Elections and Referendums Act 2000; and references to the subject-matter of that Act are to be read as at the day on which the Scotland Act 2016 received Royal Assent.]

Textual Amendments

- F9** Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 3(2)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F10** Words in Sch. 5 Pt. II s. B3 substituted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 3(3)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F11** Sch. 5 Pt. II Section B3: para. (a) substituted (24.10.2002) by [European Parliamentary Elections Act 2002 \(c. 24\)](#), **s. 15** {Sch. 3 para. 7(3)}
- F12** Words in Sch. 5 Pt. II s. B3 omitted (18.5.2017) by virtue of [Scotland Act 2016 \(c. 11\)](#), **ss. 3(4)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F13** Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 3(4)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), arts. 2, **4(2)**
- F15** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5\) Order 2015 \(S.I. 2015/1764\)](#), arts. 1(2), **3(2)(a)**
- F16** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5\) Order 2015 \(S.I. 2015/1764\)](#), arts. 1(2), **3(2)(b)**
- F17** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5\) Order 2015 \(S.I. 2015/1764\)](#), arts. 1(2), **3(2)(c)**
- F18** Sch. 5 Pt. II Section B3: words added (17.12.2004) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2004 \(S.I. 2004/3329\)](#), arts. 1(1), **2**
- F19** Words in Sch. 5 Pt. II s. B3 omitted (18.5.2017) by virtue of [Scotland Act 2016 \(c. 11\)](#), **ss. 3(5)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)

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F20 Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 3(5)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)

Textual Amendments

- F9** Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 3(2)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F10** Words in Sch. 5 Pt. II s. B3 substituted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 3(3)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F11** Sch. 5 Pt. II Section B3: para. (a) substituted (24.10.2002) by [European Parliamentary Elections Act 2002 \(c. 24\)](#), **s. 15** {Sch. 3 para. 7(3)}
- F12** Words in Sch. 5 Pt. II s. B3 omitted (18.5.2017) by virtue of [Scotland Act 2016 \(c. 11\)](#), **ss. 3(4)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F13** Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 3(4)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), arts. 2, **4(2)**
- F15** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5\) Order 2015 \(S.I. 2015/1764\)](#), arts. 1(2), **3(2)(a)**
- F16** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5\) Order 2015 \(S.I. 2015/1764\)](#), arts. 1(2), **3(2)(b)**
- F17** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5\) Order 2015 \(S.I. 2015/1764\)](#), arts. 1(2), **3(2)(c)**
- F18** Sch. 5 Pt. II Section B3: words added (17.12.2004) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2004 \(S.I. 2004/3329\)](#), arts. 1(1), **2**
- F19** Words in Sch. 5 Pt. II s. B3 omitted (18.5.2017) by virtue of [Scotland Act 2016 \(c. 11\)](#), **ss. 3(5)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F20** Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 3(5)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)

B4. Firearms

Section B4.

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

F²¹Exception

The regulation of air weapons within the meaning given by section 1(3)(b) of the Firearms Act 1968 (which is subject to the following which remain powers of the Secretary of State—

- (a) the power to make rules under section 53 of that Act for the purposes of that provision (specially dangerous weapons requiring firearms certificate), and
- (b) the power to make an order under section 1(4) of the Firearms (Amendment) Act 1988 (specially dangerous weapons to be prohibited).]

Textual Amendments

- F21** Words in Sch. 5 Pt. II inserted (3.7.2012) by [Scotland Act 2012 \(c. 11\)](#), **ss. 10**, 44(5); S.I. 2012/1710, art. 2(e)

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Textual Amendments

- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), arts. 2, **4(2)**
- F21** Words in Sch. 5 Pt. II inserted (3.7.2012) by [Scotland Act 2012 \(c. 11\)](#), ss. **10**, 44(5); S.I. 2012/1710, art. 2(e)

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.

Textual Amendments

- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), arts. 2, **4(2)**

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.

Textual Amendments

- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), arts. 2, **4(2)**

B7. Scientific procedures on live animals

Section B7.

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

Textual Amendments

- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), arts. 2, **4(2)**

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

Section B8.

National security.

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The interception of communications; but not

- (a) ^{F22}the 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.

^{F23} 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 ^{F24} given in section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003]; and “person detained”, in relation to a hospital, means a person detained there^{F25} under—

- (a) section 24, 25 or 70 of the Mental Health (Scotland) Act 1984;
- (b) Part 6 of the Criminal Procedure (Scotland) Act 1995;
- (c) the Mental Health (Care and Treatment) (Scotland) Act 2003; or
- (d) regulations under—
 - (i) subsection (3) of section 116B of the Army Act 1955;
 - (ii) subsection (3) of section 116B of the Air Force Act 1955; or
 - (iii) section 63B of the Naval Discipline Act 1957.]

^{F26} “ Private telecommunication system ” has the meaning given in ^{F27}section 261(14) of the Investigatory Powers Act 2016] .]

Textual Amendments

- F22** 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**
- F23** 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**
- F24** Sch. 5 Pt. II Section B8: words in definition of "Place of detention" substituted (23.3.2005) by The Scotland Act 1998 (Modifications of Schedule 5) (No. 2) Order 2005 (S.I. 2005/866) , **art. 2(2)**
- F25** Sch. 5 Pt. II Section B8: words in definition of "person detained" substituted (23.3.2005) by The Scotland Act 1998 (Modifications of Schedule 5) (No. 2) Order 2005 (S.I. 2005/866) , **art. 2(3)**
- F26** Sch. 5 Pt. II Section B8: definition of "Private telecommunication system" substituted (23.3.2005) by The Scotland Act 1998 (Modifications of Schedule 5) (No. 2) Order 2005 (S.I. 2005/866) , **art. 2(4)**
- F27** Words in Sch. 5 Pt. II s. B8 substituted (27.6.2018) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 10 para. 41** (with Sch. 9 paras. 7, 8, 10); S.I. 2018/652, reg. 12(g)(iii)

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Textual Amendments

- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#) , arts. 2 , **4(2)**
- F22** 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
- F23** 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
- F24** Sch. 5 Pt. II Section B8: words in definition of "Place of detention" substituted (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) \(No. 2\) Order 2005 \(S.I. 2005/866\)](#) , art. 2(2)
- F25** Sch. 5 Pt. II Section B8: words in definition of "person detained" substituted (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) \(No. 2\) Order 2005 \(S.I. 2005/866\)](#) , art. 2(3)
- F26** Sch. 5 Pt. II Section B8: definition of "Private telecommunication system" substituted (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) \(No. 2\) Order 2005 \(S.I. 2005/866\)](#) , art. 2(4)
- F27** Words in Sch. 5 Pt. II s. B8 substituted (27.6.2018) by [Investigatory Powers Act 2016 \(c. 25\)](#) , s. 272(1), [Sch. 10 para. 41](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2018/652](#), reg. 12(g)(iii)

B9. Betting, gaming and lotteries

Section B9.

Betting, gaming and lotteries.

^{F28}Exception

In the case of a betting premises licence under the Gambling Act 2005, other than one in respect of a track, the number of gaming machines authorised for which the maximum charge for use is more than £10 (or whether such machines are authorised).]

Textual Amendments

- F28** Words in Sch. 5 Pt. II Section B9 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , ss. 52(1) , 72(7) (with s. 52(6))

Textual Amendments

- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#) , arts. 2 , **4(2)**
- F22** 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
- F23** 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
- F28** Words in Sch. 5 Pt. II Section B9 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , ss. 52(1) , 72(7) (with s. 52(6))

B10. Emergency powers

Section B10.

Emergency powers.

Status: Point in time view as at 27/06/2018.

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

- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#) , [arts. 2](#) , [4\(2\)](#)
- F22** 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](#)
- F23** 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](#)

B11. Extradition

Section B11.

Extradition.

Textual Amendments

- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#) , [arts. 2](#) , [4\(2\)](#)
- F22** 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](#)
- F23** 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](#)

B12. Lieutenancies

Section B12.

The subject-matter of the Lieutenancies Act 1997.

Textual Amendments

- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#) , [arts. 2](#) , [4\(2\)](#)
- F22** 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](#)
- F23** 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](#)

^{F29}*B13. Access to information*

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,
- (d) any Scottish public authority with mixed functions or no reserved functions,

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unless supplied by a Minister of the Crown or government department and held in confidence.]]]]

Textual Amendments

- F14** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), [arts. 2](#), [4\(2\)](#)
- F22** 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](#)
- F23** 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](#)
- F29** 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—

Status: Point in time view as at 27/06/2018.

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 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.

[^{F30}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.

[^{F31}“Social landlord” means a body which is–

- (a) [^{F32}a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014] 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

F30 Words in Sch. 5 Pt. 2 Section C2 inserted (12.4.2001) by [S.I. 2001/1456](#), [art. 2\(1\)](#)

F31 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\(2\)](#)

F32 Words in Sch. 5 Pt. 2 substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014](#) (c. 14), s. 154, [Sch. 4 para. 66](#) (with [Sch. 5](#))

Status: Point in time view as at 27/06/2018.

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

- F30** Words in Sch. 5 Pt. 2 Section C2 inserted (12.4.2001) by [S.I. 2001/1456](#) , [art. 2\(1\)](#)
- F31** 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\(2\)](#)
- F32** Words in Sch. 5 Pt. 2 substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014](#) (c. 14) , s. 154 , [Sch. 4 para. 66](#) (with [Sch. 5](#))

C3. Competition

Section C3.

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 [^{F33}(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.

^{F34}*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).]

Status: Point in time view as at 27/06/2018.

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

- F33** Words in Sch. 5 Pt. 2 Section C5 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 4**
- F34** Words in Sch. 5 Pt. 2 s. C5 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **2(2)**

Textual Amendments

- F33** Words in Sch. 5 Pt. 2 Section C5 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 4**
- F34** Words in Sch. 5 Pt. 2 s. C5 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **2(2)**

C6. Sea fishing

Section C6.

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

Interpretation

“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.

[^{F35}Exceptions]

Status: Point in time view as at 27/06/2018.

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

[^{F36}The provision of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office.]

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

Interpretation

[^{F37} “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).]

Textual Amendments

- F35** Heading in Sch. 5 Pt. 2 Section C7 substituted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(2)(a)** , [72\(7\)](#)
- F36** Words in Sch. 5 Pt. 2 Section C7 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(2)(b)** , [72\(7\)](#)
- F37** Words in Sch. 5 Pt. 2 s. C7 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. [1\(2\)](#) , **3(2)**

Textual Amendments

- F35** Heading in Sch. 5 Pt. 2 Section C7 substituted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(2)(a)** , [72\(7\)](#)
- F36** Words in Sch. 5 Pt. 2 Section C7 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(2)(b)** , [72\(7\)](#)
- F37** Words in Sch. 5 Pt. 2 s. C7 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. [1\(2\)](#) , **3(2)**

C8. Product standards, safety and liability

Section C8.

Technical standards and requirements in relation to products in pursuance of an obligation under [^{F38}EU] law.

[^{F39}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

[^{F40} The provision of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office.]

Food, agricultural and horticultural produce, fish and fish products, seeds, animal feeding stuffs, fertilisers and pesticides [^{F41}(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.

[^{F42}*Interpretation*

Status: Point in time view as at 27/06/2018.

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

“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).]

Textual Amendments

- F38** Words in Sch. 5 Pt. 2 Section C8 substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#) , arts. 3 , **6**
- F39** Words in Sch. 5 Pt. 2 s. C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 5**
- F40** Words in Sch. 5 Pt. 2 Section C8 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(3)** , 72(7)
- F41** Words in Sch. 5 Pt. 2 Section C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 4**
- F42** Words in Sch. 5 Pt. 2 s. C8 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **4(2)**

Textual Amendments

- F38** Words in Sch. 5 Pt. 2 Section C8 substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#) , arts. 3 , **6**
- F39** Words in Sch. 5 Pt. 2 s. C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 5**
- F40** Words in Sch. 5 Pt. 2 Section C8 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(3)** , 72(7)
- F41** Words in Sch. 5 Pt. 2 Section C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 4**
- F42** Words in Sch. 5 Pt. 2 s. C8 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **4(2)**

C9. Weights and measures

Section C9.

Units and standards of weight and measurement.

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

^{F43}Exceptions

The provision of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office.]

Textual Amendments

- F43** Words in Sch. 5 Pt. 2 Section C9 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(4)** , 72(7)

Textual Amendments

- F43** Words in Sch. 5 Pt. 2 Section C9 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(4)** , 72(7)

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).

Status: Point in time view as at 27/06/2018.

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

Exception

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

[^{F44}C11 Posts

The subject matter of the Postal Services Act 2000.

[^{F45}Exceptions]

[^{F46}The provision of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office, but not any related compulsory levy on postal operators.]

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.

[^{F47}“postal operator”,] “postal services” and “public post offices” have the same meaning as in the Postal Services Act 2000.]

Textual Amendments

- F45** Heading in Sch. 5 Pt. 2 Section C11 substituted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(5)(a)** , [72\(7\)](#)
- F46** Words in Sch. 5 Pt. 2 Section C11 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(5)(b)** , [72\(7\)](#)
- F47** Words in Sch. 5 Pt. 2 Section C11 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(5)(c)** , [72\(7\)](#)

Textual Amendments

- F44** Sch. 5 Pt. 2 Section C11 substituted (14.12.2000) by [S.I. 2000/3252](#) , **art. 2(1)**
- F45** Heading in Sch. 5 Pt. 2 Section C11 substituted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(5)(a)** , [72\(7\)](#)
- F46** Words in Sch. 5 Pt. 2 Section C11 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(5)(b)** , [72\(7\)](#)
- F47** Words in Sch. 5 Pt. 2 Section C11 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(5)(c)** , [72\(7\)](#)

C12. [^{F48}United Kingdom Research and Innovation and] Research Councils

[^{F49}United Kingdom Research and Innovation.]

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 [^{F50}United Kingdom Research and Innovation and] Research Councils.

[^{F51}The Arts and Humanities Research Council within the meaning of Part 1 of the Higher Education Act 2004.

The subject-matter of section 10 of that Act (research in arts and humanities) so far as relating to that Council.

Interpretation

Status: Point in time view as at 27/06/2018.

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

Paragraph 5(1) of Part 3 of this Schedule does not apply to the subject-matter of section 10 of the Higher Education Act 2004; and the reference to the subject-matter of that section is to be construed as a reference to it as at the date that Act received Royal Assent.]

Textual Amendments

- F49** Words in Sch. 5 Pt. 2 inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 12 para. 16\(3\)](#); S.I. 2018/241, reg. 2(t)
- F50** Words in Sch. 5 Pt. 2 inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 12 para. 16\(4\)](#); S.I. 2018/241, reg. 2(t)
- F51** Sch. 5 Pt. 2 Section C12: words added (17.12.2004) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2004 \(S.I. 2004/3329\)](#), arts. 1(1), 3

Textual Amendments

- F48** Words in Sch. 5 Pt. 2 inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 12 para. 16\(2\)](#); S.I. 2018/241, reg. 2(t)
- F49** Words in Sch. 5 Pt. 2 inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 12 para. 16\(3\)](#); S.I. 2018/241, reg. 2(t)
- F50** Words in Sch. 5 Pt. 2 inserted (1.4.2018) by [Higher Education and Research Act 2017 \(c. 29\)](#), s. 124(5), [Sch. 12 para. 16\(4\)](#); S.I. 2018/241, reg. 2(t)
- F51** Sch. 5 Pt. 2 Section C12: words added (17.12.2004) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2004 \(S.I. 2004/3329\)](#), arts. 1(1), 3

C13. Designation of assisted areas

Section C13.

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.

[^{F52}Exceptions]

Status: Point in time view as at 27/06/2018.

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 Part I of the Environmental Protection Act 1990.

[^{F53}The provision of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office, but not any related compulsory levy on persons supplying, generating, transmitting or distributing electricity.]

Textual Amendments

- F52** Heading in Sch. 5 Pt. II Section D1 substituted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(6)(a)** , [72\(7\)](#)
- F53** Words in Sch. 5 Pt. II Section D1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(6)(b)** , [72\(7\)](#)

Textual Amendments

- F52** Heading in Sch. 5 Pt. II Section D1 substituted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(6)(a)** , [72\(7\)](#)
- F53** Words in Sch. 5 Pt. II Section D1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 50(6)(b)** , [72\(7\)](#)

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—

- (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.

Status: Point in time view as at 27/06/2018.

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

[^{F54}The granting and regulation of licences to search and bore for and get petroleum that, at the time of the grant of the licence, is within the Scottish onshore area, except for any consideration payable for such licences.

Access to land for the purpose of searching or boring for or getting petroleum under such a licence.]

The manufacture of gas.

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

[^{F55}The provision in relation to gas of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office, but not any related compulsory levy on persons supplying gas to premises or conveying gas through pipes.]

[^{F56}Interpretation

The Scottish onshore area is the area of Scotland that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea).

“Petroleum” means petroleum within the meaning given by section 1 of the Petroleum Act 1998 in its natural state in strata.]

Textual Amendments

F54 Words in Sch. 5 Pt. II s. D2 inserted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 47(2)**, 72(4)(c); S.I. 2018/163, reg. 2(a)

F55 Words in Sch. 5 Pt. II Section D2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#), **ss. 50(7)**, 72(7)

F56 Words in Sch. 5 Pt. II s. D2 inserted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 47(3)**, 72(4)(c); S.I. 2018/163, reg. 2(a)

Textual Amendments

F54 Words in Sch. 5 Pt. II s. D2 inserted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 47(2)**, 72(4)(c); S.I. 2018/163, reg. 2(a)

F55 Words in Sch. 5 Pt. II Section D2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#), **ss. 50(7)**, 72(7)

F56 Words in Sch. 5 Pt. II s. D2 inserted (9.2.2018) by [Scotland Act 2016 \(c. 11\)](#), **ss. 47(3)**, 72(4)(c); S.I. 2018/163, reg. 2(a)

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

Status: Point in time view as at 27/06/2018.

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

(b) liability for nuclear occurrences.

[^{F57}The Office for Nuclear Regulation.]

Exceptions

The subject-matter of—

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

Textual Amendments

F57 Words in Sch. 5 Pt. II s. D4 inserted (10.3.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 72](#); [S.I. 2014/251](#), art. 3(f)(iii)

Textual Amendments

F57 Words in Sch. 5 Pt. II s. D4 inserted (10.3.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 72](#); [S.I. 2014/251](#), art. 3(f)(iii)

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) [^{F58}section 17 of the Road Traffic Regulation Act 1984 (traffic regulation on special roads) except so far as relating to the speed of vehicles on special roads, and section 87 of that Act (exemption of emergency vehicles from speed limits) so far as relating to the training of drivers of vehicles,]
- (d) the Road Traffic Act 1988 [^{F59}, except so far as relating to the parking of vehicles on roads,] and the Road Traffic Offenders Act 1988,
- (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.

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Exceptions

The subject-matter of sections [F60]36 (offence of failing to comply with traffic sign),] 39 and 40 (road safety information and training) and 157 to 159 (payments for treatment of traffic casualties) of the Road Traffic Act 1988.

[F61]The subject-matter of the Road Traffic Act 1988 so far as relating to the regulation of the description, by reference to their construction and equipment, of motor vehicles and trailers which may be used under arrangements for persons to travel to and from the places where they receive education or training, but not the setting of technical standards for the construction or equipment of such motor vehicles or trailers different from the standards that might otherwise apply to them.]

[F62]Interpretation

The reference to the subject-matter of section 87 of the Road Traffic Regulation Act 1984 is to be construed as a reference to it as substituted by section 19 of the Road Safety Act 2006 as at the date when section 40 of the Scotland Act 2016 comes into force, treating section 19 and any amendment affecting it at that date as if they were in force (and, accordingly, paragraph 5(1) of Part 3 of this Schedule does not apply to that reference).]

Textual Amendments

- F58** Words in Sch. 5 Pt. II Section E1 substituted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 40(2)** , 72(7)
F59 Words in Sch. 5 Pt. II Section E1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 40(3)** , 72(7)
F60 Words in Sch. 5 Pt. II Section E1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 40(4)** , 72(7)
F61 Words in Sch. 5 Pt. II Section E1 inserted (11.6.2015) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2015 \(S.I. 2015/1379\)](#) , arts. 1(2) , 2
F62 Words in Sch. 5 Pt. II Section E1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 40(5)** , 72(7)

Textual Amendments

- F58** Words in Sch. 5 Pt. II Section E1 substituted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 40(2)** , 72(7)
F59 Words in Sch. 5 Pt. II Section E1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 40(3)** , 72(7)
F60 Words in Sch. 5 Pt. II Section E1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 40(4)** , 72(7)
F61 Words in Sch. 5 Pt. II Section E1 inserted (11.6.2015) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2015 \(S.I. 2015/1379\)](#) , arts. 1(2) , 2
F62 Words in Sch. 5 Pt. II Section E1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 40(5)** , 72(7)

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),

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(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).

[^{F63}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.]

[^{F64}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 and sections 32 to 36 of the Railways Act 1993 to, and the allocation of such functions among, [^{F65}relevant authorities].]

[^{F66}The promotion and construction of railways which start, end and remain in Scotland.]

[^{F67}Policing of railways and railway property.]

Textual Amendments

- F63** Sch. 5 Pt. II Section E2: paragraph inserted (14.12.2000) by [S.I. 2000/3252](#) , [art. 3\(1\)](#)
- F64** Sch. 5 Pt. II Section E2: paragraph inserted (14.12.2000) by [S.I. 2000/3252](#) , [art. 3\(2\)](#)
- F65** Sch. 5 Pt. II Section E2: words in third exception substituted (17.12.2004) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2004 \(S.I. 2004/3329\)](#) , [arts. 1\(1\)](#) , [4\(a\)](#)
- F66** Sch. 5 Pt. II Section E2: paragraph inserted (27.6.2002) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2002 \(S.I. 2002/1629\)](#) , [art. 2\(a\)](#)
- F67** Words in Sch. 5 Pt. II Section E2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , [ss. 45\(2\)](#) , [72\(7\)](#)

Interpretation

[^{F68}“railway” has the meaning given by section 67(1) of the Transport and Works Act 1992.]

[^{F69}“Railway property” has the meaning given by section 75(3) of the Railways and Transport Safety Act 2003.]

“ 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).

[^{F70} “ relevant authority ” means–

- (a) the Scottish Ministers; or
- (b) any Scottish public authority (not being a cross-border public authority or an authority exercising functions solely in relation to a reserved matter) which is set up wholly or mainly to exercise functions relating to transport.]

Textual Amendments

- F68** Sch. 5 Pt. II Section E2: definition of "railway" inserted (27.6.2002) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2002 \(S.I. 2002/1629\)](#) , [art. 2\(b\)](#)
- F69** Words in Sch. 5 Pt. II Section E2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , [ss. 45\(3\)](#) , [72\(7\)](#)
- F70** Sch. 5 Pt. II Section E2: definition of "relevant authority" added (18.12.2004) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2004 \(S.I. 2004/3329\)](#) , [arts. 1\(1\)](#) , [4\(b\)](#)

Textual Amendments

- F63** Sch. 5 Pt. II Section E2: paragraph inserted (14.12.2000) by [S.I. 2000/3252](#) , [art. 3\(1\)](#)

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- F64** Sch. 5 Pt. II Section E2: paragraph inserted (14.12.2000) by S.I. 2000/3252 , **art. 3(2)**
- F65** Sch. 5 Pt. II Section E2: words in third exception substituted (17.12.2004) by The Scotland Act 1998 (Modifications of Schedule 5) Order 2004 (S.I. 2004/3329) , arts. 1(1) , **4(a)**
- F66** Sch. 5 Pt. II Section E2: paragraph inserted (27.6.2002) by The Scotland Act 1998 (Modifications of Schedule 5) Order 2002 (S.I. 2002/1629) , **art. 2(a)**
- F67** Words in Sch. 5 Pt. II Section E2 inserted (23.5.2016) by Scotland Act 2016 (c. 11) , **ss. 45(2)** , 72(7)
- F68** Sch. 5 Pt. II Section E2: definition of "railway" inserted (27.6.2002) by The Scotland Act 1998 (Modifications of Schedule 5) Order 2002 (S.I. 2002/1629) , **art. 2(b)**
- F69** Words in Sch. 5 Pt. II Section E2 inserted (23.5.2016) by Scotland Act 2016 (c. 11) , **ss. 45(3)** , 72(7)
- F70** Sch. 5 Pt. II Section E2: definition of "relevant authority" added (18.12.2004) by The Scotland Act 1998 (Modifications of Schedule 5) Order 2004 (S.I. 2004/3329) , arts. 1(1) , **4(b)**

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

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(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.

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.

[^{F71}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

F71 Paragraph in Sch. 5 Pt. II Section E4 inserted (14.12.2000) by [S.I. 2000/3252](#) , [art. 3\(3\)](#)

Textual Amendments

F71 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

Status: Point in time view as at 27/06/2018.

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

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

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; ^{F72}... 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

[^{F73}Exception 1

Any of the following benefits—

- (a) disability benefits, other than severe disablement benefit or industrial injuries benefits,
- (b) severe disablement benefit, so far as payable in respect of a relevant person, and
- (c) industrial injuries benefits, so far as relating to relevant employment or to participation in training for relevant employment;

but this exception does not except a benefit which is, or which is an element of, an excluded benefit.

Exception 2

Carer's benefits, other than a benefit which is, or which is an element of, an excluded benefit.]

[^{F74}Exception 3]

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.

[^{F75}Exception 4

Providing financial or other assistance for the purposes of meeting or reducing—

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- (a) maternity expenses,
- (b) funeral expenses, or
- (c) expenses for heating in cold weather.]

[^{F76}Exception 5

Providing financial assistance to an individual who—

- (a) is entitled to a reserved benefit, and
- (b) appears to require financial assistance, in addition to any amount the individual receives by way of reserved benefit, for the purpose, or one of the purposes, for which the benefit is being provided.

This exception does not except discretionary financial assistance in a reserved benefit.

This exception also does not except providing financial assistance to meet or help to meet housing costs (as to which, see exception 6).

This exception also does not except providing financial assistance where the requirement for it arises from reduction, non-payability or suspension of a reserved benefit as a result of an individual's conduct (for example, non-compliance with work-related requirements relating to the benefit) unless—

- (a) the requirement for it also arises from some exceptional event or exceptional circumstances, and
- (b) the requirement for it is immediate.

For the purposes of this exception “reserved benefit” means a benefit which is to any extent a reserved matter.]

[^{F77}Exception 6

Providing financial assistance to an individual who—

- (a) is entitled to—
 - (i) housing benefit, or
 - (ii) any other reserved benefit payable in respect of a liability to make rent payments, and
- (b) appears to require financial assistance, in addition to any amount the individual receives by way of housing benefit or such other reserved benefit, to meet or help to meet housing costs.

This exception does not except discretionary financial assistance in a reserved benefit.

This exception also does not except providing financial assistance where the requirement for it arises from reduction, non-payability or suspension of a reserved benefit as a result of an individual's conduct (for example, non-compliance with work-related requirements relating to the benefit) unless—

- (a) the requirement for it also arises from some exceptional event or exceptional circumstances, and
- (b) the requirement for it is immediate.

For the purposes of this exception—

“rent payments”—

- (a) has the meaning given from time to time by paragraph 2 of Schedule 1 to the Universal Credit Regulations 2013 (S.I. 2013/376) or any re-enactment of that paragraph, or
- (b) if at any time universal credit ceases to be payable to anyone, has the meaning given by that paragraph or any re-enactment of that paragraph immediately before that time;

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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)

“reserved benefit” means a benefit which is to any extent a reserved matter.]

[^{F78}Exception 7

Providing financial or other assistance to or in respect of individuals who appear to require it for the purposes of meeting, or helping to meet, a short-term need that requires to be met to avoid a risk to the well-being of an individual.

This exception does not except providing assistance where the requirement for it arises from reduction, non-payability or suspension of a benefit as a result of an individual's conduct (for example, non-compliance with work-related requirements relating to the benefit) unless—

- (a) the requirement for it also arises from some exceptional event or exceptional circumstances, and
- (b) the need is immediate as well as short-term.

Exception 8

Providing occasional financial or other assistance to or in respect of individuals who have been or might otherwise be—

- (a) in prison, hospital, a residential care establishment or other institution, or
- (b) homeless or otherwise living an unsettled way of life,

and who appear to require the assistance to establish or maintain a settled home.]

[^{F79}Exception 10

Schemes which provide assistance for social security purposes to or in respect of individuals by way of benefits and which—

- (a) are supported from sums paid out of the Scottish Consolidated Fund,
- (b) do not fall within exceptions 1 to 9, and
- (c) are not connected with reserved matters (other than matters reserved only by virtue of this Section).

This exception does not except providing assistance by way of pensions to or in respect of individuals who qualify by reason of old age.

This exception does not except providing assistance where the requirement for it arises from reduction, non-payability or suspension of a reserved benefit as a result of an individual's conduct (for example, non-compliance with work-related requirements relating to the benefit) unless—

- (a) the requirement for it also arises from some exceptional event or exceptional circumstances, and
- (b) the requirement for it is immediate.

For the purposes of this exception “reserved benefit” means a benefit which is to any extent a reserved matter.

In this exception the reference to schemes supported from sums paid out of the Scottish Consolidated Fund does not include schemes—

- (a) in respect of which sums are at some time paid out of the Scottish Consolidated Fund, but
- (b) which are directly supported from payments out of the Consolidated Fund, the National Insurance Fund or the Social Fund, or out of money provided by Parliament.]

[^{F80}Exclusions from exceptions 1 to 10

Nothing in exceptions 1 to 10 is to be read as excepting—

- (a) the National Insurance Fund,
- (b) the Social Fund, or

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- (c) the provision by a Minister of the Crown of assistance by way of loan for the purpose of meeting, or helping to meet, an intermittent expense.]

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.

[^{F81}“Disability benefit” means a benefit which is normally payable in respect of—

- (a) a significant adverse effect that impairment to a person's physical or mental condition has on his or her ability to carry out day-to-day activities (for example, looking after yourself, moving around or communicating), or
- (b) a significant need (for example, for attention or for supervision to avoid substantial danger to anyone) arising from impairment to a person's physical or mental condition;

and for this purpose the adverse effect or need must not be short-term.

“Severe disablement benefit” means a benefit which is normally payable in respect of—

- (a) a person's being incapable of work for a period of at least 28 weeks beginning not later than the person's 20th birthday, or
- (b) a person's being incapable of work and disabled for a period of at least 28 weeks;

and

“relevant person”, in relation to severe disablement benefit, means a person who is entitled to severe disablement allowance under section 68 of the Social Security Contributions and Benefits Act 1992 on the date on which section 22 of the Scotland Act 2016 comes into force as respects severe disablement benefit.

“Industrial injuries benefit” means a benefit which is normally payable in respect of

- (a) a person's having suffered personal injury caused by accident arising out of and in the course of his or her employment, or
- (b) a person's having developed a disease or personal injury due to the nature of his or her employment;

and for this purpose employment includes participation in training for employment.

“Relevant employment”, in relation to industrial injuries benefit, means employment which—

- (a) is employed earner's employment for the purposes of section 94 of the Social Security Contributions and Benefits Act 1992 as at 28 May 2015 (the date of introduction into Parliament of the Bill for the Scotland Act 2016), or
- (b) would be such employment but for—
 - (i) the contract purporting to govern the employment being void, or
 - (ii) the person concerned not being lawfully employed,

as a result of a contravention of, or non-compliance with, provision in or made by virtue of an enactment passed to protect employees.

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“Carer's benefit” means a benefit which is normally payable in respect of the regular and substantial provision of care by a person to a disabled person; and for this purpose “disabled person” means a person to whom a disability benefit is normally payable.

“Excluded benefit” means—

- (a) a benefit, entitlement to which, or the amount of which, is normally determined to any extent by reference to a person's income or capital (for example, universal credit under Part 1 of the Welfare Reform Act 2012),
- (b) a benefit which is payable out of the National Insurance Fund (for example, employment and support allowance under section 1(2)(a) of the Welfare Reform Act 2007), or
- (c) a benefit payable by way of lump sum in respect of a person's having, or having had—
 - (i) pneumoconiosis,
 - (ii) byssinosis,
 - (iii) diffuse mesothelioma,
 - (iv) bilateral diffuse pleural thickening, or
 - (v) primary carcinoma of the lung where there is accompanying evidence of one or both of asbestosis and bilateral diffuse pleural thickening.

“Employment” includes any trade, business, profession, office or vocation (and “employed” is to be read accordingly).]

F82
...

Textual Amendments

- F72** Words in Sch. 5 Pt. II repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); [S.I. 2013/358](#), art. 8(c), [Sch. 4](#) (with arts. 910Sch. 5)
- F73** Words in Sch. 5 Pt. II s. F1 inserted (17.5.2017) by [Scotland Act 2016 \(c. 11\)](#), [ss. 22\(2\)](#), 72(4)(b); [S.I. 2017/455](#), reg. 2(a)(ii)
- F74** Words in Sch. 5 Pt. II s. F1 inserted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 22\(3\)](#), 72(4)(b); [S.I. 2016/759](#), reg. 3(a)(ii)
- F75** Words in Sch. 5 Pt. II s. F1 inserted (17.5.2017) by [Scotland Act 2016 \(c. 11\)](#), [ss. 23\(2\)](#), 72(4)(b); [S.I. 2017/455](#), reg. 2(b)(ii)
- F76** Words in Sch. 5 Pt. II s. F1 inserted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 24](#), 72(4)(b); [S.I. 2016/759](#), reg. 3(c)
- F77** Words in Sch. 5 Pt. II s. F1 inserted (1.4.2017) by [Scotland Act 2016 \(c. 11\)](#), [ss. 25](#), 72(4)(b); [S.I. 2016/759](#), reg. 4
- F78** Words in Sch. 5 Pt. II s. F1 substituted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 26](#), 72(4)(b); [S.I. 2016/759](#), reg. 3(d)
- F79** Words in Sch. 5 Pt. II s. F1 inserted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 28\(2\)](#), 72(4)(b); [S.I. 2016/759](#), reg. 3(e)
- F80** Words in Sch. 5 Pt. II s. F1 substituted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 23\(3\)](#), 72(4)(b); [S.I. 2016/759](#), reg. 3(b)(ii) (with saving in [S.I. 2016/761](#), art. 2)
- F81** Words in Sch. 5 Pt. II s. F1 inserted (17.5.2017) by [Scotland Act 2016 \(c. 11\)](#), [ss. 22\(4\)](#), 72(4)(b); [S.I. 2017/455](#), reg. 2(a)(ii)
- F82** Words in Sch. 5 Pt. II s. F1 omitted (17.5.2017) by virtue of [Scotland Act 2016 \(c. 11\)](#), [ss. 23\(4\)](#), 72(4)(b); [S.I. 2017/455](#), reg. 2(b)(ii)

Status: Point in time view as at 27/06/2018.

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

- F72** Words in Sch. 5 Pt. II repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), [Sch. 4](#) (with arts. 910Sch. 5)
- F73** Words in Sch. 5 Pt. II s. F1 inserted (17.5.2017) by [Scotland Act 2016 \(c. 11\)](#), [ss. 22\(2\)](#), 72(4)(b); S.I. 2017/455, [reg. 2\(a\)\(ii\)](#)
- F74** Words in Sch. 5 Pt. II s. F1 inserted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 22\(3\)](#), 72(4)(b); S.I. 2016/759, [reg. 3\(a\)\(ii\)](#)
- F75** Words in Sch. 5 Pt. II s. F1 inserted (17.5.2017) by [Scotland Act 2016 \(c. 11\)](#), [ss. 23\(2\)](#), 72(4)(b); S.I. 2017/455, [reg. 2\(b\)\(ii\)](#)
- F76** Words in Sch. 5 Pt. II s. F1 inserted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 24](#), 72(4)(b); S.I. 2016/759, [reg. 3\(c\)](#)
- F77** Words in Sch. 5 Pt. II s. F1 inserted (1.4.2017) by [Scotland Act 2016 \(c. 11\)](#), [ss. 25](#), 72(4)(b); S.I. 2016/759, [reg. 4](#)
- F78** Words in Sch. 5 Pt. II s. F1 substituted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 26](#), 72(4)(b); S.I. 2016/759, [reg. 3\(d\)](#)
- F79** Words in Sch. 5 Pt. II s. F1 inserted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 28\(2\)](#), 72(4)(b); S.I. 2016/759, [reg. 3\(e\)](#)
- F80** Words in Sch. 5 Pt. II s. F1 substituted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 23\(3\)](#), 72(4)(b); S.I. 2016/759, [reg. 3\(b\)\(ii\)](#) (with saving in S.I. 2016/761, art. 2)
- F81** Words in Sch. 5 Pt. II s. F1 inserted (17.5.2017) by [Scotland Act 2016 \(c. 11\)](#), [ss. 22\(4\)](#), 72(4)(b); S.I. 2017/455, [reg. 2\(a\)\(ii\)](#)
- F82** Words in Sch. 5 Pt. II s. F1 omitted (17.5.2017) by virtue of [Scotland Act 2016 \(c. 11\)](#), [ss. 23\(4\)](#), 72(4)(b); S.I. 2017/455, [reg. 2\(b\)\(ii\)](#)

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

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—

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- (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.

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

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(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) [^{F83}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

F83 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

Textual Amendments

F83 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

[^{F84} 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—

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- (i) process fire precautions;
 - (ii) fire precautions in relation to petroleum and petroleum spirit; [^{F85} and]
 - (iii) fire safety on ^{F86} . . . ships and hovercraft, in mines and on offshore installations;
^{F87} . . .
 - ^{F87}(iv)
- but does not include any other aspect of fire safety.]

Textual Amendments

- F84** 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](#)
- F85** Sch. 5 Pt. 2 Section H2: word in para. (b)(ii) inserted (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2005 \(S.I. 2005/865\)](#), [arts. 1, 2\(a\)](#)
- F86** Sch. 5 Pt. 2 Section H2: words in para. (b)(iii) repealed (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2005 \(S.I. 2005/865\)](#), [arts. 1, 2\(b\)](#)
- F87** Sch. 5 Pt. 2 Section H2: para. (b)(iv) and preceding word repealed (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2005 \(S.I. 2005/865\)](#), [arts. 1, 2\(c\)](#)

Textual Amendments

- F84** 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](#)
- F85** Sch. 5 Pt. 2 Section H2: word in para. (b)(ii) inserted (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2005 \(S.I. 2005/865\)](#), [arts. 1, 2\(a\)](#)
- F86** Sch. 5 Pt. 2 Section H2: words in para. (b)(iii) repealed (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2005 \(S.I. 2005/865\)](#), [arts. 1, 2\(b\)](#)
- F87** Sch. 5 Pt. 2 Section H2: para. (b)(iv) and preceding word repealed (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2005 \(S.I. 2005/865\)](#), [arts. 1, 2\(c\)](#)

H3. Job search and support

Section H3.

The subject-matter of—

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

[^{F88}Exceptions]

[^{F89}Exception 1

The making by a person of arrangements for, or arrangements for the purposes of or in connection with a scheme for, any of the following purposes—

- (a) assisting disabled persons to select, obtain and retain employment;
- (b) assisting persons claiming reserved benefits who are at risk of long-term unemployment to select, obtain and retain employment, where the assistance is for at least a year;
- (c) assisting employers to obtain suitable employees who are persons referred to in paragraph (a) or (b).

The arrangements referred to in this exception include—

- (a) securing that the assistance referred to in this exception is provided by another person;

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- (b) providing or arranging for the provision of facilities, support or services to any person;
- (c) the making of payments to any person.

The assistance referred to in this exception includes—

- (a) work search support,
- (b) skills training, and
- (c) work placements for the benefit of the community.

In this exception—

- (a) “disabled person” has the same meaning as it has in the Equality Act 2010 as at 28 May 2015 (the date of introduction into Parliament of the Bill for the Scotland Act 2016);
- (b) “reserved benefit” means a benefit which is to any extent a reserved matter.]

[^{F90}Exception 2]

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).

Textual Amendments

- F88** Words in Sch. 5 Pt. II s. H3 substituted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), **ss. 31(2)**, 72(4)(b); S.I. 2016/759, reg. 3(h)
- F89** Words in Sch. 5 Pt. II s. H3 inserted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), **ss. 31(3)**, 72(4)(b); S.I. 2016/759, reg. 3(h)
- F90** Words in Sch. 5 Pt. II s. H3 inserted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), **ss. 31(4)**, 72(4)(b); S.I. 2016/759, reg. 3(h)

Textual Amendments

- F88** Words in Sch. 5 Pt. II s. H3 substituted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), **ss. 31(2)**, 72(4)(b); S.I. 2016/759, reg. 3(h)
- F89** Words in Sch. 5 Pt. II s. H3 inserted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), **ss. 31(3)**, 72(4)(b); S.I. 2016/759, reg. 3(h)
- F90** Words in Sch. 5 Pt. II s. H3 inserted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), **ss. 31(4)**, 72(4)(b); S.I. 2016/759, reg. 3(h)

Head J – Health and Medicines

J1. Abortion

^{F91} ...

Textual Amendments

- F91** Sch. 5 Pt. II Section J1 omitted (23.5.2016) by virtue of [Scotland Act 2016 \(c. 11\)](#), **ss. 53**, 72(7)

Status: Point in time view as at 27/06/2018.

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

F91 Sch. 5 Pt. II Section J1 omitted (23.5.2016) by virtue of [Scotland Act 2016 \(c. 11\)](#), **ss. 53**, 72(7)

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) [^{F92}the Medicines Act 1968, 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,]
- (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.

[^{F93}Regulation of—

- (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.]

Interpretation

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

“Medicinal products” has [^{F94}, 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,] the same meaning as in section 130(1) of the Medicines Act 1968.

[^{F95}“Specified feed additives” has the same meaning as in Schedule 5 to the Veterinary Medicines Regulations 2013 (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).]

Status: Point in time view as at 27/06/2018.

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

- F92** Sch. 5 Pt. II s. J4(a)(aa) substituted for Sch. 5 Pt. II (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **5(2)**
- F93** Words in Sch. 5 Pt. II s. J4 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **5(3)**
- F94** Words in Sch. 5 Pt. II s. J4 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **5(4)(a)**
- F95** Words in Sch. 5 Pt. II s. J4 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **5(4)(b)**

Textual Amendments

- F92** Sch. 5 Pt. II s. J4(a)(aa) substituted for Sch. 5 Pt. II (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **5(2)**
- F93** Words in Sch. 5 Pt. II s. J4 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **5(3)**
- F94** Words in Sch. 5 Pt. II s. J4 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **5(4)(a)**
- F95** Words in Sch. 5 Pt. II s. J4 inserted (13.6.2014) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2014 \(S.I. 2014/1559\)](#) , arts. 1(2) , **5(4)(b)**

J5. Welfare foods

Section J5.

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).

Status: Point in time view as at 27/06/2018.

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

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 ^{F96} ...

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 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.

[^{F97}Equal opportunities so far as relating to the inclusion of persons with protected characteristics in non-executive posts on boards of Scottish public authorities with mixed functions or no reserved functions.

Equal opportunities in relation to the Scottish functions of any Scottish public authority or cross-border public authority, other than any function that relates to the inclusion of persons in non-executive posts on boards of Scottish public authorities with mixed functions or no reserved functions. The provision falling within this exception does not include any modification of the Equality Act 2010, or of any subordinate legislation made under that Act, but does include—

- (a) provision that supplements or is otherwise additional to provision made by that Act;
- (b) in particular, provision imposing a requirement to take action that that Act does not prohibit;
- (c) provision that reproduces or applies an enactment contained in that Act, with or without modification, without affecting the enactment as it applies for the purposes of that Act.]

Interpretation

[^{F98} “ Board ” includes any other equivalent management body.]

“ 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.

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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)

[^{F98} “ Non-executive post ” in relation to an authority means any position the holder of which is not an employee of the authority.]

[^{F98} “ Protected characteristic ” has the same meaning as in the Equality Act 2010.]

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

[^{F99}The references to the Equality Act 2010 and any subordinate legislation made under that Act are to be read as references to those enactments, as at the day on which section 37 of the Scotland Act 2016 comes into force, but treating any provision of them that is not yet in force on that day as if it were in force.]

Textual Amendments

- F96** Words in Sch. 5 Pt. II Section L2 omitted (23.5.2016) by virtue of [Scotland Act 2016 \(c. 11\)](#) , **ss. 37(2)** , [72\(7\)](#)
- F97** Words in Sch. 5 Pt. II Section L2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 37(3)** , [72\(7\)](#)
- F98** Words in Sch. 5 Pt. II Section L2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 37(4)** , [72\(7\)](#)
- F99** Words in Sch. 5 Pt. II Section L2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 37(5)** , [72\(7\)](#)

Textual Amendments

- F96** Words in Sch. 5 Pt. II Section L2 omitted (23.5.2016) by virtue of [Scotland Act 2016 \(c. 11\)](#) , **ss. 37(2)** , [72\(7\)](#)
- F97** Words in Sch. 5 Pt. II Section L2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 37(3)** , [72\(7\)](#)
- F98** Words in Sch. 5 Pt. II Section L2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 37(4)** , [72\(7\)](#)
- F99** Words in Sch. 5 Pt. II Section L2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 37(5)** , [72\(7\)](#)

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.

Status: Point in time view as at 27/06/2018.

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

^{F100}L7. *Antarctica*

Regulation of activities in Antarctica.

Interpretation “Antarctica” has the meaning given by section 1 of the Antarctic Act 1994.]

Textual Amendments

F100 Words in Sch. 5 Pt. II inserted (1.7.2012) by [Scotland Act 2012 \(c. 11\)](#) , **ss. 11** , 44(2)(a)

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—
- (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**

Status: Point in time view as at 27/06/2018.

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

f^{F101} Tribunals

Textual Amendments

F101 Sch. 5 Pt. III para. 2A and cross-heading inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\), ss. 39\(1\), 72\(7\)](#)

- 2A (1) This Schedule does not reserve the transfer to a Scottish tribunal of functions of a tribunal that relate to reserved matters, so far as those functions are exercisable in relation to Scottish cases.
- (2) “Scottish cases” has the meaning given by an Order in Council made by Her Majesty under this sub-paragraph.
- (3) Sub-paragraph (1) does not apply where a function is excluded from transfer.
- (4) Where a function is not excluded from transfer but is subject to qualified transfer, sub-paragraph (1) applies only if the transfer of the function is in accordance with provision made by Her Majesty by Order in Council.
- (5) An Order in Council under sub-paragraph (4)—
- (a) must specify the function to which it relates,
 - (b) must specify the Scottish tribunal to which the function may be transferred, and
 - (c) may make any other provision which Her Majesty considers necessary or expedient for the purposes of or in consequence of the transfer of the function and its exercise by the Scottish tribunal.
- (6) The functions that are subject to qualified transfer are the functions of the following tribunals—
- (a) the First-tier Tribunal or the Upper Tribunal that are established under section 3 of the Tribunals, Courts and Enforcement Act 2007;
 - (b) an employment tribunal or the Employment Appeal Tribunal;
 - (c) a tribunal listed in Schedule 1 to the Tribunals and Inquiries Act 1992;
 - (d) a tribunal listed in Schedule 6 to the Tribunals, Courts and Enforcement Act 2007.
- (7) Sub-paragraph (6)(c) and (d) include a tribunal added to the Schedule concerned after this paragraph comes into force.
- (8) Provision made by virtue of sub-paragraph (5)(c) may—
- (a) include provision that—
 - (i) modifies the function;
 - (ii) imposes conditions or restrictions (including conditions or restrictions relating to the composition or rules of procedure of the Scottish tribunal, or to its staff or accommodation);
 - (b) be made with a view to purposes including—
 - (i) securing consistency in any respect in practice or procedure or otherwise between the Scottish tribunal and other tribunals;
 - (ii) promoting judicial co-operation in the interests of consistency.
- (9) Sub-paragraph (8) does not limit the provision that may be made by virtue of sub-paragraph (5)(c).

Status: Point in time view as at 27/06/2018.

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

- (10) The following functions are excluded from transfer—
- (a) functions of a national security tribunal;
 - (b) functions of a regulator, or of a person or body that exercises functions on behalf of a regulator;
 - (c) functions of the Comptroller-General of Patents, Designs and Trade Marks.
- (11) In this paragraph—
- a “ national security tribunal ” means—
 - (a) the Pathogens Access Appeal Commission;
 - (b) the Proscribed Organisations Appeal Commission;
 - (c) the Special Immigration Appeals Commission;
 - (d) the tribunal established by section 65(1) of the Regulation of Investigatory Powers Act 2000 (investigatory powers tribunal);
 - (e) any other tribunal that has functions relating to matters falling within Section B8 of Part 2 of this Schedule, except a tribunal mentioned in sub-paragraph (6);
 - a “ regulator ” means a person or body that has regulatory functions (within the meaning given by section 32 of the Legislative and Regulatory Reform Act 2006);
 - a “ Scottish tribunal ” means a tribunal in Scotland—
 - (a) that does not have functions in or as regards any other country or territory, except for purposes ancillary to its functions in or as regards Scotland, and
 - (b) that is not, and does not have as a member, a member of the Scottish Government.
- (12) The powers conferred by this paragraph do not affect the powers conferred by section 30 or section 113.]

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 [F102the Disability Rights Commission].
 - [F103(d) the Commission for Equality and Human Rights.]
 - [F104(e) the Office of Communications,
 - (f) the Gas and Electricity Markets Authority.

Status: Point in time view as at 27/06/2018.

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

F102 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)**

F103 Sch. 5 Pt. III para. 3(2)(d) inserted (1.5.2006) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2006 \(S.I. 2006/609\)](#), **art. 2**

F104 Sch. 3 Pt III para. 3(2)(e)(f) inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#), ss. 50(8), 72(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**

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 [F105C11,] 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

F105 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 27/06/2018.

Changes to legislation:

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