
Statutory Instrument 1999 No. 1747
The Scotland Act 1998 (Cross-Border Public
Authorities) (Adaptation of Functions etc.) Order
1999

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STATUTORY INSTRUMENTS

1999 No. 1747

CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND

The Scotland Act 1998 (Cross-Border Public Authorities)
(Adaptation of Functions etc.) Order 1999

Made

22nd June 1999

Coming into force in accordance
with article 1

At the Court at Windsor Castle, the 22nd day of June 1999
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;

And whereas the bodies mentioned in Schedule 1 to this Order have been specified as cross-border public authorities by the Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999[[1](#)]

And whereas it has been recommended to Her Majesty in Council to make this Order following consultation with the cross-border public authorities mentioned in that Schedule;

Now therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 89 and 113 of the Scotland Act 1998 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 and commencement

1. This Order may be cited as the Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999 and shall come into force on the principal appointed day

Interpretation

2. In this Order, "the Act" means the Scotland Act 1998.

Adaptation of functions etc.

3. The modifications mentioned in Part II of each of Schedules 2 to 23 to this Order, which modifications relate to the cross-border public authority or authorities mentioned in Part I of each of those Schedules, shall have effect.

Modification of enactments

4. Sections 118 to 121 of the Act shall apply in relation to any function exercisable by the Scottish Ministers alone by virtue of this Order as they apply in relation to functions of the Scottish Ministers exercisable within devolved competence.

Transitional and saving provisions

5. - (1) The transfer, by virtue of this Order of any function exercisable by a Minister of the Crown to the Scottish Ministers shall not affect the validity of anything done (or having effect as if done) by or in relation to a Minister of the Crown before the transfer takes effect.

(2) Anything (including legal proceedings) which, at the time when that transfer takes effect, is in the process of being done by or in relation to a Minister of the Crown may, so far as it relates to any function transferred, be continued by or in relation to the Scottish Ministers.

(3) Anything done (or having effect as if done) by or in relation to a Minister of the Crown for the purposes of or in connection with any function transferred to the Scottish Ministers by virtue of this Order shall, if in force at the time when the transfer takes effect, have effect as if done by or in relation

CONSUMERS' COMMITTEE FOR GREAT BRITAIN

PART I APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Committee of Investigation for Great Britain and the Consumers' Committee for Great Britain.

(2) In this Schedule-

"the 1958 Act" means the Agricultural Marketing Act 1958^[43];

"the Committee" means the Consumers' Committee for Great Britain or, as the case may be, the Committee of Investigation for Great Britain.

PART II MODIFICATIONS

General modification of functions in relation to the Committees

2. - (1) Any function which is exercisable in relation to the Committee by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Committee; and

(b) exercisable by the Secretary of State concerned with agriculture in Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) This paragraph does not apply to any function to which paragraph 3 applies.

3. - (1) This paragraph applies to the function of making regulations under section 19(5) of the 1958 Act and to functions of making orders under section 19(6) or (7) of that Act.

(2) The Secretary of State concerned with agriculture in Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

SCHEDULE 8

Article 3

CONTROLLER OF PLANT VARIETY RIGHTS

PLANT VARIETIES AND SEEDS TRIBUNAL

PLANT VARIETY RIGHTS OFFICE

PART I APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the-

- (a) Controller of Plant Variety Rights;
- (b) Plant Varieties and Seeds Tribunals;
- (c) Plant Variety Rights Office.

(2) In this Schedule-

"the 1997 Act" means the Plant Varieties Act 1997^[44];

"the Office" means the Plant Variety Rights Office continued under section 2 of the 1997 Act;

"the Controller" means the Controller of Plant Variety Rights constituted under section 2 of the 1997 Act; and

"the Tribunal" means the Plant Varieties and Seeds Tribunal continued under section 42 of the 1997 Act.

PART II MODIFICATIONS

Modification of functions in relation to the Office, the Controller and the Tribunal

2. - (1) Any function which is-

(a) specifically exercisable in relation to the Office, the Controller or the Tribunal; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(2) This paragraph shall not apply to any function to which paragraph 3 or 4 applies.

3. - (1) This paragraph applies to any function of making regulations under sections 17(8), 18, 22(2), 24, 26(2), 28, 29, 44 and 48 of the 1997 Act.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

4. - (1) This paragraph applies to the function of making rules under paragraph 13 of Schedule 3 to the 1997 Act.

(2) The function to which this paragraph applies shall be exercisable in relation to Scotland by the Scottish Ministers instead of by the Lord Chancellor, and section 88(2) of the Act shall not apply in relation to any such function.

(2) In each of sections 2(1) and (2), 4(1) to (4), (6) and (7) and 5(3)(c), for "Lord Advocate" wherever those words appear there is substituted "Scottish Ministers".

(3) In section 4-

(a) in subsection (2) after "Minister" there is inserted "or Ministers"; and

(b) in subsection (7)-

(i) for "those Ministers", there is substituted "(a) the Lord Chancellor";

(ii) after "Parliament" there is inserted ", and (b) the Scottish

Ministers shall lay the report before the Scottish Parliament,"; and
(iii) before "they", there is inserted "he or".

SCHEDULE 11

Article 3

FOOD FROM BRITAIN

PART I APPLICATION AND INTERPRETATION

1. This Schedule shall apply to Food from Britain.

2. In this Schedule-

"the 1967 Act" means the Agriculture Act 1967[47];

"the 1983 Act" means the Agricultural Marketing Act 1983[48].

PART II MODIFICATIONS

Modification of functions in relation to Food from Britain

3. - (1) Any function exercisable in relation to Food from Britain by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Subject to paragraph 4 below, any function which is-

(a) specifically exercisable in relation to Food from Britain; and

(b) exercisable by the Secretary of State for Scotland acting jointly with any other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

4. - (1) This paragraph applies to the function under section 61[49] of the 1967 Act of making a scheme for payment of grants.

(2) The Secretary of State for Scotland is to cease to be among the Ministers

who, acting jointly, may exercise the function to which this paragraph applies.

(3) The function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to the function.

Modification of the 1967 Act

5. The reference in section 60(2) of the 1967 Act to "the Comptroller and Auditor General" shall be deemed to include a reference to "the Auditor General for Scotland".

Modification of the 1983 Act

6. The reference in section 5(8) of the 1983 Act to "the Comptroller and Auditor General" shall be deemed to include a reference to "the Auditor General for Scotland".

SCHEDULE 12

Article 3

FORESTRY COMMISSIONERS

PART I
APPLICATION

1. This Schedule shall apply to the Forestry Commissioners.

PART II
MODIFICATIONS

Plant Varieties and Seeds Act 1964 (c.14)

2. Section 29(2) of the Plant Varieties and Seeds Act 1964^[50] is amended by substituting for "or fees received" to the end-

" by the Commissioners by virtue of this subsection-

(i) as regards England and Wales shall be paid out of money provided by Parliament and any fees received by them by virtue of this subsection as regards England and Wales shall be paid into the Consolidated Fund; and

(ii) as regards Scotland shall be payable out of the Scottish Consolidated Fund and any fees received by them by virtue of this subsection as regards Scotland shall be paid

into the Scottish Consolidated Fund subject to any provision made by or under an Act of the Scottish Parliament for the disposal of or accounting for such sums."

Plant Health Act 1967 (c.8)

3. At the end of section 6 of the Plant Health Act 1967 there is added-

" (4) Section 118 of the Scotland Act 1998 shall apply in relation to the functions of the Forestry Commissioners to make orders under this Act."

Forestry Act 1967 (c.10)

4. - (1) The Forestry Act 1967 is amended as follows.

(2) In section 1, subsections (2) and (3), for "in Great Britain", there is substituted "in Scotland, and in England and Wales".

(3) In section 1(4), for "the Ministers", there is substituted-

" (a) the Ministers in relation to the exercise of their functions as regards England and Wales; and

(b) the Scottish Ministers in relation to the exercise of their functions as regards Scotland."

(4) The following subsection is added at the end of section 1-

" (6) The power of the Ministers and of the Scottish Ministers to give directions for the purposes of subsection (4) above shall be exercisable as regards Great Britain by the Ministers and the Scottish Ministers acting jointly."

(5) In section 3(1), after "any land" there is inserted "in Scotland placed at their disposal by the Scottish Ministers under this Act or in England and Wales".

(6) In section 5(1), after "the Minister" there is inserted "as regards England and Wales and the Scottish Ministers as regards Scotland".

(7) For section 6(4), there is substituted the following subsection-

" (4) a person aggrieved by an order under this section may-

(a) where the order is made in respect of land in England and Wales, appeal therefrom to the Minister in such manner and upon such conditions, if any, as may be prescribed by the Minister, who may thereupon revoke or vary the order; and

(b) where the order is made in respect of land in Scotland, appeal therefrom to the Scottish Ministers in such manner and upon such conditions, if any, as may be prescribed by the Scottish Ministers,

who may thereupon revoke or vary the order."

- (8) In section 8(c), for "in Great Britain", there is substituted "in Scotland, and in England and Wales".
- (9) In sections 10(2)(b), 17A(3)(b)[[51](#)], 18(1), 27(3)(c) and 37(2), the words "in Great Britain" are omitted.
- (10) In section 10(4)(b) after "the Treasury", there is inserted "as regards land in England and Wales, and the Scottish Ministers as regards land in Scotland".
- (11) In section 14(2), for "certifies" there is substituted "as regards the felling of trees in England and Wales certifies, and the Scottish Ministers as regards the felling of trees in Scotland certify".
- (12) In section 16-
- (a) in subsection (2), after "request the Minister", there is inserted "where the application was to fell trees in England and Wales, and the Scottish Ministers where the application was to fell trees in Scotland";
 - (b) in each of subsections (2)(a), (2)(b) and (3), after "the Minister", there is inserted "or, as the case may be, the Scottish Ministers"; and
 - (c) in subsection (2)(a), after "he is", there is inserted "or they are".
- (13) In section 17B[[52](#)]-
- (a) in subsection (1), after "request the Minister", there is inserted "where the restocking notice relates to land in England and Wales, and the Scottish Ministers where the restocking notice relates to land in Scotland";
 - (b) in each of subsections (1)(a), (1)(b) and (2), after "the Minister", there is inserted "or, as the case may be, the Scottish Ministers"; and
 - (c) in subsection (1)(a), after "he is", there is inserted "or they are".
- (14) In section 19(3), after "the Minister" there is inserted "where the felling direction was given in respect of trees in England and Wales, and the Scottish Ministers where the felling direction was given in respect of trees in Scotland".
- (15) In section 20(1)-
- (a) after "request the Minister", there is inserted "where the felling direction was given in respect of trees in England and Wales, and the Scottish Ministers where the felling direction was given in respect of trees in Scotland"; and

(b) for "shall, unless he is", there is substituted "or, as the case may be, the Scottish Ministers shall, unless he is or they are".

(16) In section 21-

(a) in subsection (2), after "given to the Minister", there is inserted "where the felling direction was given in respect of trees in England and Wales, and the Scottish Ministers where the felling direction was given in respect of trees in Scotland";

(b) in subsections (2) to (6) after the words "the Minister", on each occasion they occur apart from in the phrase "given to the Minister" in subsection (2), there is inserted "or, as the case may be, the Scottish Ministers"; and

(c) in subsection (5) after "thinks", there is inserted "or they think".

(17) In section 22, after "the Minister" on each occasion the words occur, there is inserted "or, as the case may be, the Scottish Ministers".

(18) In section 25, in subsection (1)-

(a) after "served on the Minister", there is inserted "where the notice is given in respect of land or trees in England and Wales, and the Scottish Ministers where the notice is given in respect of land or trees in Scotland"; and

(b) after "request the Minister", there is inserted "or, as the case may be, the Scottish Ministers".

(19) In section 25(2), after "the Minister", there is inserted "or the Scottish Ministers".

(20) In section 25(3), after "the Minister", there is inserted "or, as the case may be, the Scottish Ministers".

(21) In section 25(4), for "and the Minister", there is substituted "or, as the case may be, the Scottish Ministers and he or they".

(22) In section 27-

(a) in subsection (1)(a) after "the Minister" there is inserted "in relation to cases where the trees are, or the land is, in England and Wales, and the Scottish Ministers in relation to cases where the trees are, or the land is, in Scotland";

(b) in each of subsection (1)(b), (2) and (3), after "the Minister", there is inserted "or, as the case may be, the Scottish Ministers";

(c) in subsection (4), after "the Treasury", there is inserted "as regards England and Wales"; and

(d) after subsection (4), there is inserted-

" (4A) The Scottish Ministers may pay to the members of a committee appointed by them under this section such remuneration as they may determine."

(23) For section 32(3), the following subsections are substituted-

" (3) Regulations made under this Part of this Act may make provision as regards England and Wales, or as regards Scotland.

(4) A statutory instrument containing regulations made under this Part of this Act making provision only as regards England and Wales-

(a) if the regulations are made under section 9(5)(b) or (c), shall be of no effect unless approved by a resolution of each House of Parliament; and

(b) in a case not falling within the foregoing paragraph, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) A statutory instrument containing regulations made under this Part of this Act making provision only as regards Scotland-

(a) if the regulations are made under section 9(5)(b) or (c), shall be of no effect unless approved by a resolution of the Scottish Parliament; and

(b) in a case not falling within the foregoing paragraph, shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

(6) The Statutory Instruments Act 1946^[53] shall apply to any statutory instrument containing regulations made under this Part of this Act applying to Scotland as it applies to any statutory instrument made by the Scottish Ministers."

(24) In section 33(4), after "the Minister", there is inserted "and the Scottish Ministers".

(25) For section 37(2) there is substituted-

" (2) The power of the Commissioners under section 32 of this Act to make regulations shall not be exercisable except after consultation with the Home Grown Timber Advisory Committee."

(26) In section 34(3)-

(a) in paragraph (a), for "Minister", on both occasions the words appear,

there is substituted "Scottish Ministers"; and

(b) for "the Minister withdraws his", there is substituted "the Scottish Ministers withdraw their".

(27) At the end of section 38, the following new subsection is added-

" (5) Subsection (4) above shall have effect in relation to a regional advisory committee for a conservancy wholly in Scotland as if the reference to the consent of the Treasury were a reference to the consent of the Scottish Ministers."

(28) In section 39(1)-

(a) after "the Minister", there is inserted "as regards England and Wales, and the Scottish Ministers as regards Scotland";

(b) after "his", there is inserted "or their"; and

(c) after "him", there is inserted "or them".

(29) In section 39(2)-

(a) after "the Minister", there is inserted "and the Scottish Ministers";

(b) after "him", there is inserted "or them".

(30) In section 39(3)-

(a) after "the Minister", there is inserted "and the Scottish Ministers";

(b) after "him", there is inserted "or them"; and

(c) in paragraph (a), after "he thinks", there is inserted "or they think".

(31) In section 39(6), after "acquires", there is inserted "or the Scottish Ministers acquire".

(32) In section 40-

(a) in subsection (1), after "the Minister", there is inserted "and the Scottish Ministers"; and

(b) in subsection (5), after "the Minister's", there is inserted "and the Scottish Ministers".

(33) In section 41-

(a) for subsections (1) to (4A)[[54](#)], there are substituted the following subsections:-

" (1) The Forestry Fund constituted under section 8 of the Forestry Act 1919 shall be wound up and any balance in the Forestry Fund shall be paid to the Forestry Commissioners.

(2) Subject to subsection (4) below, the following shall be paid out of money provided by Parliament-

(a) the salaries of the Forestry Commissioners and the salaries or remuneration of the officers and servants of the Commissioners;

(b) all expenses incurred by the Commissioners in the exercise of their powers and the performance of their duties under-

(i) this Act; and

(ii) the Plant Health Act 1967,

including the payment of allowances to the members of any Committee maintained by them under this Act;

(c) any administrative expenses of the Minister under Part II of this Act (including sums required for the payment of remuneration to the members of any committee appointed by him in pursuance of section 27);

(d) all capital payments made by the Minister in acquiring land under section 39 above and any expenses incurred by him in managing such land and any rent or other outgoings payable in respect of such land.

(3) Subject to subsection (4A) below, there shall be paid into the Consolidated Fund-

(a) all sums received by the Commissioners in respect of the sale of timber or otherwise received by them in respect of transactions carried out by them in exercise of their powers and duties under this Act;

(b) any capital sum received by the Minister from the sale, lease or exchange of land acquired by him under section 39 above and all sums received by him from the letting or use of such land; and

(c) all sums received by the Commissioners in respect of the exercise of their powers and duties under the Plant Health Act 1967.

(4) There shall be payable out of the Scottish Consolidated Fund-

(a) all expenditure of a description specified in paragraph (a) or (b)(i) of subsection (2) above incurred by the Commissioners as regards Scotland; and

(b) all expenditure incurred by the Commissioners in the exercise of their functions under the Countryside (Scotland) Act 1967[55].

(4A) Subject to any provision made by or under an Act of the Scottish Parliament for the disposal of or accounting for sums received, there shall be paid into the Scottish Consolidated Fund-

(a) all sums received by the Commissioners of a description specified in subsection (3)(a) above as regards Scotland; and

(b) all sums received by the Commissioners in the exercise of their functions under the Countryside (Scotland) Act 1967."; and

(b) subsection (6) is repealed.

(34) Section 42 is repealed.

(35) Section 44 is repealed.

(36) For section 45, there is substituted the following section-

" **45.** - (1) The Commissioners shall, on such day and in such form as the Scottish Ministers may direct, submit to the Scottish Ministers an annual report and accounts as to their proceedings under this Act as regards Scotland and the Scottish Ministers shall lay the report and accounts before the Scottish Parliament.

(2) The annual report and accounts referred to in subsection (1) above shall be audited by the Auditor General for Scotland or by persons appointed by him.

(3) The Commissioners shall, on such day and in such form as the Ministers may direct, submit to the Ministers an annual report and accounts as to their proceedings under this Act other than such proceedings as regards Scotland and the Ministers shall lay the report and accounts before Parliament.

(4) Section 88(3) of the Scotland Act 1998 shall not apply in relation to the Commissioners."

(37) In section 46-

(a) in subsection (4), after "any such byelaws", there is inserted "with respect to land in England and Wales"; and

(b) after subsection (4), there is inserted the following subsections-

" (4A) A draft of any statutory instrument containing byelaws made under this section with respect to land in Scotland shall be laid before the Scottish Parliament.

(4B) The Statutory Instruments Act 1946 shall apply to any statutory instrument containing byelaws made under this section with respect to land in Scotland as it applies to any statutory instrument made by the Scottish Ministers."

(38) In section 49, for the definition of "the Minister", there is substituted the following definition-

" "the Minister" means, except as provided by sections 15(8) and 19(4), and Schedules 1 and 3, the Minister of Agriculture, Fisheries and Food as respects England and the Secretary of State as respects Wales;"

(39) In Schedule 1-

(a) in paragraphs 7(2) and 10(2), for "the Forestry Fund", there is substituted "money provided by Parliament";

(b) in paragraph 7(2), after "appointed", there is inserted "for England or Wales";

(c) after paragraph 7(2), there is inserted the following new sub-paragraph-

" (3) There shall be payable out of the Scottish Consolidated Fund to the members of any committee appointed for Scotland under section 2(3) who are not Commissioners or officers of the Commissioners such travelling and other allowances as the Scottish Ministers may determine.";

(d) after paragraph 8, there is inserted-

" **8A.** In this Part of this Schedule, "the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.";
and

(e) after paragraph 13, there shall be inserted-

" **13A.** In this Part of this Schedule, "the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales.".

(40) In paragraph 2 of Schedule 4, for "Minister", wherever that word occurs there is substituted "Scottish Ministers".

(41) In Schedule 5-

(a) in each of paragraphs 2(1), 3(1) on the first occasion the words occur, and in paragraph 5 on both occasions the words occur, after "the Minister", there is inserted "or, as the case may be, the Scottish Ministers";

(b) in paragraph 3(1) after "if he thinks fit" there is inserted "and the Scottish Ministers may if they think fit"; and

(c) in paragraphs 3(2) and 3(3), after "the Minister", there is inserted "or the Scottish Ministers".

Countryside Act 1968 (c.41)

5. In section 23(6) of the Countryside Act 1968-

(a) for "the Forestry Fund", there is substituted "money provided by Parliament"; and

(b) for "Forestry Fund", there is substituted "Consolidated Fund".

Forestry Act 1979 (c.21)

6. Section 1 of the Forestry Act 1979 is amended-

(a) in section 1(1) by inserting after "Treasury approval", the words "as regards England and Wales, and the approval of the Scottish Ministers as regards Scotland"; and

(b) by substituting for section 1(2) the following subsection-

" (2) Any such grant or loan made in relation to land in England and Wales shall be payable out of money provided by Parliament, and made in relation to land in Scotland shall be payable out of the Scottish Consolidated Fund."

Agriculture and Forestry (Financial Provisions) Act 1991 (c.33)

7. In section 4(2) of the Agriculture and Forestry (Financial Provisions) Act 1991 for "defrayed out of the Forestry Fund", there is substituted "payable out of money provided by Parliament".

SCHEDULE 13

Article 3

HOME-GROWN CEREALS AUTHORITY

PART I

APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Home-Grown Cereals Authority.

(2) In this Schedule-

"the 1965 Act" means the Cereals Marketing Act 1965([\[56\]](#));

"the 1970 Act" means the Agriculture Act 1970^[57]
"the 1986 Act" means the Agriculture Act 1986^[58]
"the Authority" means the Home-Grown Cereals Authority established under section 1 of the 1965 Act.

PART II MODIFICATIONS

General modification of functions in relation to the Authority

2. - (1) Any function exercisable in relation to the Authority by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Authority; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) The exercise of any function under section 107 of the Agriculture Act 1970 by the Scottish Ministers shall not require the approval of a Minister of the Crown.

(4) This paragraph does not apply to any function to which paragraph 3 applies.

3. - (1) This paragraph applies to functions under sections 7, 13, 16 and 23 of, and Schedule 3 to, the 1965 Act, and section 6 of the 1986 Act.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

Modification of the 1970 Act

4. - (1) Without prejudice to the generality of the modifications made by paragraph 2, the consequential modification made by sub-paragraph (2) below shall have effect.

(2) In section 108(5) of the 1970 Act, after the word "section" there is inserted "the words "with the approval of the Treasury" and".

SCHEDULE 14

Article 3

HORTICULTURAL DEVELOPMENT COUNCIL

PART I APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Horticultural Development Council.

(2) In this Schedule-

"the principal Order" means the Horticultural Development Council Order 1986[[59](#)];

"the 1947 Act" means the Industrial Organisation and Development Act 1947[[60](#)];

"the Council" means the Horticultural Development Council constituted by article 3 of the principal Order.

PART II MODIFICATIONS

General modification of functions in relation to the Council

2. - (1) Any function exercisable in relation to the Council by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Council; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) This paragraph does not apply to any function to which paragraph 3 applies.

Modification of function under the 1947 Act

3. - (1) This paragraph applies to any function exercisable by a Minister of the Crown under the 1947 Act to modify the principal Order.

(2) The Secretary of State for Scotland is to cease to be among the Ministers

who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

SCHEDULE 15

Article 3

INTERVENTION BOARD FOR AGRICULTURAL PRODUCE

PART I APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Intervention Board for Agricultural Produce.

(2) In this Schedule-

"the 1972 Act" means the European Communities Act 1972^[61];
"the Board" means the Intervention Board for Agricultural Produce constituted by section 6(1) of the 1972 Act.

PART II MODIFICATIONS

Modification of functions in relation to the Board

2. - (1) Any function which is exercisable in relation to the Board by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Board; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) No written direction shall be given under section 6(2)(a) of the 1972 Act, and no regulations shall be made under section 6(2)(a) or (b) of that Act,

except with the agreement of the Scottish Ministers.

SCHEDULE 16

Article 3

MEAT AND LIVESTOCK COMMISSION

MEAT AND LIVESTOCK COMMISSION'S CONSUMERS COMMITTEE

PART I APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Meat and Livestock Commission and the Meat and Livestock Commission's Consumers Committee.

(2) In this Schedule-

"the 1967 Act" means the Agriculture Act 1967[[62](#)];

"the Commission" means the Meat and Livestock Commission established by section 1 of the 1967 Act; and

"the Consumers Committee" means the Meat and Livestock Commission's Consumers Committee appointed under section 2(1) of the 1967 Act.

PART II MODIFICATIONS

Modification of functions in relation to the Commission and the Consumers Committee

2. - (1) Any function which is exercisable in relation to the Commission or the Consumers Committee by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Commission or the Consumers Committee; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other

Ministers acting jointly.

(3) The exercise by the Scottish Ministers of any function by virtue of subparagraph (1) shall not require the approval of a Minister of the Crown.

(4) This paragraph shall not apply to any function to which paragraph 3 applies.

3. - (1) This paragraph applies to any function of making orders under section 6 or 16(1)(b) of the 1967 Act or making schemes under section 9 or 13 of that Act.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

SCHEDULE 17

Article 3

MILK DEVELOPMENT COUNCIL

PART I APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Milk Development Council.

(2) In this Schedule-

"the principal Order" means the Milk Development Council Order 1995[63];

"the 1947 Act" means the Industrial Organisation and Development Act 1947[64];

"the Council" means the Milk Development Council.

PART II MODIFICATIONS

General modification of functions in relation to the Council

2. - (1) Any function exercisable in relation to the Council by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish

Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Council; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) This paragraph does not apply to any function to which paragraph 3 applies.

Modification of function under the 1947 Act

3. - (1) This paragraph applies to any function exercisable by a Minister of the Crown under the 1947 Act to modify the principal Order.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) shall not apply in relation to any such function.

Modification of the principal Order

4. - (1) Without prejudice to the generality of the modification made by paragraph 2, the consequential modifications to the principal Order made by sub-paragraph (2) shall have effect.

(2) In paragraph 2(1) of the principal Order (interpretation) in the definition of "the Ministers" for the words "Secretary of State for Scotland" there is substituted "Scottish Ministers".

SCHEDULE 19

Article 3

NATIONAL RADIOLOGICAL PROTECTION BOARD

PART I
APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the National Radiological Protection

(2) In this Schedule-

"the 1970 Act" means the Radiological Protection Act 1970[65];

"the Board" means the National Radiological Protection Board established by section 1(1) of the 1970 Act.

PART II
MODIFICATIONS

Modification of functions in relation to the Board

2. - (1) Any function exercisable in relation to the Board by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Board; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

Notes:

SCHEDULE 13

Article 3

HOME-GROWN CEREALS AUTHORITY

PART I
APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Home-Grown Cereals Authority.

(2) In this Schedule-

"the 1965 Act" means the Cereals Marketing Act 1965([56];
"the 1970 Act" means the Agriculture Act 1970[57]
"the 1986 Act" means the Agriculture Act 1986[58]
"the Authority" means the Home-Grown Cereals Authority established
under section 1 of the 1965 Act.

PART II MODIFICATIONS

General modification of functions in relation to the Authority

2. - (1) Any function exercisable in relation to the Authority by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Authority; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) The exercise of any function under section 107 of the Agriculture Act 1970 by the Scottish Ministers shall not require the approval of a Minister of the Crown.

(4) This paragraph does not apply to any function to which paragraph 3 applies.

3. - (1) This paragraph applies to functions under sections 7, 13, 16 and 23 of, and Schedule 3 to, the 1965 Act, and section 6 of the 1986 Act.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

Modification of the 1970 Act

4. - (1) Without prejudice to the generality of the modifications made by paragraph 2, the consequential modification made by sub-paragraph (2) below shall have effect.

(2) In section 108(5) of the 1970 Act, after the word "section" there is inserted "the words "with the approval of the Treasury" and".

SCHEDULE 14

Article 3

HORTICULTURAL DEVELOPMENT COUNCIL

PART I APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Horticultural Development Council.

(2) In this Schedule-

"the principal Order" means the Horticultural Development Council Order 1986[[59](#)];

"the 1947 Act" means the Industrial Organisation and Development Act 1947[[60](#)];

"the Council" means the Horticultural Development Council constituted by article 3 of the principal Order.

PART II MODIFICATIONS

General modification of functions in relation to the Council

2. - (1) Any function exercisable in relation to the Council by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Council; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) This paragraph does not apply to any function to which paragraph 3 applies.

Modification of function under the 1947 Act

3. - (1) This paragraph applies to any function exercisable by a Minister of the Crown under the 1947 Act to modify the principal Order.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

SCHEDULE 15

Article 3

INTERVENTION BOARD FOR AGRICULTURAL PRODUCE

PART I APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Intervention Board for Agricultural Produce.

(2) In this Schedule-

"the 1972 Act" means the European Communities Act 1972^[61];
"the Board" means the Intervention Board for Agricultural Produce constituted by section 6(1) of the 1972 Act.

PART II MODIFICATIONS

Modification of functions in relation to the Board

2. - (1) Any function which is exercisable in relation to the Board by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Board; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) No written direction shall be given under section 6(2)(a) of the 1972 Act,

and no regulations shall be made under section 6(2)(a) or (b) of that Act, except with the agreement of the Scottish Ministers.

SCHEDULE 16

Article 3

MEAT AND LIVESTOCK COMMISSION

MEAT AND LIVESTOCK COMMISSION'S CONSUMERS COMMITTEE

PART I APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Meat and Livestock Commission and the Meat and Livestock Commission's Consumers Committee.

(2) In this Schedule-

"the 1967 Act" means the Agriculture Act 1967[[62](#)];

"the Commission" means the Meat and Livestock Commission established by section 1 of the 1967 Act; and

"the Consumers Committee" means the Meat and Livestock Commission's Consumers Committee appointed under section 2(1) of the 1967 Act.

PART II MODIFICATIONS

Modification of functions in relation to the Commission and the Consumers Committee

2. - (1) Any function which is exercisable in relation to the Commission or the Consumers Committee by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Commission or the Consumers Committee; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) The exercise by the Scottish Ministers of any function by virtue of subparagraph (1) shall not require the approval of a Minister of the Crown.

(4) This paragraph shall not apply to any function to which paragraph 3 applies.

3. - (1) This paragraph applies to any function of making orders under section 6 or 16(1)(b) of the 1967 Act or making schemes under section 9 or 13 of that Act.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) of the Act shall not apply in relation to any such function.

SCHEDULE 17

Article 3

MILK DEVELOPMENT COUNCIL

PART I APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Milk Development Council.

(2) In this Schedule-

"the principal Order" means the Milk Development Council Order 1995[63];

"the 1947 Act" means the Industrial Organisation and Development Act 1947[64];

"the Council" means the Milk Development Council.

PART II MODIFICATIONS

General modification of functions in relation to the Council

2. - (1) Any function exercisable in relation to the Council by the Secretary of

State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Council; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

(3) This paragraph does not apply to any function to which paragraph 3 applies.

Modification of function under the 1947 Act

3. - (1) This paragraph applies to any function exercisable by a Minister of the Crown under the 1947 Act to modify the principal Order.

(2) The Secretary of State for Scotland is to cease to be among the Ministers who, acting jointly, may exercise any function to which this paragraph applies.

(3) Any function to which this paragraph applies shall be exercisable only with the consent of the Scottish Ministers, and section 88(2) shall not apply in relation to any such function.

Modification of the principal Order

4. - (1) Without prejudice to the generality of the modification made by paragraph 2, the consequential modifications to the principal Order made by sub-paragraph (2) shall have effect.

(2) In paragraph 2(1) of the principal Order (interpretation) in the definition of "the Ministers" for the words "Secretary of State for Scotland" there is substituted "Scottish Ministers".

SCHEDULE 19

Article 3

NATIONAL RADIOLOGICAL PROTECTION BOARD

PART I

APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the National Radiological Protection Board.

(2) In this Schedule-

"the 1970 Act" means the Radiological Protection Act 1970^[65];
"the Board" means the National Radiological Protection Board established by section 1(1) of the 1970 Act.

PART II MODIFICATIONS

Modification of functions in relation to the Board

2. - (1) Any function exercisable in relation to the Board by the Secretary of State for Scotland acting alone shall instead be exercisable by the Scottish Ministers.

(2) Any function which is-

(a) specifically exercisable in relation to the Board; and

(b) exercisable by the Secretary of State for Scotland acting jointly with other Ministers of the Crown,

shall instead be exercisable by the Scottish Ministers and those other Ministers acting jointly.

SCHEDULE 23

Article 3

SEA FISH INDUSTRY AUTHORITY

PART I APPLICATION AND INTERPRETATION

1. - (1) This Schedule shall apply to the Sea Fish Industry Authority.

(2) In this Schedule-

"the 1981 Act" means the Fisheries Act 1981^[68];

"the Authority" means the Sea Fish Industry Authority.

PART II MODIFICATIONS

Modification of application of section 88 of the Act

2. - (1) Section 88(1) of the Act shall not apply in relation to any function under section 16 of the 1981 Act which is specifically exercisable in relation to the Authority.

(2) Section 88(2)(a) of the Act shall not apply in relation to the appointment or removal of members, or of the chairman or deputy chairman, of the Authority under section 1 of, and paragraph 5 of Schedule 1 to, the 1981 Act.

(3) Section 88(2)(b) of the Act shall not apply in relation to the exercise by a Minister of the Crown of any other function under the 1981 Act which is specifically exercisable in relation to the Authority.

(4) Section 88(3) of the Act shall not apply in relation to the following reports laid before Parliament or each House of Parliament, under the provisions of the 1981 Act specified-

(a) any statement setting out directions under section 2(4);

(b) any statement as to a guarantee, any sums paid in fulfilment of a guarantee, or sums remaining to be repaid, under section 9(2), (3) or (4);
and

(c) copies of the report of the Authority for any financial year, the statement of accounts, and the auditor's report, under section 11(8).

Modification of the 1981 Act

3. - (1) The 1981 Act is amended as follows.

(2) In each of sections 2(4) (duties of the Authority), 9(2) and (3) (Government guarantees) and 11(8) (accounts and reports), after "Parliament" there is inserted ", and the Scottish Ministers shall lay before the Scottish Parliament,".

(3) In section 2(5), after "Crown" there is inserted "or by the Scottish Ministers".

(4) In section 9(4), after "Parliament" there is inserted ", and the Scottish Ministers shall lay before the Scottish Parliament,".

(5) In section 11(9) for "and the Comptroller and Auditor General" there is substituted ", the Comptroller and Auditor General and the Auditor General for Scotland".

(6) In section 14(1) (interpretation of Part I), for the definition of "the Ministers" there is substituted-

" "the Ministers" means-

(a) except as provided for in paragraphs (b) and (c) below, the Minister of Agriculture, Fisheries and Food, the Scottish Ministers and the Secretaries of State respectively concerned with the sea fish industry in Wales and Northern Ireland;

(b) in relation to laying any report, accounts or statement before Parliament or each House of Parliament under sections 2(4), 9(2), (3) and (4), and 11(8), the said Minister and the said Secretaries of State; and

(c) in relation to making an order or, as the case may be, regulations under sections 4(2) or (7), 6(2) or (4) or 7(3), the said Minister and the said Secretaries of State, with the agreement of the Scottish Ministers."

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to the bodies mentioned in Schedule 1 to the Order, (all of which are specified as cross-border public authorities by the Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999 (S.I. 1999/1319)) which is considered necessary or expedient in consequence of the Scotland Act 1998 (c.46).

Article 2 of the Order provides that the modifications in Part II of Schedules 2 to 23 of the Order which relate to the cross-border public authorities mentioned in Part I of those Schedules, are to have effect.

Article 4 re-applies sections 118 to 121 of the Scotland Act 1998 to any functions which, by virtue of the provisions of the Order, are exercisable by Scottish Ministers alone.

Article 5 makes transitional and savings provision.

This Order will come into force on the principal appointed day, which is currently 1st July 1999 by virtue of the Scotland Act 1998 (Commencement) Order 1998 (S.I. 1998/3178).

Notes:

- [43] 1958 c.47.[back](#)
- [44] 1997 c.66.[back](#)
- [45] 1992 c.53; the functions of the Lord Advocate under this Act were transferred to the Secretary of State by S.I. 1999/678.[back](#)
- [46] 1995 c.53.[back](#)
- [47] 1967 c.22.[back](#)
- [48] 1983 c.3.[back](#)
- [49] Section 61 was amended by S.I. 1986/817, article 2; the Statute Law (Repeals) Act 1986 (c.12), section 1(1) and Schedule 1, Part II; and the 1983 Act, section 9 and Schedule 3. Functions under Part IV of the 1967 Act were transferred to Food from Britain by sections 2(1) and 3(2) of, and Schedule 2 to, the 1983 Act.[back](#)
- [50] Amended by the European Communities Act 1972, Schedule 4, paragraph 5(4).[back](#)
- [51] Section 17A was inserted by the Forestry Act 1986 (c.30), section 1(a).[back](#)
- [52] Section 17B was inserted by the Forestry Act 1986, section 1(a).[back](#)
- [53] 1946 c.36.[back](#)
- [54] Section 41(4A) was inserted by the Forestry Act 1981 (c.39), section 3.[back](#)
- [55] 1967 c.86.[back](#)

- [56] 1965 c.14.[back](#)
- [57] 1970 c.40.[back](#)
- [58] 1986 c.49.[back](#)
- [59] S.I. 1986/1110.[back](#)
- [60] 1947 c.40.[back](#)
- [61] 1972 c.68.[back](#)
- [62] 1967 c.22.[back](#)
- [63] S.I. 1995/356.[back](#)
- [64] 1947 c.40.[back](#)
- [65] 1970 c.46.[back](#)
- [56] 1965 c.14.[back](#)
- [57] 1970 c.40.[back](#)
- [58] 1986 c.49.[back](#)
- [59] S.I. 1986/1110.[back](#)
- [60] 1947 c.40.[back](#)
- [61] 1972 c.68.[back](#)
- [62] 1967 c.22.[back](#)
- [63] S.I. 1995/356.[back](#)
- [64] 1947 c.40.[back](#)
- [65] 1970 c.46.[back](#)
- [66] 1997 c.50.[back](#)
- [67] 1996 c.16.[back](#)
- [68] 1981 c.29.[back](#)

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