

2004 No. 3329 (S.14)

CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

**The Scotland Act 1998 (Modifications of Schedule 5) Order
2004**

Made - - - - - *16th December 2004*

Coming into force - - - - - *17th December 2004*

At the Court at Buckingham Palace, the 16th day of December 2004

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been—

- (a) laid before and approved by a resolution of each House of Parliament; and
- (b) laid before and approved by a resolution 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(a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Scotland Act 1998 (Modifications of Schedule 5) Order 2004 and shall come into force on the day after the day on which it is made.

(2) In this Order, “the Act” means the Scotland Act 1998.

Elections

2. In Part 2 of Schedule 5 to the Act (reserved matters: specific reservations), at the end of Section B3(b) add—

“Interpretation

Paragraph 5(1) of Part 3 of this Schedule does not apply to the subject-matter of the European Parliamentary Elections Act 2002(c); and the reference to the subject-matter of that Act is to be construed as a reference to it as at the date that Act received Royal Assent.”.

(a) 1998 c.46.

(b) Section B3 was amended by the European Parliamentary Elections Act 2002 (c.24), section 15 and Schedule 3, paragraph 7.

(c) 2002 c.24.

Research Councils

3. In Part 2 of Schedule 5 to the Act, at the end of Section C12 add–

“The Arts and Humanities Research Council within the meaning of Part 1 of the Higher Education Act 2004^(a).

The subject-matter of section 10 of that Act (research in arts and humanities) so far as relating to that Council.

Interpretation

Paragraph 5(1) of Part 3 of this Schedule does not apply to the subject-matter of section 10 of the Higher Education Act 2004; and the reference to the subject-matter of that section is to be construed as a reference to it as at the date that Act received Royal Assent.”.

Rail transport

4. In Part 2 of Schedule 5 to the Act, in Section E2^(b)–

(a) in the third exception, for the words from “Scottish” to “relating to transport” substitute “relevant authorities”; and

(b) after the definition of “railway services” add–

““relevant authority” means–

(a) the Scottish Ministers; or

(b) any Scottish public authority (not being a cross-border public authority or an authority exercising functions solely in relation to a reserved matter) which is set up wholly or mainly to exercise functions relating to transport.”.

A.K.Galloway
Clerk of the Privy Council

^(a) 2004 c.8.

^(b) Section E2 was amended by S.I. 2000/3252 and S.I. 2002/1629.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order modifies Schedule 5 to the Scotland Act 1998 (c.46). That Schedule defines what are reserved matters for the purposes of that Act. Accordingly it is concerned with matters which are outwith the legislative competence of the Scottish Parliament.

Article 2 provides for the interpretation of Section B3 (elections).

Article 3 modifies Section C12 (Research Councils) by defining as reserved matters for the purposes of the Scotland Act 1998 the Arts and Humanities Research Council (provision for the establishment of which is made by Part 1 of the Higher Education Act 2004) and in so far as relating to that Council the subject-matter of section 10 of that Act of 2004 (provision for research in arts and humanities). It also provides for the interpretation of Section C12 as so modified.

Article 4 modifies the third exception to the reservation at Section E2 (rail transport) so as to include the Scottish Ministers among the authorities to which the Scottish Parliament may by legislation transfer and allocate certain rail transport functions.

STATUTORY INSTRUMENTS

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