
STATUTORY INSTRUMENTS

1999 No. 1379

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND**

The Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999

Made - - - - 13th May 1999
Laid before Parliament 17th May 1999
Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred on him by sections 112(1), 113 and 129(1) of the Scotland Act 1998⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999 and shall come into force on the principal appointed day⁽²⁾

Interpretation

2.—(1) In this Order, unless otherwise expressly provided—

“enactment” has the same meaning as in section 126(1) of the Scotland Act 1998, except that, in paragraphs 12 to 14 of Schedule 1, it means an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;

“the Parliament” means the Scottish Parliament;

“Scottish subordinate legislation” means Orders in Council, orders, rules, regulations, schemes, warrants, byelaws and other instruments made under an Act of the Scottish Parliament.

⁽¹⁾ 1998 c. 46.

⁽²⁾ Article 3 of the Scotland Act 1998 (Commencement) Order 1998 (S.I.1998/3178) specifies 1st July 1999 as the principal appointed day for the purposes of the Scotland Act 1998.

(2) Unless otherwise expressly provided, any reference in this Order to a numbered article or Schedule is to an article or Schedule bearing that number in this Order and any reference in an article of, or a Schedule to, this Order to a numbered paragraph is to a paragraph bearing that number in that article or Schedule, as the case may be.

Publication

3.—(1) As soon as possible after the Clerk of the Parliament has written on an Act of the Scottish Parliament the date of Royal Assent in accordance with section 28(4) of the Scotland Act 1998, the Clerk shall number it in accordance with article 4 and shall write that number on the Act.

(2) The print of the Act on which that date and number are written shall be known as the official print of the Act.

(3) The Clerk shall make a copy of the official print of the Act which he shall certify as a true copy. The Clerk shall send that copy to the Queen’s Printer for Scotland who—

- (a) shall, as soon as possible after receiving it, cause copies of it to be printed and sold by or under her authority; and
- (b) may make other arrangements for its publication.

(4) The Clerk shall send the official print of the Act to the Keeper of the Records of Scotland.

Numbering

4.—(1) An Act of the Scottish Parliament shall be numbered in accordance with the following paragraphs.

(2) It shall be allocated to the series of the calendar year in which the Bill for the Act receives Royal Assent.

(3) Acts in each series shall be numbered consecutively by reference to the dates on which the Bills for the Acts receive Royal Assent and, where two or more Bills receive Royal Assent on the same day, the Acts shall be numbered consecutively by reference to—

- (a) the order in which the Letters Patent relating to each Bill are recorded in the Register of the Great Seal; and
- (b) if any of those Letters Patent relate to more than one Bill, the order in which those Bills are referred to in those Letters Patent.

Citation

5.—(1) An Act of the Scottish Parliament may be cited by reference to the short title authorised by the Act and may continue to be so cited even if the Act is repealed.

(2) An Act of the Scottish Parliament may also be cited by the calendar year in which the Bill for the Act received Royal Assent followed by the letters “asp” and its number (for example “1999 asp 1”).

(3) Where an enactment cites an Act of the Scottish Parliament in accordance with paragraph (2), or a section or other portion of an Act of the Scottish Parliament by number or letter, the reference shall, unless the contrary intention appears, be read as referring to the Acts of the Scottish Parliament printed by or under the authority of the Queen’s Printer for Scotland.

(4) Where an Act of the Scottish Parliament cites an Act of Parliament, or an Act of the Parliaments of Scotland up to and including 1707, by year, statute, session or chapter, or a section or other portion of such an Act by number or letter, the reference shall, unless the contrary intention appears, be read as referring—

- (a) in the case of such Acts included in any revised edition of the statutes printed by authority, to that edition;
- (b) in the case of such Acts not so included but included in the edition prepared under the direction of the Record Commission, to that edition;
- (c) in any other case, to the Acts printed by the Queen's Printer, or under the superintendence or authority of Her Majesty's Stationery Office.

Statutory interpretation etc.

6.—(1) Schedule 1 shall apply for the purposes of the interpretation and operation of Acts of the Scottish Parliament.

(2) Words and expressions used in an Act of the Scottish Parliament which are also listed in Schedule 2 are, unless the contrary intention appears, to be construed in accordance with that Schedule.

(3) Subject to paragraph (2), words and expressions used in an Act of the Scottish Parliament which are listed in section 127 of the Scotland Act 1998, shall, unless the contrary intention appears, have the same meanings as they have in that Act.

Application to other instruments

7.—(1) Articles 5(3) and (4) and 6 and Schedules 1 and 2 shall apply, so far as applicable and unless the contrary intention appears, to Scottish subordinate legislation as they apply to Acts of the Scottish Parliament, subject to any necessary modification.

(2) Article 5(3) shall apply to a deed, document or other instrument as it applies to an enactment.

Duration of the Order

8. This Order, unless previously revoked by the Secretary of State, shall cease to have effect on the day appointed by or under an Act of the Scottish Parliament and different days may be appointed for different purposes.

St Andrew's House,
Edinburgh
13th May 1999

Henry McLeish
Minister of State, Scottish Office

SCHEDULE 1

Articles 6(1) and 7(1)

STATUTORY INTERPRETATION AND OPERATION

Words of enactment

1. Every Act of the Scottish Parliament and every section of such an Act takes effect as a substantive enactment without introductory words.

Time of commencement

2. An Act of the Scottish Parliament or provision of such an Act comes into force—
- (a) where provision is made for it to come into force on a particular day, at the beginning of that day;
 - (b) where no provision is made for its coming into force, when the Bill for the Act receives Royal Assent.

Gender and number

3. In an Act of the Scottish Parliament, unless the contrary intention appears,—
- (a) words importing the masculine gender include the feminine;
 - (b) words importing the feminine gender include the masculine; and
 - (c) words in the singular include the plural and words in the plural include the singular.

References to service by post

4. Where an Act of the Scottish Parliament authorises or requires any document to be served by post (whether the expression “serve” or the expression “give” or “send” or any other expression is used) then, unless the contrary intention appears, the service is deemed to be effected by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

References to distance

5. In the measurement of any distance for the purposes of an Act of the Scottish Parliament, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

References to time of day

6. Subject to section 3 of the Summer Time Act 1972((3) (construction of references to points of time during the period of summer time), whenever an expression of time occurs in an Act of the Scottish Parliament, the time referred to shall, unless it is otherwise specifically stated, be held to be Greenwich mean time.

(3) 1972 c. 6.

References to the Sovereign

7. In an Act of the Scottish Parliament a reference to the Sovereign reigning at the time of the passing of the Act is to be construed, unless the contrary intention appears, as a reference to the Sovereign for the time being.

Construction of subordinate legislation

8. Where an Act of the Scottish Parliament confers power to make subordinate legislation, expressions used in that legislation have, unless the contrary intention appears, the meaning which they have in the Act.

Continuity of powers and duties

9.—(1) Where an Act of the Scottish Parliament confers a power or imposes a duty it is implied, unless the contrary intention appears, that the power may be exercised, or the duty is to be performed, from time to time as occasion requires.

(2) Where an Act of the Scottish Parliament confers a power or imposes a duty on the holder of an office as such, it is implied, unless the contrary intention appears, that the power may be exercised, or the duty is to be performed, by the holder for the time being of the office.

Anticipatory exercise of powers

10. Where an Act of the Scottish Parliament which (or any provision of which) does not come into force immediately upon Royal Assent confers power to make subordinate legislation, or to make appointments, give notices, prescribe forms or do any other thing for the purposes of the Act, then, unless the contrary intention appears, the power may be exercised, and any instrument made thereunder may be made so as to come into force, at any time after the Bill for the Act receives Royal Assent so far as may be necessary or expedient for the purpose—

- (a) of bringing the Act or any provision of the Act into force; or
- (b) of giving full effect to the Act or any such provision at or after the time when it comes into force.

Implied power to amend

11. Where an Act of the Scottish Parliament confers power to make—

- (a) rules, regulations or byelaws; or
- (b) Orders in Council, orders or other subordinate legislation to be made by statutory instrument,

it implies, unless the contrary intention appears, a power, exercisable in the same manner and subject to the same conditions or limitations, to revoke, amend or re-enact any instrument made under the power.

Repeal of repeal

12. Where an Act of the Scottish Parliament repeals a repealing enactment, the repeal does not revive any enactment previously repealed unless words are added reviving it.

General savings

13.—(1) Without prejudice to paragraph 12, where an Act of the Scottish Parliament repeals an enactment, the repeal does not, unless the contrary intention appears,—

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- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the enactment repealed or anything duly done or suffered under that enactment;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under that enactment;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against that enactment;
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act of the Scottish Parliament had not been passed.

(2) This paragraph applies to the expiry of a temporary enactment as if it were repealed by an Act of the Scottish Parliament.

Repeal and re-enactment

14.—(1) Where an Act of the Scottish Parliament repeals a previous enactment and substitutes provisions for the enactment repealed, the repealed enactment remains in force until the substituted provisions come into force.

(2) Where an Act of the Scottish Parliament repeals and re-enacts, with or without modification, a previous enactment then, unless the contrary intention appears,—

- (a) any reference in any other enactment or other instrument or document to the enactment so repealed shall be construed as a reference to the provision re-enacted;
- (b) in so far as any Scottish subordinate legislation made or other thing done under the enactment so repealed, or having effect as if so made or done, could have been made or done under the provision re-enacted, it shall have effect as if made or done under that provision.

References to other enactments

15.—(1) Where an Act of the Scottish Parliament describes or cites a portion of an enactment by referring to words, sections or other parts from or to which (or from and to which) the portion extends, the portion described or cited includes the words, sections or other parts referred to unless the contrary intention appears.

(2) Where an Act of the Scottish Parliament refers to an enactment, the reference, unless the contrary intention appears, is a reference to that enactment as amended and includes a reference thereto as extended or applied by or under any other enactment, including any other provision of that Act.

SCHEDULE 2

Articles 6(2) and 7(1)

General Definitions

“Act” means, as the context requires, an Act of Parliament or an Act of the Scottish Parliament;
“Commencement”, in relation to an enactment, means the time when the enactment comes into force;

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“The Communities”, “the Treaties” or “the Community Treaties” and other expressions defined by section 1 of, and Schedule 1 to, the European Communities Act 1972((4) have the meanings prescribed by that Act;

“Comptroller and Auditor General” means the Comptroller-General of the receipt and issue of Her Majesty’s Exchequer and Auditor-General of Public Accounts appointed in pursuance of the Exchequer and Audit Departments Act 1866((5)

“Crown Estate Commissioners” means the Commissioners referred to in section 1 of the Crown Estate Act 1961((6)

“Court of summary jurisdiction” means a court of summary criminal jurisdiction and includes the sheriff court and district court;

“Devolution issue” has the same meaning as it has in Schedule 6 to the Scotland Act 1998((7)

“England” means, subject to any alteration of boundaries under Part IV of the Local Government Act 1972((8) the area consisting of the counties established by section 1 of that Act, Greater London and the Isles of Scilly;

“Government department” means a department of the United Kingdom Government;

“High Court” means the High Court of Justiciary;

“Land” includes building and other structures, land covered with water, and any right or interest in or over land;

“Lands Clauses Acts” means the Lands Clauses Consolidation (Scotland) Act 1845((9) and the Lands Clauses Consolidation Acts Amendment Act 1860((10), and any Acts for the time being in force amending those Acts;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975((11);

“Month” means calendar month;

“Oath” and “affidavit” include affirmation and declaration, and “swear” includes affirm and declare;

“Ordnance map” means a map made under powers conferred by the Ordnance Survey Act 1841((12);

“Person” includes a body of persons corporate or unincorporate;

“Police area”, “police authority” and other expressions relating to the police have the meaning or effect described by sections 50 and 51(4) of the Police (Scotland) Act 1967((13);

“The Privy Council” means the Lords and others of Her Majesty’s Most Honourable Privy Council;

“Registered”, in relation to nurses, midwives and health visitors, means registered in the register maintained by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting by virtue of qualifications in nursing, midwifery or health visiting, as the case may be;

“Registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983((14);

(4) 1972 c. 68.

(5) 1866 c. 39.

(6) 1961 c. 55.

(7) 1998 c. 46.

(8) 1972 c. 70.

(9) 1845 c. 19.

(10) 1860 c. 106.

(11) 1975 c. 26.

(12) 1841 c. 30.

(13) 1967 c. 77.

(14) 1983 c. 54.

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“Rules of court” in relation to any court means rules made by the authority having power to make rules or orders regulating the practice and procedure of that court, and includes Acts of Adjournal and Acts of Sederunt; and the power of the authority to make rules of court (as above defined) includes power to make such rules for the purpose of any Act which directs or authorises anything to be done by rules of court;

“Scottish parliamentary election” means an election for membership of the Scottish Parliament and “Scottish parliamentary general election” shall be construed accordingly;

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State;

“Sheriff” includes sheriff principal;

“Standard scale”, with reference to a fine or penalty for an offence triable only summarily, has the meaning given by section 225(1) of the Criminal Procedure (Scotland) Act 1995((15);

“Statutory declaration” means a declaration made by virtue of the Statutory Declarations Act 1835((16);

“Statutory maximum”, with reference to a fine or penalty on summary conviction for an offence, means the prescribed sum within the meaning of section 225(8) of the Criminal Procedure (Scotland) Act 1995;

“The Treasury” means the Commissioners of Her Majesty’s Treasury;

“United Kingdom” means Great Britain and Northern Ireland;

“Wales” means the combined area of the counties which were created by section 20 of the Local Government Act 1972((17), as originally enacted, but subject to any alteration made under section 73 of that Act (consequential alteration of boundary following alteration of watercourse);

“Writing” includes typing, printing, lithography, photography and other modes of representing or reproducing words in a visible form, and expressions referring to writing are construed accordingly.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitory and transitional provisions in relation to the numbering, citation and interpretation of Acts of the Scottish Parliament and subordinate legislation made under such Acts (“Scottish subordinate legislation”) and other documents.

Article 3 makes provisions for the publication of Acts of the Scottish Parliament by or under the authority of the Queen’s Printer for Scotland.

Article 4 makes provisions as to how Acts of the Scottish Parliament are to be numbered. They are to be numbered by reference to the year in which the Bills for the Acts received the Royal Assent and in the order in which they did so.

(15) 1995 c. 46.

(16) 1835 c. 62.

(17) 1972 c. 70.

Article 5 makes provision as to how Acts of Scottish Parliament may be cited. They may be cited by reference to their short title or by their year followed by the letters “asp” and number. The latter citation is to be read as referring to the Acts of the Scottish Parliament printed by or under the authority of the Queen’s Printer for Scotland. Article 5(4) also makes provision as to when Acts of the Scottish Parliament cite an Act of Parliament, or of the Parliaments of Scotland up to and including 1707.

Article 6 provides that Schedule 1 should apply for the purposes of the interpretation and operation of an Act of the Scottish Parliament. Schedule 1 makes similar provision as the Interpretation Act 1978 (c. 30) makes in relation to interpretation and operation of Acts of Parliament, so far as applicable.

Article 6 also makes provision as to how certain words and expressions used in an Act of the Scottish Parliament are to be construed, unless the contrary intention appears. Words and expressions listed in Schedule 2 to the Order are to be construed in accordance with that Schedule and, subject to that, words and expressions listed in section 127 of the Scotland Act 1998 (c. 46) are to have the same meaning as they have for the purposes of that Act.

Article 7 applies certain provisions of the Order, so far as applicable, to any Scottish subordinate legislation. Article 5(3), which provides for the citation of an Act of the Scottish Parliament, is also applied for the purposes of any deed, instrument or other document.

Article 8 provides that the Order, unless previously revoked by the Secretary of State, should cease to have effect on the day appointed by or under an Act of the Scottish Parliament and different days may be appointed for different purposes.