
STATUTORY INSTRUMENTS

1999 No. 1756

The Scotland Act 1998 (Modification of Functions) Order 1999

Citation, commencement, interpretation and application

1.—(1) This Order may be cited as the Scotland Act 1998 (Modification of Functions) Order 1999 and shall come into force immediately before the principal appointed day⁽¹⁾.

(2) In this Order—

“the 1998 Act” means the Scotland Act 1998;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds and the use of land for woodlands where that is ancillary to the farming of land for other purposes and “agricultural” shall be construed accordingly;

“the Agriculture Acts” means any enactments for the time being in force relating to agriculture or agricultural products;

“Scottish fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995⁽²⁾ and whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging; to

“the Sea Fisheries Acts” means any enactments for the time being in force relating to sea-fishing, including any enactment relating to fishing in the sea for shellfish, salmon or migratory trout but excluding any Order in Council under section 111 of the 1998 Act.

(3) This Order is to be treated as a pre-commencement enactment for the purposes of the 1998 Act.

Modification of functions: General

2. For the purpose of enabling or otherwise facilitating the transfer of a function to the Scottish Ministers by virtue of section 53 or 63 of the 1998 Act, the enactments mentioned in the Schedule to this Order are hereby modified to the extent specified in that Schedule.

Modification of Ministerial functions relating to sea fisheries, aquaculture and agriculture

3. So far as a function under the Sea Fisheries Acts is exercisable by a Minister of the Crown—

(a) in relation to fishing in the Scottish zone, or

(b) in relation to fishing outside that zone by Scottish fishing boats,

it shall be treated as exercisable in or as regards Scotland and may be exercised separately.

4. So far as a function under any other enactment is exercisable by a Minister of the Crown in relation to aquaculture, fish health or fish disease in the Scottish zone, it shall be treated as exercisable in or as regards Scotland and may be exercised separately.

(1) The principal appointed day is 1st July 1999 by virtue of the Scotland Act 1998 (Commencement) Order 1998 (S.I. 1998/3178).

(2) 1995 c. 21.

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

- (a) in relation to fishing or aquaculture in the Scottish zone, or
- (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(3), 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 may be exercised separately.

6. So far as a function of a Minister of the Crown to which articles 3 to 5 do not apply—

- (a) under the Sea Fisheries Acts,
- (b) under any enactment relating to aquaculture, fish health or fish disease,
- (c) under Community law, or to which section 53(2)(a) of the 1998 Act applies, relating to fishing or aquaculture or fishing or aquaculture products,

is exercisable in or as regards Scotland it may be exercised separately.

7.—(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 by a Minister of the Crown in relation to a Scottish farmer it may be exercised separately.

(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 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.

Savings and transitional provision

8.—(1) The modification by this Order of any function exercisable by a Minister of the Crown shall not affect the validity of anything done (or having effect as if done) by or in relation to a Minister of the Crown before the coming into force of this Order.

(2) A requirement imposed by any of the following enactments, namely—

- (a) section 53(1A) of the Sex Discrimination Act 1975(4);
- (b) section 43(1A) of the Race Relations Act 1976(5);
- (c) paragraph 2(1A) of Schedule 8 to the Broadcasting Act 1990(6);
- (d) paragraph 3(3A) of Schedule 5 to the Disability Discrimination Act 1995(7); and

(3) See Article 2 of Council Regulation (EEC) No. 105/76 O.J. No. L120 28.1.76, p.39, amended by Commission Regulation (EEC) No. 3940/87 O.J. L373, 31.12.87, p.6; Commission Regulation (EEC) No. 3527/92 O.J. No.L358, 8,12.92, p.5; Commission Regulation (EC) No. 2939/94 O.J. No. L310, 3.12.94, p.12 and Commission Regulation (EC) No. 1762/96 O.J. No. L231, 12.9.96, p.6.

(4) 1975 c. 65; section 53(1A) is inserted by paragraph 5 of the Schedule to this Order.

(5) 1976 c. 74; section 43(1A) is inserted by paragraph 6 of the Schedule to this Order.

(6) 1990 c. 42; paragraph 2(1A) is inserted by paragraph 12(2) of the Schedule to this Order.

(7) 1995 c. 50; paragraph 3(3A) is inserted by paragraph 18 of the Schedule to this Order.

(e) paragraph 3(1A) of Schedule 3 to the Broadcasting Act 1996⁽⁸⁾, shall not apply in relation to any appointment of a Commissioner or member of the relevant body made before the appointment of the successor of the Commissioner or member of that body who holds office on 1st July 1999 and who is designated for that purpose by the Secretary of State.

St Andrew's House Edinburgh
1999

Secretary of State for Scotland

⁽⁸⁾ 1996 c. 55; paragraph 3(1A) is inserted by paragraph 19(2) of the Schedule to this Order.