

Status: Point in time view as at 28/04/2013.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: Head B – Home Affairs. (See end of Document for details)

SCHEDULES

SCHEDULE 5

RESERVED MATTERS

PART II

SPECIFIC RESERVATIONS

Head B – Home Affairs

B1. Misuse of drugs

Section B1.

The subject-matter of—

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

B2. Data protection

Section B2.

The subject-matter of—

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

Interpretation

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

B3. Elections

Section B3.

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

- (a) [^{F1}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.

The franchise at local government elections.

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[^{F2} 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.]

Textual Amendments

- F1** 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)}
- F2** 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

Textual Amendments

- F1** 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)}
- F2** 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

B4. Firearms

Section B4.

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

[^{F3} Exception

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

- F3** 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)

Textual Amendments

- F3** 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).

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

B6. Immigration and nationality

Section B6.

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

B7. Scientific procedures on live animals

Section B7.

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

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

Section B8.

National security.

The interception of communications; but not

- (a) [^{F4}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.

[^{F5} 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 [^{F6} 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 [^{F7} 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.]

[^{F8} “ Private telecommunication system ” has the meaning given in section 2(1) of the Regulation of Investigatory Powers Act 2000.]]

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Textual Amendments

- F4** 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**
- F5** 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**
- F6** 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)**
- F7** 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)**
- F8** 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)**

Textual Amendments

- F4** 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**
- F5** 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**
- F6** 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)**
- F7** 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)**
- F8** 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)**

B9. Betting, gaming and lotteries

Section B9.

Betting, gaming and lotteries.

B10. Emergency powers

Section B10.

Emergency powers.

B11. Extradition

Section B11.

Extradition.

B12. Lieutenancies

Section B12.

The subject-matter of the Lieutenancies Act 1997.

Access to information

[^{F9}B13] Public access to information held by public bodies or holders of public offices (including government departments and persons acting on behalf of the Crown).

Exception

Information held by—

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

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

Textual Amendments

F9 Sch. 5 Pt. II Section B13 inserted (1.7.1999) by [S.I. 1999/1749](#), **arts. 1, 5**; [S.I. 1998/3178](#), **art. 3**

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