

## SCHEDULE 5

Article 6(1)

### MODIFICATIONS OF ENACTMENTS

#### **Post Office Act 1953 (c. 36)**

1.—(1) The Post Office Act 1953 is amended as follows.

(2) In section 58 (opening or delaying of postal packets by officers of the Post Office), in subsection (1), after “Secretary of State” there is inserted “or the Scottish Ministers”.

#### **Police (Scotland) Act 1967 (c. 77)**

2.—(1) The Police (Scotland) Act 1967 is amended as follows.

(2) In section 32A (grants for expenditure on safeguarding national security)(1), for subsection (3), there is substituted the following—

“(3) Subject to subsection (4), the Secretary of State shall exercise his powers under this section only with the approval of the Treasury.

(4) Where the powers under this section are exercised by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), subsection (3) shall not apply.”.

#### **Firearms Act 1968 (c. 27)**

3.—(1) The Firearms Act 1968 is amended as follows.

(2) In section 5 (weapons subject to general prohibition)—

- (a) in subsection (1)(2), after “Defence Council” there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”;
- (b) in subsection (1A)(3), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”;
- (c) in subsection (3)(4), after “Defence Council”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”;
- (d) in subsection (4)(5) after “Defence Council”, there is inserted “or, where the authority is given by them (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers”.

(3) In section 5A (exemption from requirement of authority under section 5)(6)—

- (a) in subsections (1), (2), (3), (4)(7), (5) and (7)(8), after “Secretary of State” in each place where they occur, insert “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”;
- (b) in subsection (6)—

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(1) Section 32A was inserted by the Police and Magistrates' Courts Act 1994 (c. 29), section 56.  
(2) Section 5(1) is to be read with S.I. 1968/1200; section 5(1) was amended by the Firearms (Amendment) 1988 (c. 45), section 1(2) and (3), by the Firearms (Amendment) Act 1997 (c. 5), section 1(2), (3), (4) and (5) and Schedule 3 and by the Firearms Amendment (No.2) Act 1997 (c. 64), section 1.  
(3) Section 5(1A) was inserted by S.I. 1992/2823 and amended by the Firearms (Amendment) Act 1997 (c. 5), section 9.  
(4) Section 5(3) is to be read with S.I. 1968/1200.  
(5) Section 5(4) is to be read with S.I. 1968/1200.  
(6) Section 5A was inserted by S.I. 1992/2823.  
(7) Section 5A(4) was amended by the Firearms (Amendment) Act 1997 (c. 5), section 10(2).  
(8) Section 5A(7) was substituted by the Firearms (Amendment) Act 1997 (c. 5), section 10(3).

*Status: This is the original version (as it was originally made).*

- (i) after “Secretary of State” in the first place where it occurs there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”;
- (ii) after “Secretary of State” in the second place where it occurs there is inserted “or, in the case of an authority which they may give (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers”.

#### **Police Pensions Act 1976 (c. 35)**

4. In section 7 of the Police Pensions Act 1976, at the end there is inserted—

“(4) Where regulations are made under section 1 above by the Scottish Ministers by reason of a transfer of functions under the Scotland Act 1998, this section shall have effect with the following modifications:—

- (a) in each of subsections (1) and (2), for “into the Consolidated Fund or out of money provided by Parliament” substitute “into or out of the Scottish Consolidated Fund”;
- (b) in subsection (3), for “money provided by Parliament” substitute “the Scottish Consolidated Fund”.”.

#### **Telecommunications Act 1984 (c. 12)**

5.—(1) The Telecommunications Act 1984 is amended as follows.

(2) In section 45 (interception and disclosure of messages etc.), in subsection (2)(b), after “Secretary of State”, there is inserted “or the Scottish Ministers”.

#### **Interception of Communications Act 1985 (c. 56)**

6.—(1) The Interception of Communications Act 1985 is amended as follows.

(2) In section 1 (prohibition on interception)—

- (a) in subsection (2)(a), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”;
- (b) in subsection (3)(b), after “Secretary of State”, there is inserted “or the Scottish Ministers (or by virtue of provision made under section 63 of the Scotland Act 1998)”.

(3) In section 4 (issue and duration of warrants)—

(a) in subsection (1)—

- (i) in paragraph (a), after “Secretary of State”, there is inserted “or, in the case of a warrant issued by the Scottish Ministers by virtue of provision made under section 63 of the Scotland Act 1998) a member of the Scottish Executive”;

(ii) after paragraph (b), there is inserted the following:—

“or

- (c) in an urgent case where (by virtue of provision made under section 63 of the Scotland Act 1998) the Scottish Ministers have expressly authorised its issue and a statement of that fact is endorsed thereon, under the hand of a member of the staff of the Scottish Administration who is in the Senior Civil Service and is designated by the Scottish Ministers as a person under whose hand a warrant may be issued in such a case.”;

- (b) in subsection (5), after “Secretary of State”, there is inserted “or, in a case of a warrant issued by them by virtue of provision made under section 63 of the Scotland Act 1998, the Scottish Ministers”.
- (4) In section 5 (modification of warrants etc.)—
  - (a) after subsection (4) there is inserted the following subsection:—

“(4A) A warrant issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) shall not be modified under subsection (1)(a) above except by an instrument under the hand of a member of the Scottish Executive or, in an urgent case—

    - (a) under the hand of a person holding office under the Crown who is expressly authorised by the warrant to modify it on behalf of the Scottish Ministers; or
    - (b) where the Scottish Ministers have expressly authorised the modification and a statement of that fact is endorsed on the instrument, under the hand of a member of the staff of the Scottish Administration who is in the Senior Civil Service and is designated by the Scottish Ministers as a person under whose hand a warrant may be issued in such a case.”; and
  - (b) in subsection (5), after “subsection (4)(a) or (b)”, there is inserted “or (4A)(a) or (b)”.
- (5) In section 7 (the Tribunal)—
  - (a) in subsection (4)(b), after “Minister”, there is inserted “and, where the relevant warrant had been issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), to the First Minister”; and
  - (b) in subsection (5)(c), after “Secretary of State”, there is inserted “or, where the relevant warrant had been issued by them (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers”.
- (6) In section 8 (the Commissioner)—
  - (a) in subsection (5), after “Prime Minister”, there is inserted “and, where the report relates to any warrant issued or any arrangements made by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), to the First Minister”;
  - (b) after subsection (7), there is inserted the following subsection:—

“(7A) The Prime Minister shall also send a copy of every annual report together with a copy of the statement referred to in subsection (7) which he says in terms of that subsection to the First Minister who shall forthwith lay that copy report and statement before the Scottish Parliament.”; and
  - (c) in subsection (8), after “Commissioner”, there is inserted “and, if it appears relevant to do so, with the First Minister”.

## **Firearms (Amendment) Act 1988 (c. 45)**

- 7.—(1) The Firearms (Amendment) Act 1988 is amended as follows.
- (2) In section 15 (approved rifle clubs and muzzle-loading pistol clubs)(9)—
  - (a) in subsection (1), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”;
  - (b) in subsection (5)—
    - (i) in paragraph (a), after “thinks”, there is inserted “or, as the case may be, the Scottish Ministers think”;

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(9) Section 15 was substituted by the Firearms (Amendment) Act 1997 (c. 5), section 45(1).

*Status: This is the original version (as it was originally made).*

- (ii) in paragraph (b), after “Secretary of State”, there is inserted “or, as the case may be, the Scottish Ministers”.
- (3) In the Schedule (firearms and ammunition in museums)(10)—
  - (a) in paragraph 1(2)(b), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”;
  - (b) in paragraph 1(3)—
    - (i) after “Secretary of State” in the first place where it occurs, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”;
    - (ii) after “he”, there is inserted “or they”;
  - (c) in paragraph 1(4), after “necessary”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998) think necessary”;
  - (d) in paragraph 2(2), after “Secretary of State”, there is inserted “or, in the case of a notice given by them (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers”;
  - (e) in paragraph 2(4)—
    - (i) after “Secretary of State”, there is inserted “or, in the case of a revocation made by them (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers”;
    - (ii) after “him”, there is inserted “or them”;
  - (f) in paragraph 5—
    - (i) in sub-paragraph (2), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”;
    - (ii) in sub-paragraph (3), after “Secretary of State”, there is inserted “or, as the case may be, the Scottish Ministers”.

## **Electricity Act 1989 (c. 29)**

**8.—**(1) Section 62 of the Electricity Act 1989 is amended as follows.

(2) In subsection (1), at the end there is added “or a matter relating to a function which is exercisable by the Scottish Ministers”.

(3) After subsection (1), there is inserted:—

“(1A) The Scottish Ministers may cause an inquiry to be held in any case where they consider it advisable to do so in connection with any matter relating to the exercise by them of a function under this Part.”.

(4) In subsection 3(a), for “held” there is substituted “caused to be held by the Secretary of State”.

(5) After subsection (4) there is added:—

“(5) Where—

- (a) an inquiry is to be caused to be held by the Scottish Ministers under this Part in connection with any matter; and
- (b) in the case of some other matter required or authorised (whether by this Part or by any other enactment) to be the subject of an inquiry which is to be caused to be held by the Scottish Ministers, it appears to the Scottish Ministers that the matters are so far cognate that they should be considered together,

(10) Schedule 1 was amended by the Firearms (Amendment) Act 1997 (c. 5), section 47.

the Scottish Ministers may direct that the two inquiries be held concurrently or combined as one inquiry.”.

**Extradition Act 1989 (c. 33)**

**9.**—(1) The Extradition Act 1989 is amended as follows.

(2) In section 6—

- (a) after “Secretary of State” in each place where it occurs insert “or the Scottish Ministers”;
- (b) in subsection (6) after “him” insert “or them”; and
- (c) for subsection (9)(a) substitute—
  - “(a) the Secretary of State, or, except in section 25(1), in the case of a function that is exercisable in or as regards Scotland, the Scottish Ministers”.

(3) In section 7—

- (a) in subsection (1) after “Secretary of State” in the first place where it occurs insert “or the Scottish Ministers”???
- (b) in subsections (4) and (5) after “Secretary of State” insert “or the Scottish Ministers”;
- (c) in subsection (4) after “him” insert “or them”.

(4) In section 8(4)—

- (a) after “Secretary of State” in both places where it occurs there is inserted “or the Scottish Ministers”;
- (b) after “him” where it first occurs there is inserted “or them”;
- (c) after “he decides” there is inserted “or, they decide”.

(5) In section 9(5) after “Secretary of State”, there is inserted “or the Scottish Ministers”.

(6) In section 9(8)—

- (a) in subsection (i) after “Secretary of State's” there is inserted “or the Scottish Ministers”;
- (b) in subsection (ii) after “decides” there is inserted “or the Scottish Ministers decide”.

(7) In section 10(6) after “Secretary of State has” there is inserted “or the Scottish Ministers have”.

(8) In section 11(1) after “Secretary of State” there is inserted “or the Scottish Ministers”.

(9) In section 12—

- (a) in subsection (1)—
  - (i) after “Secretary of State” where it first occurs there is inserted “or the Scottish Ministers”;
  - (ii) after “decides” there is inserted “or the Scottish Ministers decide”; and
- (b) in subsections (2) and (5) after “Secretary of State” in each place where it occurs there is inserted “or the Scottish Ministers”.

(10) In subsections (1) and (4) of section 13 after “Secretary of State” in each place where it occurs there is inserted “or the Scottish Ministers”.

(11) In section 13(6) after “Secretary of State's” there is inserted “or the Scottish Ministers”.

(12) In section 13(9) after “Secretary of State has” there is inserted “or the Scottish Ministers have”.

(13) In section 20(2) after “he thinks fit” there is inserted “or the Scottish Ministers may if they think fit”.

(14) After section 28(1) insert–

“(1A) Any warrant or order to be issued or made by the Scottish Ministers under this Act shall be given under the hand of a member of the Scottish Executive.”.

### **Broadcasting Act 1990 (c. 42)**

**10.**—(1) The Broadcasting Act 1990 is amended as follows.

(2) In paragraph 15 of Schedule 1 (Independent Television Commission: supplementary provisions) at the end add–

“(4) Where a report is transmitted by the Commission under sub-paragraph (1) to the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers shall lay a copy of the report before the Scottish Parliament.”.

(3) In paragraph 15 of Schedule 8 (Radio Authority: supplementary provisions) at the end add–

“(3) Where a report is transmitted by the Authority under sub-paragraph (1) to the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers shall lay a copy of the report before the Scottish Parliament.”.

(4) In paragraph 12 of Schedule 19 (Gaelic Television Committee: supplementary provisions) at the end add–

“(4) Where an annual report is sent by the Commission under sub-paragraph (3) to the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers shall lay a copy of the report before the Scottish Parliament.”.

### **Tribunals and Inquiries Act 1992 (c. 53)**

**11.** In the Tribunals and Inquiries Act 1992, the words “and the Lord Advocate” wherever they appear in sections 10, 13 and 16(2)(**11**) are omitted.

### **National Lottery etc. Act 1993 (c. 39)**

**12.**—(1) The National Lottery etc. Act 1993 is amended as follows.

(2) In section 14 (annual reports of the National Lottery Commission) at the end add–

“(4) Where a report is made by the National Lottery Commission under sub-section (1) to the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers shall lay a copy of the report before the Scottish Parliament.”.

(3) In section 34 (annual reports of distributing bodies) at the end add–

“(6) Where a report is made under subsection (1) to the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers shall lay a copy of the report before the Scottish Parliament.”.

### **Railways Act 1993 (c. 43)**

**13.**—(1) The Railways Act 1993 is amended as follows.

(2) In section 74 (annual and other reports of the Regulator), after subsection (3) insert–

“(3A) Where a report is made by the Regulator under subsection (1) above to the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), the

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(11) The functions of the Lord Advocate under the Act were transferred to the Secretary of State by the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I. 1999/678); section 13 was amended by the Pensions Act 1995 (c. 26), Schedule 7, Part III, and by the Social Security Act 1998 (c. 14), Schedule 7, paragraph 120.

Scottish Ministers shall lay a copy of the report before the Scottish Parliament and shall arrange for copies to be published in such manner as they consider appropriate.”.

(3) In section 75 (annual reports of the Franchising Director), after subsection (2) insert—

“(2A) Where a report is made by the Franchising Director under subsection (1) above to the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers shall lay a copy of the report before the Scottish Parliament and shall arrange for copies to be published in such manner as they consider appropriate.”.

### **Intelligence Services Act 1994 (c. 13)**

**14.—**(1) The Intelligence Services Act 1994 is amended as follows.

(2) In section 6 (warrants: procedure and duration, etc.)—

(a) in subsection (1)—

(i) in paragraph (a), after the words “Secretary of State”, there are inserted the words “or, in the case of a warrant by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), a member of the Scottish Executive”???”; and

(ii) at the end of paragraph (b) there is inserted—

“; or

(c) in an urgent case where, the Scottish Ministers have (by virtue of provision made under section 63 of the Scotland Act 1998) expressly authorised its issue and a statement of that fact is endorsed thereon, under the hand of a member of the staff of the Scottish Administration who is in the Senior Civil Service and is designated by the Scottish Ministers as a person under whose hand a warrant may be issued in such a case.”;

(b) in subsection (2), after “Secretary of State”, there is inserted “or, in the case of a warrant issued by the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), a member of the Scottish Executive”.

(3) In section 8 (the Commissioner)—

(a) in subsection (3), after “sections 5 to 7 above”, there is inserted “and the exercise by the Scottish Ministers of their powers under sections 5 and 6 above (by virtue of provision made under section 63 of the Scotland Act 1998)”;

(b) in subsection (4)—

(i) the word “and” at the end of paragraph (b) is repealed; and

(ii) after paragraph (c), there is inserted—

“and

(d) every member of the staff of the Scottish Administration,”;

(c) in subsection (5), for the words from “to him” to the end, there is substituted— “—

(a) to the Prime Minister on any matter relating to his discharge of those functions; and

(b) to the First Minister on any matter relating to his discharge of those functions so far as concerned with the exercise by the Scottish Ministers of their powers under sections 5 and 6 above (by virtue of provision made under section 63 of the Scotland Act 1998).”.

(d) after subsection (6), there is inserted—

“(6A) The Prime Minister shall send a copy of every annual report together with a copy of the statement referred to in subsection (6) above which he lays in terms of that



subsection to the First Minister who shall forthwith lay that copy report and statement before the Scottish Parliament.”.

(4) In Schedule 1 (investigation of complaints)–

- (a) in paragraph 5(2), after “Secretary of State was”, there is inserted “or, in the case of a warrant issued by them (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers were”;
- (b) in paragraph 6(1)(b), after “Secretary of State”, there is inserted “or, in the case of a warrant issued by them (by virtue of provision under section 63 of the Scotland Act 1998), the Scottish Ministers”;
- (c) paragraph 7(2), at the end, there is inserted –  
“or, in any case which relates to a warrant which was issued by them (by virtue of provision made under section 63 of the Scotland Act 1998), to the Scottish Ministers”;
- (d) in paragraph 8(1)(b), after “Secretary of State”, there is inserted “or, if the determination relates to activities in respect of which a warrant was issued under section 5 of this Act by them (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers”.

**Local Government etc. (Scotland) Act 1994 (c. 39)**

**15.**—(1) Section 117 (directions in the interests of national security) of the Local Government etc. (Scotland) Act 1994 is amended as follows.

- (2) In subsection (4), after “given” there is inserted “by him”.
- (3) After subsection (4) there is inserted–

“(4A) The Scottish Ministers shall lay before the Scottish Parliament a copy of–

- (a) any direction given by them under this section (by virtue of provision made under section 63 of the Scotland Act 1998); and
- (b) any direction given by the Secretary of State under this section,

unless the Secretary of State is of the opinion that disclosure of the direction is against the interests of national security.”.

**Reserve Forces Act 1996 (c. 14)**

**16.** In the Reserve Forces Act 1996, the words “and the Lord Advocate” wherever they appear in sections 90 and 91(12) are omitted.

**Broadcasting Act 1996 (c. 55)**

**17.**—(1) The Broadcasting Act 1996 is amended as follows.

- (2) In section 125 (annual reports of the Broadcasting Standards Commission), after subsection (1) insert–

“(1A) Where a report is transmitted by the BSC under subsection (1) to the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers shall lay a copy of the report before the Scottish Parliament.”.

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(12) The functions of the Lord Advocate under sections 90 and 91 were transferred to the Secretary of State by the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I. 1999/678).



### **Firearms (Amendment) Act 1997 (c. 5)**

**18.**—(1) The Firearms (Amendment) Act 1997 is amended as follows.

(2) In section 2 (slaughtering instruments), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”.

(3) In section 3 (firearms used for humane killing of animals), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”.

(4) In section 4 (shot pistols used for shooting vermin), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”.

(5) In section 5 (races at athletic meetings), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”.

(6) In section 6 (trophies of war), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”.

(7) In section 7 (firearms of historic interest)—

- (a) in subsection (1), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”;
- (b) in subsection (3), after “Secretary of State” where they occur in both places, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”.

(8) In section 8 (weapons and ammunition used for treating animals), after “Secretary of State”, there is inserted “or the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998)”.