
STATUTORY INSTRUMENTS

2001 No. 1456

CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND

The Scotland Act 1998 (Modification of Schedule 5) Order 2001

Made - - - - 11th April 2001
Coming into force in accordance with Article 1

At the Court at Windsor Castle, the 11th day of April 2001
Present,
The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before and approved by a resolution of each House of Parliament and of the Scottish Parliament;

Now, therefore, Her Majesty in exercise of the powers conferred upon Her by section 30(2) of the Scotland Act 1998(1), and of all other powers enabling Her in that behalf, is pleased, by and with advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and commencement

1. This Order may be cited as the Scotland Act 1998 (Modification of Schedule 5) Order 2001 and shall come into force on the day after it is made.

Insolvency of social landlords

2.—(1) In Part II of Schedule 5 to the Scotland Act 1998 (specific reservations), in Section C2 (insolvency), after the exception relating to business associations there is inserted—

“In relation to business associations which are social landlords, the following additional exceptions—

- (a) the general legal effect of winding up,
- (b) procedures for the initiation of winding up,
- (c) powers of courts in relation to proceedings for winding up, and
- (d) procedures giving protection from creditors,

but only in so far as they relate to a moratorium on the disposal of property held by a social landlord and the management and disposal of such property.”

(2) In that Section, after the definition of “business association” there is inserted–

““Social landlord” means a body which is–

- (a) a society registered under the Industrial and Provident Societies Act 1965⁽²⁾ which has its registered office for the purposes of that Act in Scotland and satisfies the relevant conditions, or
- (b) a company registered under the Companies Act 1985⁽³⁾ which has its registered office for the purposes of that Act in Scotland and satisfies the relevant conditions.

“The relevant conditions” are that the body does not trade for profit and is established for the purpose of, or has among its objects and powers, the provision, construction, improvement or management of–

- (a) houses to be kept available for letting,
- (b) houses for occupation by members of the body, where the rules of the body restrict membership to persons entitled or prospectively entitled (as tenants or otherwise) to occupy a house provided or managed by the body, or
- (c) hostels,

“house” and “hostel” having the meanings given in section 338(1) of the Housing (Scotland) Act 1987⁽⁴⁾.”

A. K. Galloway
Clerk of the Privy Council

(2) 1965 c. 12.
(3) 1985 c. 6.
(4) 1987 c. 26

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes modifications to Schedule 5 to the Scotland Act 1998 (c. 46). That Schedule is concerned with matters which are outwith the legislative competence of the Scottish Parliament.

The Order adds a further exception to the insolvency reservation in that Schedule, bringing within the legislative competence of the Scottish Parliament certain matters relating to the insolvency of business associations which are social landlords as defined in the Order, in so far as relating to provision for a moratorium on the disposal of property held by a social landlord and the management and disposal of such property.