

2015 No. 683

CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND

**The Scotland Act 2012 (Saving and Consequential Provisions)
Order 2015**

Made - - - - - *17th March 2015*

Laid before Parliament *18th March 2015*

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by section 42(1), (2) and (4) of the Scotland Act 2012(a):

Citation and commencement

1. This Order may be cited as the Scotland Act 2012 (Saving and Consequential Provisions) Order 2015 and comes into force immediately after sections 1 and 3 of the Scotland Act 2012(b) (administration of, and supplementary and transitional provision about, Scottish Parliament elections) come into force.

Saving provision

2. Articles 3 to 9 of this Order and sections 1 and 3 of the Scotland Act 2012 have no effect for the purposes of any election for which the date of poll is on or before 4th April 2016.

Consequential provision

3. In Schedule 1 to the Scotland Act 1998 (Agency Arrangements) (Specification) Order 1999(c) (functions of a Minister of the Crown which may be exercised on behalf of that Minister under agency arrangements with the Scottish Ministers), omit paragraphs 4 and 13 to 19.

4. The Scottish Parliament (Elections etc.) Order 2010(d) is amended in accordance with articles 5 to 9.

(a) 2012 c.11.

(b) Sections 1 and 3 are to come into force on 1st July 2015 in accordance with S.I. 2015/682.

(c) S.I. 1999/1512, to which there are amendments not relevant to this Order.

(d) S.I. 2010/2999, amended by S.I. 2011/2085; there is another amending instrument but it is not relevant.

5. In article 18 (payment by and to returning officers), which applies, with modifications, section 29 of the Representation of the People Act 1983(a)—

(a) after paragraph (b) insert—

“(ba) any reference to the Secretary of State shall be construed as a reference to the Scottish Ministers;

(bb) any reference to the Consolidated Fund shall be construed as a reference to the Scottish Consolidated Fund;”;

(b) after paragraph (f) add—

“(g) subsection (9) (Treasury consent) shall be disregarded.”.

6. In article 20 (loan of equipment for Scottish parliamentary elections), omit paragraph (1).

7. In article 62(3) (remuneration for free postal services provided), for “the Consolidated Fund” substitute “the Scottish Consolidated Fund”.

8. In article 74 (details to appear on election publications), for paragraph (15) substitute—

“(15) Regulations under paragraph (7) shall be subject to the negative procedure.”.

9. In the tables in Parts 1 and 2 of Schedule 6 (legal proceedings), which apply, with modifications, certain provisions of Part 3 of the Representation of the People Act 1983, opposite each entry in the first column for section 125(b) (judges’ expenses: Scotland), in the second column insert—

“In paragraph (b) for “the Treasury out of moneys provided by Parliament” substitute “the Scottish Ministers out of the Scottish Consolidated Fund”.”.

Dover House,
London
17th March 2015

David Mundell
Parliamentary Under Secretary of State
Scotland Office

(a) 1983 c.2; section 29 was amended by the Representation of the People Act 1991 (c.11), section 1; the Representation of the People Act 2000 (c.2), Schedule 6, paragraph 4; the Electoral Administration Act 2006 (c.22), section 68; the Electoral Administration and Registration Act 2013 (c.6), section 18; and S.I. 1991/1728; it is also amended by the Political Parties, Elections and Referendums Act 2000 (c.41), Schedule 21, paragraph 6(3) and the Electoral Administration Act 2006, Schedule 1, paragraph 107(2), but these amendments are not yet in force.

(b) Section 125 was amended by the Representation of the People Act 1985 (c.50), Schedule 4, paragraph 46 and Schedule 5.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in consequence of, and in connection with, the commencement of sections 1 and 3 of the Scotland Act 2012 (c.11). Those sections will (subject to some exceptions) transfer from the Secretary of State to the Scottish Ministers responsibility for making provision about the conduct of elections for, and the return of members to, the Scottish Parliament.

Article 2 provides for that transfer of responsibility not to apply to elections which have a date of poll on or before 4th April 2016 (5th April being the earliest possible date of the next ordinary general election to the Scottish Parliament). Elections with polls before then will continue to be governed by the pre-commencement arrangements.

Article 3 revokes spent provisions which previously permitted the Secretary of State to enter into agency arrangements with the Scottish Ministers for the performance of some elections functions. Once the functions are transferred to the Scottish Ministers (or, in the case of determining the terms and conditions for loans of equipment, are removed by article 6 of this Order) these arrangements, and the provision underpinning them, will be unnecessary.

Article 6 removes provision in the Scottish Parliament (Elections etc.) Order 2010 (S.I. 2010/2999) on the loan of equipment as that provision would cease to be appropriate once sections 1 and 3 of the 2012 Act are commenced.

Articles 4, 5, 7, 8 and 9 make other consequential amendments to that Order to reflect the transfer of responsibility to the Scottish Ministers, for example: ensuring that references to the Secretary of State in some legislation that that Order applies are instead read as references to the Scottish Ministers; that subordinate legislation made by the Scottish Ministers is subject to procedure in the Scottish Parliament and not in Parliament; that payments are made to and from the Scottish Consolidated Fund rather than the Consolidated Fund; and to remove the requirement for HM Treasury to consent to subordinate legislation concerning the charges of returning officers.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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