



# Convention Rights (Compliance) (Scotland) Act 2001

2001 asp 7

## PART 6

### POWER TO MAKE REMEDIAL ORDERS

#### 12 Remedial orders

- (1) In the circumstances set out in subsection (2) below, the Scottish Ministers may, by order (in this Part of this Act, a “remedial order”), make such provision as they consider necessary or expedient in consequence of—
- (a) an Act of Parliament or an Act of the Scottish Parliament;
  - (b) any subordinate legislation made under any such Act;
  - (c) any provision of any such Act or subordinate legislation; or
  - (d) any exercise or purported exercise of functions by a member of the Scottish Executive,
- which is or may be incompatible with any of the Convention rights.
- (2) Those circumstances are that the Scottish Ministers are of the opinion that there are compelling reasons for making a remedial order as distinct from taking any other action.
- (3) A remedial order may—
- (a) make different provision for different purposes;
  - (b) relate to—
    - (i) all cases to which the power to make it extends;
    - (ii) those cases subject to specified exceptions; or
    - (iii) any particular case or class of case;
  - (c) make—
    - (i) any supplementary, incidental or consequential provision; or
    - (ii) any transitory, transitional or saving provision,which the Scottish Ministers consider necessary or expedient;

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*Status: This is the original version (as it was originally enacted).*

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- (d) modify any enactment or prerogative instrument or any other instrument or document relating to the exercise or purported exercise of functions by the Scottish Ministers;
  - (e) make provision (other than provision creating criminal offences or increasing the punishment for criminal offences) which has retrospective effect;
  - (f) provide for the delegation of functions.
- (4) A remedial order shall not, however, create any criminal offence punishable—
- (a) on summary conviction, with imprisonment for a period exceeding three months or with a fine exceeding the amount specified as level 5 on the standard scale;
  - (b) on conviction on indictment, with a period of imprisonment exceeding two years.
- (5) The conferring by subsection (1) above of the power to make remedial orders does not prejudice the extent of any other power.