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STATUTORY INSTRUMENTS

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**1999 No. 1748**

**The Scotland Act 1998 (Functions Exercisable  
in or as Regards Scotland) Order 1999**

**Citation and commencement**

1. This Order may be cited as the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 and shall come into force on 30th June 1999.

**Interpretation**

2.—(1) In this Order—

“the 1949 Act” means the Wireless Telegraphy Act 1949<sup>(1)</sup>

“the 1984 Act” means the Repatriation of Prisoners Act 1984<sup>(2)</sup>

“the 1985 Act” means the Interception of Communications Act 1985<sup>(3)</sup>

“the 1989 Act” means the Prisons (Scotland) Act 1989<sup>(4)</sup>

“the 1991 Act” means the Criminal Justice Act 1991<sup>(5)</sup>

“the 1993 Act” means the Prisoners and Criminal Proceedings (Scotland) Act 1993<sup>(6)</sup>

“the 1997 Act” means the Crime (Sentences) Act 1997<sup>(7)</sup>

“the 1998 Act” means the Scotland Act 1998;

“the 1998 Order” means the Transfer of Prisoners (Restricted Transfers) (Channel Islands and Isle of Man) Order 1998<sup>(8)</sup>

“existing provisions” has the same meaning as in Schedule 6 to the 1993 Act;

“Scottish fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995<sup>(9)</sup> and whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging;

“the Guernsey enactments” means the Prison Administration (Guernsey) Law, 1949, the Parole Review Committee (Guernsey) Law, 1989, the Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990, the Parole Review Committee Ordinance, 1991 and the Prison Administration (Guernsey) Ordinance, 1998;

“the Isle of Man enactments” means the Custody Act 1995 (an Act of Tynwald);

“the Jersey enactments” means the Prison (Jersey) Law, 1957, the Prison (Jersey) Rules 1957, the Criminal Justice (Jersey) Law, 1957, the Court of Appeal (Jersey) Law, 1961, the Criminal

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(1) 1949 c. 54.  
(2) 1984 c. 47.  
(3) 1985 c. 56.  
(4) 1989 c. 45.  
(5) 1991 c. 53.  
(6) 1993 c. 9.  
(7) 1997 c. 43.  
(8) S.I.1998/2798.  
(9) 1995 c. 21.

Proceedings (Computation of Sentences) (Jersey) Rules, 1968 and the Criminal Justice (Young Offenders) (Jersey) Law 1994;

“the Northern Ireland enactments” means the Prison Act (Northern Ireland) 1953<sup>(10)</sup>, the Treatment of Offenders (Northern Ireland) Order 1976, the Northern Ireland (Remission of Sentences) Act 1995<sup>(11)</sup>, the Criminal Justice (Northern Ireland) Order 1996 and the Northern Ireland (Sentences) Act 1998<sup>(12)</sup>;

“restricted transfer” has the meaning given in paragraph 6(1)(a) of Schedule 1 to the 1997 Act.

(2) Any word or expression used in this Order in referring to any enactment and also used in the enactment has the same meaning as it has in the enactment.

### **General**

**3.** The functions specified in Schedule 1 to this Order are to be treated, for such purposes of the 1998 Act as may be so specified in relation to that function, as being or, as the case may be, not being functions which are exercisable in or as regards Scotland.

### **Prisoners etc.**

**4.—(1)** Any function under the 1984 Act, the 1993 Act, the 1997 Act or the 1998 Order which is specified in Schedule 2 to this Order is to be treated for the purposes of section 53 of the 1998 Act as being a function exercisable in or as regards Scotland if the function is exercisable in the case mentioned in relation to that function.

(2) Any function under the 1989 Act or the 1993 Act which is specified in Schedule 3 to this Order is to be treated for the purposes of section 53 of the 1998 Act as being a function exercisable in or as regards Scotland if the function is exercisable in the case mentioned in relation to that function.

### **Fisheries and aquaculture**

**5.** So far as a function under Community law, or to which section 53(2)(a) of the 1998 Act applies, is exercisable—

- (a) in relation to fishing or aquaculture in the Scottish zone;
- (b) in relation to fishing outside that zone by Scottish fishing boats;
- (c) in relation to any fish or aquaculture organisation applying for recognition as a producers' organisation, or recognised as such in accordance with Community law, whose area covered by the application for recognition, in so far as within the United Kingdom or British fishery limits, is wholly or mainly within Scotland or the Scottish zone,

it shall be treated for all purposes of the 1998 Act as exercisable in or as regards Scotland.

### **Agriculture**

**6.—(1)** So far as a specified function under Community law, or a function to which section 53(2)(a) of the 1998 Act applies, is exercisable in relation to a Scottish farmer it shall be treated for all purposes of the 1998 Act as exercisable in or as regards Scotland.

(2) In this article—

“Scottish farmer” means a farmer whose holding is situated wholly or partly in Scotland and “farmer” and “holding” shall have the same meaning as in Article 1.4 of Council Regulation

<sup>(10)</sup> 1953 c. 18 (N.I.).

<sup>(11)</sup> 1995 c. 47.

<sup>(12)</sup> 1998 c. 35.

3508/92 establishing an integrated administration and control system for certain Community aid schemes; and

“specified function under Community law” means any function related to the implementation of any legislative instrument of the European Community adopted in pursuance of its common agricultural policy, which applies in relation to agricultural activities by reference to a holding.

### **Marine dredging**

7. So far as a function under Community law, or to which section 53(2)(a) of the 1998 Act applies, is exercisable in relation to the extraction of minerals by dredging in the Scottish zone, it shall be treated for all purposes of the 1998 Act as exercisable in or as regards Scotland.

### **Functions not exercisable in or as regards Scotland: prisoners etc.**

8.—(1) Where a function under a particular provision of the 1984 Act, the 1993 Act the 1997 Act or the 1998 Order is specified in Schedule 2 to this Order, any further function under that provision is to be treated for the purposes of section 53 of the 1998 Act as not being a function exercisable in or as regards Scotland.

(2) Any function under any provision of the 1991 Act, the 1997 Act, the Crime and Disorder Act 1998(13), the Guernsey enactments, the Isle of Man enactments, the Jersey enactments or the Northern Ireland enactments which is specified in Schedule 4 to this Order is to be treated for the purposes of section 53 of the 1998 Act as not being a function exercisable in or as regards Scotland.

*A. K. Galloway*  
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