
EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the Scotland Act 1998 (c. 46) (“the 1998 Act”), provides for certain specified functions of a Minister of the Crown, so far as they are exercisable by him in or as regards Scotland, to be exercisable by the Scottish Ministers instead of by the Minister of the Crown.

Article 2 of, and Schedule 1 to, the Order provide for certain specified functions to be treated, to the extent specified in that Schedule, as being, or as not being, exercisable in or as regards Scotland for the purposes of section 63 of the 1998 Act. This is to facilitate the transfer of functions under this Order.

Article 3 of the Order provides that the functions conferred on a Minister of the Crown by the enactments specified in Schedule 2 to the Order and set out below shall be exercisable in or as regards Scotland by the Scottish Ministers instead of a Minister of the Crown. In some cases the exercise of the function is subject to the restrictions specified in that Schedule.

In relation to the Gas Act 1986 (c. 44) and the Public Gas Transporter Pipe-Line Works (Environmental Impact Assessment) Regulations 1999 (S.I. 1999/1672) the Order transfers functions to the Scottish Ministers enabling them to give consent to developers to lay certain gas pipe-lines that begin and end in Scotland, and for the Scottish Ministers to approve where necessary Compulsory Purchase Orders associated with these pipelines. In relation to the Pipe-Line Works (Environmental Impact Assessment) Regulations 2000 (S.I. 2000/1928), the Order transfers to the Scottish Ministers powers to grant consent to general pipe-lines which begin and end in Scotland. In relation to the Electricity Act 1989 (c. 29), the Order transfers to the Scottish Ministers the powers contained in sections 32 and 32A, as inserted by the Utilities Act 2000, to make orders specifying the amount of electricity to be produced from renewable sources.

In relation to the Regulation of Investigatory Powers Act 2000 (c. 23) (“the 2000 Act”) the Order transfers to the Scottish Ministers certain functions exercisable by the Secretary of State in or as regards Scotland in relation to the issue of warrants authorising the interception of communications under section 5 of that Act. This Order also transfers the issue of warrants authorising the carrying out of intrusive surveillance under sections 32 and 42 of the 2000 Act where the application is by the Security Service for the purpose of preventing or detecting serious crime.

The Poisons Rules 1982 (S.I. 1982/218) are made under the Poisons Act 1972 (c. 66), the subject matter of which is reserved. The Order executively devolves to the Scottish Ministers the powers of the Secretary of State to authorise persons to purchase the poison strychnine.

Article 4(1) of, and Schedule 3 to, the Order provide for modifications of the Wireless Telegraphy Act 1949 and the Regulation of Investigatory Powers Act 2000 in connection with provision made by the Order. Article 4(2) and (3) makes consequential modifications of the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I. 1999/1748) and the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999. Article 5 provides for certain general modifications of enactments in connection with provision made by the Order.

Article 6 makes transitional and saving provision.