



Scotland Act 1978

CHAPTER 51

LONDON

HER MAJESTY'S STATIONERY OFFICE

Scotland Act 1978

CHAPTER 51

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ELIZABETH II



Scotland Act 1978

1978 CHAPTER 51

An Act to provide for changes in the government of Scotland and in the procedure of Parliament and in the constitution and functions of certain public bodies.

[31st July 1978]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

THE SCOTTISH ASSEMBLY AND EXECUTIVE

The Scottish Assembly

1.—(1) There shall be a Scottish Assembly.

The Scottish
Assembly.

(2) Subject to subsection (3) below, the initial members of the Assembly shall be returned for the areas which, at the time of their election, are constituencies for parliamentary elections in Scotland, and there shall be—

(a) three initial members for each of those areas of which the electorate is more than 125 per cent. of the electoral quota ; and

(b) two initial members for each of the others.

PART I (3) There shall be one initial member for Orkney and one for Shetland.

(4) The members of the Assembly other than the initial members shall be returned for the Assembly constituencies for the time being specified in an Order in Council under Schedule 1 to this Act and there shall be one member for each such constituency.

(5) In this section and Part III of Schedule 1 to this Act "initial members" means members elected before an election to which an Order in Council under Part I of that Schedule applies, and "electorate" and "electoral quota" have the meanings assigned to them by paragraph 14 of that Schedule.

Time of election and term of office of members of Assembly.

2.—(1) The first ordinary election of members of the Assembly shall be held on a day appointed by order of the Secretary of State and, subject to subsection (2) below, any subsequent ordinary election shall be held on the third Thursday in March in the fourth year following that in which the previous ordinary election was held.

(2) The Secretary of State may, by order made with respect to the second or any subsequent ordinary election of members of the Assembly, appoint as a day for the holding of the election a day not more than two months earlier nor more than two months later than the day on which the election would be held apart from the order.

(3) The term of office of any member of the Assembly, whether elected at an ordinary election or otherwise, shall begin on the day on which he is elected and end with the dissolution of the Assembly.

(4) No order under this section shall be made unless a draft of it has been laid before, and approved by resolution of, each House of Parliament.

Dissolution of Assembly.

3.—(1) The Assembly as constituted from time to time—

(a) shall stand dissolved on the eve of any ordinary election of members ; and

(b) shall be dissolved by order of the Secretary of State if the Assembly resolves that it should be dissolved and, if the resolution is passed on a division, the members voting in favour of it number not less than two-thirds of the total number of members of the Assembly (including any whose seat is vacant).

(2) An order dissolving the Assembly shall require an election of members to be held on the day following the dissolution, and that day shall not be later than two months after the date of the resolution in pursuance of which the order is made.

PART I

4.—(1) The persons entitled to vote as electors at an Assembly election in any Assembly constituency shall be— Elections to
Assembly.

(a) those, who at the date of the election—

(i) have their names on such parts of the register of parliamentary electors as relate to the Assembly constituency ; and

(ii) would be entitled to vote as electors at a parliamentary election in the parliamentary constituency comprising the Assembly constituency ; and

(b) peers who, at that date—

(i) have their names on such parts of the register of local government electors as relate to the Assembly constituency ; and

(ii) would be entitled to vote at a local government election in an electoral area comprised in or wholly or partly coinciding with the Assembly constituency.

(2) Subsection (1) of this section applies with the necessary modifications to the election of initial members (within the meaning of section 1 of this Act).

(3) The Secretary of State may by order make provision—

(a) as to the conduct of elections of members of the Assembly (including the registration of electors) ; and

(b) as to the questioning of such an election and the consequences of irregularities.

(4) An order under this section may—

(a) apply, with such modifications or exceptions as may be specified in it, any provision of the Representation of the People Acts, any provision of the enactments relating to returning officers, and any provision made under any enactment ; and

(b) so far as may be necessary in consequence of any provision made by it for the registration of electors, amend any provision made by or under the Representation of the People Acts as to the registration of parliamentary electors or local government electors.

(5) An order under this section may provide for the charging of any sum on the Scottish Consolidated Fund.

PART I
1949 c. 68.

(6) No election of a member of the Assembly shall be questioned except under the provisions of Part III of the Representation of the People Act 1949 as applied by an order under this section.

(7) A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

By-elections.

5.—(1) Subject to subsection (4) of this section, where the seat of a member of the Assembly is vacant an election shall be held to fill the vacancy.

(2) The date of the election shall be fixed by the presiding officer of the Assembly in accordance with subsection (3) of this section.

(3) The date of the election shall be not later than three months after the occurrence of the vacancy, except that if the vacancy does not come to the notice of the presiding officer within one month of its occurrence the date of the election shall be not later than three months after the vacancy comes to his notice.

(4) The election shall not be held if the latest date for holding it would fall within the three months preceding the next election to be held in pursuance of section 2 or section 3 of this Act.

(5) For the purposes of this section a vacancy shall be deemed to have occurred on such date as may be determined under the standing orders of the Assembly, and references in this section to the presiding officer include any person for the time being performing the functions of presiding officer.

First meeting
of Assembly.

6. The first meeting of the Assembly shall be held on such day and at such time and place as the Secretary of State may direct.

Procedure
of Assembly.

7.—(1) The procedure of the Assembly shall be regulated by standing orders of the Assembly; but the Secretary of State may give directions for regulating its procedure pending the making of standing orders.

(2) The standing orders shall include provision for the election of a presiding officer from among the members of the Assembly and for his tenure of office.

Disqualifica-
tion for
membership
of Assembly.

8.—(1) Subject to section 9 of this Act, a person is disqualified for membership of the Assembly if—

(a) he is disqualified for membership of the House of

Commons under paragraphs (a) to (e) of section 1(1) of the House of Commons Disqualification Act 1975 ; or PART I
1975 c. 24.

- (b) he is disqualified otherwise than under that Act for membership of that House or for sitting and voting in it ; or
- (c) he is a Lord of Appeal in Ordinary ; or
- (d) he holds any of the offices for the time being designated by Order in Council as offices disqualifying for membership of the Assembly ; or
- (e) he has been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine and a period of less than five years has elapsed since the date of that conviction.

(2) A person who holds office as lord-lieutenant or lieutenant for any region, islands area or district in Scotland is disqualified for membership of the Assembly for any Assembly constituency comprising the whole or part of that area or district or of the part of that region in which he discharges his functions.

(3) For the purposes of subsection (1)(e) above the ordinary date on which the period allowed for appealing against a conviction expires or, if an appeal against a conviction is made, the date on which the appeal is finally disposed of or abandoned, shall be deemed to be the date of the conviction.

(4) Subsection (2) of this section applies with the necessary modifications to membership of the Assembly before an election to which an Order in Council under Part I of Schedule 1 to this Act applies.

(5) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been laid before and approved by a resolution of each House of Parliament, but this does not apply to an Order made by virtue of section 79(2) of this Act if the Assembly has resolved that the Secretary of State be requested to recommend the making of the Order.

9.—(1) A person is not disqualified for membership of the Assembly by reason only—

- (a) that he is a peer, whether of the United Kingdom, Great Britain, England, Scotland or Ireland ; or
- (b) that he has been ordained or is a minister of any religious denomination.

Exceptions and power to grant relief from disqualification.

(2) Where a person was, or is alleged to have been, disqualified for membership of the Assembly, either generally or for any Assembly constituency, on any ground other than one falling

PART I within section 8(1)(b) or (e) of this Act and it appears to the Assembly—

(a) that that ground has been removed ; and

(b) that it is proper to do so ;

it may resolve that any disqualification incurred by that person on that ground shall be disregarded.

1949 c. 68. (3) A resolution under subsection (2) above shall not affect any proceedings under Part III of the Representation of the People Act 1949 as applied by an order under section 4 of this Act or enable the Assembly to disregard any disqualification which has been established in such proceedings or in proceedings under section 11 of this Act.

Effect of dis-
qualification.

10.—(1) Subject to any resolution of the Assembly under section 9 of this Act,

(a) if a person disqualified for membership of the Assembly, or for membership for a particular Assembly constituency, is elected as a member of the Assembly or, as the case may be, as a member for that constituency, his election shall be void ; and

(b) if a member of the Assembly becomes disqualified for membership of the Assembly or for membership for the Assembly constituency for which he is sitting, his seat shall be vacated.

(2) Subsection (1) above applies with the necessary modifications to membership of the Assembly before an election to which an Order in Council under Part I of Schedule 1 to this Act applies.

(3) The validity of any proceedings of the Assembly shall not be affected by the disqualification of any person for membership of the Assembly or for membership for any Assembly constituency.

Judicial
proceedings
as to dis-
qualification.

11.—(1) Any person who claims that a person purporting to be a member of the Assembly is disqualified or has been disqualified at any time since his election may apply to the Court of Session for a declarator to that effect, and the decision of the court on the application shall be final.

(2) On an application under this section the person in respect of whom the application is made shall be the defender ; and the applicant shall give such security for the expenses of the proceedings, not exceeding £200, as the Court of Session may direct.

(3) An application under this section in respect of any person may be made whether the grounds on which it is made are alleged to have subsisted at the time of his election or to have

arisen subsequently ; but no declarator shall be made under this section in respect of any person— PART I

- (a) on grounds which subsisted at the time of his election, if an election petition is pending or has been tried in which his disqualification on those grounds is or was in issue ; or
- (b) on any ground, if a resolution under section 9 of this Act requires that the ground shall be disregarded.

(4) In this section “ disqualified ” means disqualified for membership of the Assembly or for any Assembly constituency.

12.—(1) A member of the Assembly shall, as soon as may be after his election, and at a meeting of the Assembly, take the oath of allegiance set out in section 2 of the Promissory Oaths Act 1868 or make the corresponding affirmation and shall not, until he has done so, take part in any other proceedings of the Assembly. Members' oath of allegiance. 1868 c. 72.

(2) If a member has not taken the oath or made the affirmation required by this section within two months of his election, or such longer period as the Assembly may have allowed before the expiration of the second month, he shall cease to be a member at the expiration of that month or longer period.

13. A member of the Assembly may at any time resign his seat by giving notice in writing to the presiding officer or to any person authorised by the standing orders of the Assembly to receive the notice. Resignation.

14. Subject to the provisions of this Act, the Assembly may do anything (whether or not involving the acquisition or disposal of any property) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions ; and any expenses incurred under this section shall be paid out of the Scottish Consolidated Fund. Subsidiary powers of Assembly.

15.—(1) For the purposes of the law of defamation in any part of the United Kingdom— Defamatory statements in Assembly proceedings.

- (a) any statement (whether oral or written) made in proceedings of the Assembly ; and
- (b) the publication under the authority of the Assembly of any document ;

shall be absolutely privileged.

(2) Where the publication of any document is privileged by virtue of subsection (1)(b) of this section the publication of any abstract from or summary of it which is fair and accurate is also privileged, unless the publication is proved to be made with malice.

PART I
Corrupt
practices.

16. The Assembly shall be a public body for the purposes of the Prevention of Corruption Acts 1889 to 1916.

Legislation

Scottish
Assembly
Acts.

17.—(1) Subject to section 18 of this Act, the Assembly may make laws, to be called Scottish Assembly Acts.

(2) A Scottish Assembly Act may amend or repeal a provision made by or under an Act of Parliament.

(3) Proposed Scottish Assembly Acts shall be known as Bills, and a Bill shall become a Scottish Assembly Act when it has been passed by the Assembly and approved by Her Majesty in Council.

(4) The validity of any proceedings leading to the enactment of a Scottish Assembly Act shall not be called in question in any legal proceedings.

(5) Every Scottish Assembly Act shall be judicially noticed.

Legislative
competence
of Assembly.

18.—(1) A Scottish Assembly Act shall be law only if or to the extent that it is within the legislative competence of the Assembly.

(2) Any question whether a provision is within the legislative competence of the Assembly shall be determined in accordance with Schedule 2 to this Act.

Scrutiny of
Assembly
Bills.

19.—(1) The Secretary of State shall consider every Bill passed by the Assembly and, if he is of opinion that any of its provisions is not within the legislative competence of the Assembly, he shall refer the question whether that provision is within that competence to the Judicial Committee of the Privy Council for decision and he may also do so if he is of opinion that there is sufficient doubt about it to justify the reference; but no such reference shall be made in a case falling within subsection (2) below or section 38(3) of this Act.

(2) If, after considering a Bill in pursuance of subsection (1) above, the Secretary of State is of opinion that the Bill is not compatible with Community obligations or any other international obligations of the United Kingdom or that it provides for matters which are or ought to be provided for by or under legislation passed by Parliament and implementing any such obligation, he shall certify to the Assembly that he is of that opinion and shall not submit the Bill to Her Majesty in Council for approval.

(3) The decision of the Judicial Committee on any question referred to it under this section shall be stated in open court.

(4) If the Judicial Committee decides that any provision of a Bill is not within the legislative competence of the Assembly the Secretary of State shall not submit the Bill to Her Majesty in Council for approval; and if the Judicial Committee decides that a provision is within the legislative competence of the Assembly the decision shall be binding in all legal proceedings.

PART I

Executive functions and subordinate legislation

20.—(1) There shall be a Scottish Executive one of whose members shall be known as the First Secretary and the others as Secretaries of the Scottish Executive. The Scottish Executive.

(2) Any reference in this Act or in any Act amended by or under this Act to a Scottish Secretary is a reference to the First Secretary or any of the Secretaries of the Scottish Executive.

(3) Subject to subsections (6) and (7) of this section—

- (a) Scottish Secretaries shall be appointed by the Secretary of State; and
- (b) the First Secretary may appoint persons to be assistants to Scottish Secretaries; and
- (c) any person appointed under this subsection shall be appointed from among the members of the Assembly.

(4) If the Assembly has nominated one of its members for appointment as First Secretary that member shall be so appointed; and in appointing the other Scottish Secretaries the Secretary of State shall act on the advice of the First Secretary.

(5) A Scottish Secretary shall hold office at Her Majesty's pleasure and an assistant to a Scottish Secretary may be removed from office by the First Secretary.

(6) A Scottish Secretary or assistant to a Scottish Secretary who is to perform functions corresponding to functions performed by a Law Officer of the Crown may (whether or not he is to perform also other functions) be appointed notwithstanding that he is not a member of the Assembly, and may then take part in the proceedings of the Assembly but shall not vote.

(7) A person appointed (otherwise than in pursuance of subsection (6) of this section) to be a Scottish Secretary or an assistant to a Scottish Secretary shall relinquish his appointment on ceasing to be a member of the Assembly; but for this purpose a member of the Assembly shall not be treated as ceasing to be such a member on the dissolution of the Assembly if he is again elected at the election following the dissolution.

(8) A Scottish Secretary may appoint such officers and servants as he may think appropriate for the exercise of such of the powers mentioned in section 21(1) of this Act as are for the time being exercised by him.

PART I
1868 c. 72.

(9) A person appointed a Scottish Secretary shall on appointment take the official oath set out in section 3 of the Promissory Oaths Act 1868 and (unless he has taken it on a previous occasion) the oath of allegiance set out in section 2 of that Act (or make the corresponding affirmation).

Executive powers.

21.—(1) Such of Her Majesty's executive powers as would otherwise be exercisable on behalf of Her Majesty by a Minister of the Crown shall, if they relate to devolved matters and are exercisable in or as regards Scotland, be exercisable on behalf of Her Majesty by a Scottish Secretary.

(2) The executive powers mentioned in subsection (1) of this section include any executive power conferred on a Minister of the Crown by an enactment passed or made before the passing of this Act; and a Scottish Secretary shall perform any duty which by such an enactment is imposed on a Minister of the Crown so far as it falls to be performed in or as regards Scotland and relates to a devolved matter.

Subordinate instruments.

22.—(1) Where, by or under any Act passed before this Act, any power to make, confirm or approve orders, rules, regulations or other subordinate legislation is conferred on a Minister of the Crown, then, to the extent that—

- (a) the power is exercisable as regards Scotland; and
- (b) it is so exercisable exclusively with respect to a devolved matter;

it shall be exercisable by a Scottish Secretary.

(2) If the enactment conferring the power makes provision—

- (a) for any instrument or the draft of any instrument made in the exercise of the power to be laid before Parliament or either House of Parliament; or
- (b) for the annulment or approval of any such instrument or draft by or in pursuance of a resolution of either or both Houses of Parliament; or
- (c) prohibiting the making of such an instrument without that approval;

then, in relation to the exercise of the power in accordance with subsection (1) above, the provision shall have effect as if any reference in it to Parliament or either House of Parliament were a reference to the Assembly.

1945 (9 & 10
Geo. 6.) c. 18. (3) If the enactment conferring the power makes provision requiring any order (within the meaning of the Statutory Orders (Special Procedure) Act 1945) to be subject to special parliamentary procedure, then, in relation to the exercise of the power in accordance with subsection (1) above, the provision shall have effect as if it required the order to be subject to such special

procedure as may be prescribed by the standing orders of the Assembly ; but this subsection does not apply where the power is exercised in any of the circumstances specified in paragraphs 1 to 3 of Schedule 3 to this Act or is such a power as is mentioned in paragraph 4 of that Schedule and is exercised as mentioned in that paragraph.

(4) If the enactment conferring the power makes provision for any order made under it to be a provisional order, that is to say an order which requires to be confirmed by Act of Parliament, then, in relation to the exercise of the power in accordance with subsection (1) above, the provision shall have effect as if it required the order to be confirmed by Scottish Assembly Act.

(5) Where, by or under any Act passed before this Act, a power is conferred on a person other than a Minister of the Crown to make orders, rules, regulations or other subordinate legislation, then, in relation to any exercise of that power as regards Scotland and with respect only to a devolved matter,—

(a) subsection (2) above shall apply with the necessary modifications ; and

(b) if the enactment conferring the power applies the Statutory Instruments Act 1946 as if the power were exercisable by a Minister of the Crown, that Act (as amended by Schedule 16 to this Act) shall apply as if the power were exercisable by a Scottish Secretary. 1946 c. 36.

(6) Where, by or under any Act passed before this Act, power is conferred on Her Majesty to make an Order in Council, Her Majesty may by Order in Council make provision for securing that, to the extent that the power is exercisable as regards Scotland and exclusively with respect to a devolved matter, it shall be exercisable by order and treated for the purposes of this section as if it had been conferred by that Act on a Minister of the Crown.

(7) No recommendation shall be made to Her Majesty in Council to make an Order under subsection (6) above unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.

23.—(1) Where an enactment conferring a power on a Minister of the Crown makes provision for the exercise of the power with the concurrence or subject to the consent or approval of, or after consultation with, any other Minister of the Crown, that provision shall not apply to the exercise of the power (in accordance with section 21 or 22 of this Act) by a Scottish Secretary unless either—

(a) the enactment is listed in Schedule 4 to this Act, or

(b) the power relates to the borrowing of money outside the United Kingdom or in a currency other than sterling.

Powers exercisable with consent or concurrently.

PART I

(2) Where an enactment conferring a power on a Minister of the Crown makes no such provision, but the enactment is listed in Schedule 4 to this Act, then, except as otherwise provided in that Schedule, the power shall not be exercised by a Scottish Secretary without the consent of a Minister of the Crown.

(3) Notwithstanding anything in the preceding provisions of this Act, any power under the enactments listed in Schedule 5 to this Act may be exercised both by the Secretary of State and by a Scottish Secretary.

Standing orders—particular provisions

Crown
interests
and public
records.

24. The standing orders of the Assembly shall include provision for securing that a Bill proposing to make any such provision as is mentioned in Schedule 6 to this Act does so expressly and not merely by implication and will not be allowed to pass unless the Crown's consent has been signified by the Secretary of State.

Preservation
of order.

25. The standing orders of the Assembly shall include provision for preserving order in the proceedings of the Assembly, and any standing order made by virtue of this section may include provision for excluding a member from such proceedings.

Stages of
Bills.

26. The standing orders of the Assembly shall include provision—

- (a) for general debate on a Bill with an opportunity for members to vote on its general principles ;
- (b) for the consideration of, and an opportunity for members to vote on, the details of a Bill ; and
- (c) for a final stage at which a Bill can be passed or rejected.

Members'
pecuniary
interests.

27.—(1) The standing orders of the Assembly shall include provision for securing that members with pecuniary interests, as defined by the standing orders, or such other interests (if any) as may be specified in the standing orders, in any matter disclose them before taking part in any proceedings dealing with that matter, and may include provision for preventing or restricting participation of such members in such proceedings.

(2) Standing orders made in pursuance of subsection (1) above may include provision for excluding members contravening them from the proceedings of the Assembly.

(3) If a member of the Assembly takes part in any proceedings in contravention of any provision made in pursuance of this section he shall be liable on summary conviction to a fine not exceeding £500.

28.—(1) The standing orders of the Assembly may include provisions for the appointment of committees with functions extending to any matter which, whether in relation to the Assembly or in relation to the Scottish Executive, is a devolved matter.

PART I
Committees.

(2) In appointing members to such committees the Assembly shall secure that the balance of parties in the Assembly is as closely as practicable reflected in the membership of each such committee.

29. The standing orders of the Assembly shall include provision for the reporting of the proceedings of the Assembly and for the publication of the reports of such proceedings.

Reporting and
publishing of
proceedings of
the Assembly.

30. The standing orders of the Assembly shall include provision for securing that, where a Scottish Assembly Bill proposes to authorise any expenditure to be met from, or loan to be made out of, the Scottish Consolidated Fund or the Scottish Loans Fund or the release or composition of any debt owed to the Crown, the Bill cannot pass unless the authorisation has been recommended by a Scottish Secretary.

Financial
initiative.

31.—(1) The standing orders of the Assembly may include provision for the formation of a panel of members of the Assembly to act as additional Commissioners under the Private Legislation Procedure (Scotland) Act 1936.

Members of
Assembly
acting as
additional
Commis-
sioners.
1936 c. 52.

(2) Where—

- (a) the Secretary of State certifies that a draft order submitted to him under section 1 of the Act of 1936 contains provisions which are within the legislative competence of the Assembly, and
- (b) Commissioners are to be appointed under section 5 of that Act for the purpose of inquiring as to the propriety of making and issuing a provisional order in the terms of the draft,

then, if a panel has been formed under subsection (1) of this section, the Chairman of Committees of the House of Lords and the Chairman of Ways and Means in the House of Commons shall appoint an additional Commissioner from that panel.

(3) A Commissioner appointed under this section shall be treated for the purposes of the Act of 1936 as if he were appointed under that Act; and subsections (7) and (8) of section 5 of that Act shall apply in relation to a Commissioner so appointed as if any reference to Parliament, or to either House of Parliament, included a reference to the Assembly.

(4) Section 22 above shall not apply to the Act of 1936.

PART I

Clerk, officers
and servants
of Assembly.

Officers of Assembly

32.—(1) There shall be a Clerk of the Assembly, who shall be appointed by the Assembly.

(2) The Clerk may, with the consent of the Assembly as to numbers, appoint persons to act as officers and servants of the Assembly, and the conditions of service of those persons shall be such as he may with the consent of the Assembly determine.

(3) There shall be paid out of the Scottish Consolidated Fund—

(a) to the Clerk and to the officers and servants appointed by him, such salaries and allowances ; and

(b) to or in respect of persons who cease to hold office as Clerk or such officers or servants, such amounts by way of pensions, allowances or gratuities or by way of provision for any such benefits ;

as the Assembly may from time to time determine.

(4) Any determination under subsection (3) of this section may take effect from the date on which it is made or such other date as the Assembly may specify, but not so as to diminish the sums payable for any period preceding the determination.

(5) Any functions of the Clerk of the Assembly may, if the office of Clerk is vacant or the Clerk is for any reason unable to act, be discharged by any other officer for the time being discharging the duties of the Clerk.

Application of
employment
legislation
to Clerk,
officers and
servants of
Assembly.
1972 c. 53.
1974 c. 52.
1975 c. 71.

33.—(1) The following provisions, namely—

(a) Schedule 1 to the Contracts of Employment Act 1972 ;

(b) Part II of Schedule 1 to the Trade Union and Labour Relations Act 1974 ; and

(c) the Employment Protection Act 1975 ;

shall apply to the Clerk of the Assembly and to officers and servants appointed by him under section 32 of this Act as they apply to persons in Crown employment within the meaning of section 121 of the Employment Protection Act 1975.

(2) Accordingly, for the purposes of the application of the provisions mentioned in subsection (1) of this section in relation to the Clerk and any such officer or servant—

(a) any reference to an employee shall be construed as a reference to the Clerk or, as the case may require, such an officer or servant ;

(b) any reference to a contract of employment shall be construed as a reference to the terms of his employment ;

(c) any reference to dismissal shall be construed as a reference to the termination of his employment ;

- (d) the references in paragraph 21(5)(c) of Schedule 1 to the Act of 1974 and section 18(1)(e) of the Act of 1975 to any person's undertaking or any undertaking in which he works shall be construed as a reference to the national interest or the interests of Scotland or, if the case so requires, the interests of the Scottish Assembly ; and
- (e) any other reference to an undertaking shall be construed as a reference to the Scottish Assembly.

PART I

(3) The provisions of section 1 of the Equal Pay Act 1970, Parts II and IV of the Sex Discrimination Act 1975 and Parts II and IV of the Race Relations Act 1976 shall apply to an act done by the employer of the Clerk or of an officer or servant appointed by him and to service as Clerk or such an officer or servant as they apply to an act done by, and to service for the purposes of, a Minister of the Crown, and accordingly shall so apply as if references in those provisions to a contract of employment included references to the terms of service as Clerk or such an officer or servant.

(4) For the purposes of the enactments applied by the preceding provisions of this section, the presiding officer of the Assembly shall be deemed to be the employer of the Clerk and of the officers and servants appointed by the Clerk, except that in relation to any description of such officer or servant for the time being designated by the presiding officer a person so designated shall be deemed to be the employer for those purposes or, if it is so stated in the designation, such of those purposes as are so designated.

(5) Where any proceedings are brought by virtue of this section against the presiding officer or any person designated by him, the person against whom they are brought may apply to the industrial tribunal to have some other person against whom they could have been properly brought substituted for him as a party to those proceedings.

Remuneration of members of Assembly, Scottish Executive etc.

34.—(1) There shall be paid to members of the Assembly, Scottish Secretaries and assistants to Scottish Secretaries such salaries and allowances as the Assembly may from time to time determine.

Remuneration
of members,
etc.

(2) Pending the first determination under subsection (1) of this section of any salaries and allowances for members of the Assembly their amounts shall be such as the Secretary of State may direct.

(3) The Assembly may make provision for the payment of pensions, gratuities or allowances to or in respect of persons who

PART I have ceased to be members of the Assembly, Scottish Secretaries or assistants to Scottish Secretaries.

(4) Different provision may be made under this section for different cases.

(5) Without prejudice to the period for which any salaries or allowances are payable under this section, no payment shall be made under this section to or in respect of a person required by section 12 or section 20 of this Act to take an oath or make an affirmation unless he has done so.

(6) Payments under this section shall be made out of the Scottish Consolidated Fund.

PART II

RELATIONS WITH UNITED KINGDOM AUTHORITIES

Agency arrangements and information

Agency arrangements and provision of services.

35.—(1) Arrangements may be made between a Scottish Secretary and any relevant authority for any functions of one of them to be discharged by, or by officers of, the other, and for the provision by one of them for the other of administrative, professional or technical services.

(2) No such arrangements for the discharge of any functions shall affect the responsibility of the authority on whose behalf the functions are discharged.

(3) In this section “relevant authority” means any department of the Government of the United Kingdom and any public or local authority or public corporation.

Provision of information.

36. Where it appears to the Secretary of State that any information relating to the exercise of functions by a Scottish Secretary is required for the exercise of functions by a Minister of the Crown he may request the Scottish Secretary to supply the information and the Scottish Secretary shall comply with the request.

Supplementary and reserve powers

Power to make changes in law consequential on Scottish Assembly Acts.

37.—(1) Her Majesty may by Order in Council make any such amendments of the law of the United Kingdom or any part of it (including any provision contained in this Act) and such further provision as appear to Her to be necessary or expedient in consequence of any provision made by or under any Scottish Assembly Act.

(2) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been laid before and approved by a resolution of each House of Parliament.

38.—(1) If it appears to the Secretary of State—

PART II

- (a) that a Bill passed by the Assembly contains any provision which would or might affect a reserved matter, whether directly or indirectly; and
- (b) that the enactment of that provision would not be in the public interest;

Power to move rejection of certain Assembly Bills.

he may lay the Bill before Parliament together with a reasoned statement that in his opinion it ought not to be submitted to Her Majesty in Council.

(2) For the purposes of this section a reserved matter is one—

- (a) which concerns Scotland (whether or not it also concerns any other part of the United Kingdom); but
- (b) with respect to which the Scottish Assembly has no power to legislate (disregarding for this purpose paragraph 8 of Schedule 2 to this Act).

(3) If a Bill is laid before Parliament under subsection (1) of this section and within a period of twenty-eight days beginning with the day on which it is so laid, each House of Parliament resolves that the Bill shall not be submitted to Her Majesty in Council the Bill shall not be submitted to Her Majesty in Council for approval.

39.—(1) If it appears to the Secretary of State—

Power to prevent or require action.

- (a) that any action proposed to be taken by or on behalf of a Scottish Secretary would or might affect a reserved matter, whether directly or indirectly, or
- (b) that any action capable of being so taken is not proposed to be taken and that failure to take it would or might affect a reserved matter, whether directly or indirectly;

then, if it appears to him desirable in the public interest to use his powers under this subsection, he may direct that the proposed action shall not be taken or, as the case may be, that the action capable of being taken shall be taken.

(2) If it appears to the Secretary of State—

- (a) that any action proposed to be taken by or on behalf of a Scottish Secretary would be incompatible with Community obligations or any other international obligations of the United Kingdom; or
- (b) that any action capable of being so taken is required for the purpose of implementing any Community obligation or any other international obligation of the United Kingdom;

he may direct that the proposed action shall not be taken or, as the case may be, that the action capable of being taken shall be taken.

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(3) For the purposes of this section a reserved matter is one—

- (a) which concerns Scotland (whether or not it also concerns any other part of the United Kingdom); but
- (b) with respect to which a Scottish Secretary has no power to act.

(4) A direction under this section may be varied or revoked by a further direction; and any such direction shall be taken to be given as soon as it is communicated to a Scottish Secretary.

(5) A direction under this section shall be binding on every Scottish Secretary.

(6) A direction under subsection (1) of this section shall cease to have effect at the expiration of a period of twenty-eight days beginning with the date on which it is given, unless before the end of that period a resolution approving it is passed by each House of Parliament; and if at any time before the end of that period either House of Parliament rejects a motion approving the direction, the direction shall cease to have effect at that time.

Power to
revoke
subordinate
instruments.

40.—(1) If it appears to the Secretary of State—

- (a) that an instrument made by a Scottish Secretary under any Act of Parliament or Scottish Assembly Act affects a reserved matter, whether directly or indirectly; and
- (b) that the public interest makes it desirable that he should use his powers under this subsection;

he may by order revoke the instrument.

(2) If it appears to the Secretary of State that an instrument made by a Scottish Secretary under any Act of Parliament or Scottish Assembly Act is incompatible with Community obligations or any other international obligations of the United Kingdom or provides for any matter which is or ought to be provided for in an instrument made by the Secretary of State and implementing such an obligation, he may by order revoke the instrument.

(3) For the purposes of this section a reserved matter is one which is a reserved matter for the purposes of section 39 of this Act.

(4) An order under this section may contain such consequential provisions as appear to the Secretary of State to be necessary or expedient.

(5) An order under subsection (1) of this section revoking an instrument shall not be made unless either—

PART II

- (a) a draft of the order has, within the period of twenty-eight days beginning with the day on which the instrument was made, been approved by a resolution of each House of Parliament ; or
- (b) the order is laid before Parliament with a statement by the Secretary of State that the public interest requires it to be made without delay ;

but an order made in pursuance of paragraph (b) above shall cease to have effect at the expiration of the period of twenty-eight days mentioned in paragraph (a) above unless before the end of that period a resolution approving it is passed by each House of Parliament ; and if at any time before the end of that period either House of Parliament rejects a motion approving the order the order shall cease to have effect at that time.

(6) Where an order under subsection (1) of this section revoking an instrument ceases to have effect at any time the instrument shall after that time again have effect as if the order had not been made.

Orkney and Shetland

41. Where it appears to the Secretary of State that—

- (a) any provision of a Bill passed by the Assembly ; or
- (b) any action proposed to be taken by or on behalf of a Scottish Secretary ; or
- (c) any instrument made by a Scottish Secretary under any Act of Parliament or Scottish Assembly Act ;

Protection of special interests of Orkney and Shetland.

would or might cause substantial detriment to the special social or economic needs and interests of the Orkney Islands or the Shetland Islands or any of their inhabitants or to the status of their councils, sections 38, 39 and 40 of this Act shall apply respectively as they would apply if that provision, action or instrument were such as is mentioned in subsection (1)(a) of section 38 or, as the case may be, 39 or 40.

Industrial and economic guidelines

42.—(1) The Secretary of State shall with the approval of the Treasury prepare guidelines—

Industrial and economic guidelines.

- (a) as to the exercise by a Scottish Secretary of the powers under the Scottish Development Agency Act 1975 with respect to such of the functions of the Scottish Development Agency as relate to the promotion, financing, establishment, carrying on, growth, reorganisation, modernisation or development of industry or industrial undertakings ;

1975 c. 69.

PART II

(b) as to the exercise by a Scottish Secretary of the powers under the Highlands and Islands Development (Scotland) Acts 1965 and 1968 with respect to such of the functions of the Highlands and Islands Development Board as relate to economic development ; and

(c) as to the exercise by a Scottish Secretary of the powers under the enactments listed in Schedule 7 to this Act so far as those powers are exercisable in relation to the disposal of premises or other land for industrial purposes by any of the bodies mentioned in subsection (2) below.

(2) The bodies referred to in subsection (1)(c) above are—

(a) the Scottish Development Agency ;

(b) the Highlands and Islands Development Board ;

(c) a regional, islands or district council ; and

(d) any development corporation within the meaning of the New Towns (Scotland) Act 1968.

1968 c. 16.

(3) If, by or under any Scottish Assembly Act, power is conferred—

(a) on any body to dispose of premises or other land for industrial purposes ; and

(b) on a Scottish Secretary to exercise functions with respect to such a disposal by that body ;

the Secretary of State may by order add that body to those specified in subsection (2) above, and the enactment conferring the power on a Scottish Secretary to the enactments listed in Schedule 7 to this Act.

(4) A Scottish Secretary shall exercise the powers with respect to which guidelines are prepared under this section so as to give effect to the guidelines.

(5) The guidelines prepared under this section shall be contained in or determined under an order of the Secretary of State.

(6) A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Remuneration and conditions of service

Minister's consent to terms and conditions of service of certain persons.

43.—(1) A Minister of the Crown may from time to time by notice given to a Scottish Secretary specify any description of persons coinciding with or falling within a description listed in Schedule 8 to this Act.

(2) A notice under this section may specify a description of persons either generally or in relation to any of their terms and conditions of service.

(3) Where a notice under this section is in force, then notwithstanding anything in this Act, the consent of a Minister of the Crown shall not be required for the determination of the terms and conditions of service of persons of a description specified in the notice or, as the case may be, of such of those terms and conditions as are so specified.

PART II

(4) A notice under this section may be withdrawn or modified by a subsequent notice under this section.

PART III

FINANCIAL PROVISIONS

Establishment and management of Scottish Funds

44.—(1) There shall be a Scottish Consolidated Fund and a Scottish Loans Fund.

Scottish
Consolidated
Fund and
Loans Fund.

(2) A Scottish Secretary may from time to time cause sums to be transferred from one to the other of those Funds.

45.—(1) No payment shall be made out of the Scottish Consolidated Fund except in accordance with credits granted on the Fund by the Scottish Comptroller and Auditor General; but this subsection does not apply to transfers under section 44(2) of this Act.

Payments out
of Scottish
Consolidated
Fund.

(2) The Scottish Comptroller and Auditor General shall grant credits on the Scottish Consolidated Fund at the request of a Scottish Secretary, but shall not grant any such credit for the payment of any sum unless that sum—

(a) has been charged on the Fund by or under any Act of Parliament or Scottish Assembly Act; or

(b) is part of the sums appropriated for any purpose by an order made by a Scottish Secretary;

and no sum issued out of the Scottish Consolidated Fund on credits granted under paragraph (a) or (b) of this subsection shall be applied for any purpose other than that for which it is charged or appropriated as mentioned in that paragraph.

46.—(1) Sums forming part of the Scottish Consolidated Fund may be appropriated only for a purpose falling within devolved matters or a purpose for which they are payable out of that Fund under this Act or any other Act of Parliament; and no order appropriating such sums shall be made by a Scottish Secretary unless a draft of the order has been laid before the Assembly and has been approved by a resolution of the Assembly.

Appropriation
of sums
forming part
of Scottish
Consolidated
Fund and
the destination of
receipts.

PART III

(2) An order appropriating sums forming part of the Scottish Consolidated Fund may provide for the disposal of or the accounting for sums forming part of the receipts of any Scottish Secretary ; and so far as those receipts are not so disposed of or accounted for and are not payable into the Scottish Loans Fund they shall be paid into the Scottish Consolidated Fund.

Payments out
of Scottish
Loans Fund.

47.—(1) No payment shall be made out of the Scottish Loans Fund except in accordance with credits granted on the Fund by the Scottish Comptroller and Auditor General ; but this subsection does not apply to transfers under section 44(2) of this Act.

(2) The Scottish Comptroller and Auditor General shall grant credits on the Scottish Loans Fund at the request of a Scottish Secretary, but shall not grant any such credit for the payment of any sum unless—

- (a) a Scottish Secretary has power to lend that sum ; or
- (b) the sum is required for the payment of interest on, or the repayment of, sums paid into the Fund under section 49 or 50 of this Act or amounts deemed under any provision of this Act to be amounts of advances made to a Scottish Secretary ; or
- (c) the sum is required for a purpose incidental to any for which credits may be granted under paragraph (a) or (b) above ;

and no sum issued out of the Scottish Loans Fund on credits granted under paragraph (a) of this subsection shall be applied for any purpose other than the lending of money by a Scottish Secretary.

Payments into Scottish Funds out of United Kingdom Funds

Payments
into Scottish
Consolidated
Fund out
of moneys
provided by
Parliament.

48.—(1) The Secretary of State shall from time to time make out of moneys provided by Parliament payments into the Scottish Consolidated Fund of such sums as he may determine by order made with the consent of the Treasury.

(2) No order under this section shall be made unless a draft of it has been laid before the House of Commons and approved by a resolution of that House ; and there shall be laid before that House, together with the draft, a statement of the considerations leading to the determinations to be made by the order.

Payments
into Scottish
Loans Fund
out of
National
Loans Fund.

49.—(1) The Secretary of State shall from time to time pay into the Scottish Loans Fund such sums as he may with the consent of the Treasury determine.

(2) The Treasury may issue to the Secretary of State such sums out of the National Loans Fund as are required to enable him to make payments under this section.

(3) Payments under this section into the Scottish Loans Fund shall be deemed to be advances made to a Scottish Secretary and shall be repayable at such times and with interest at such rates as may be determined by the Treasury; and any sums received by the Secretary of State by way of repayment or interest shall be paid into the National Loans Fund.

PART III

(4) The aggregate outstanding in respect of the principal of sums paid under subsection (1) of this section shall not exceed £500 million.

(5) The Secretary of State may from time to time by order made with the consent of the Treasury substitute for the amount specified in subsection (4) above such increased amount as may be specified in the order.

(6) No order shall be made under this section unless a draft of it has been laid before the House of Commons and approved by a resolution of that House.

Borrowing and capital expenditure

50.—(1) A Scottish Secretary may borrow in sterling temporarily, either by way of overdraft or otherwise, such sums as may appear to him required for the purpose of meeting a temporary excess of sums paid out of either of the Funds mentioned in section 44(1) of this Act over sums paid into that Fund or for the purpose of providing a working balance in the Fund.

Short term borrowing by Scottish Executive.

(2) Sums borrowed by a Scottish Secretary shall be paid into the Scottish Loans Fund or the Scottish Consolidated Fund.

(3) So far as sums required for the repayment of, or the payment of interest on, sums borrowed under this section are not paid out of the Scottish Loans Fund they shall be charged on the Scottish Consolidated Fund.

(4) The aggregate outstanding in respect of the principal of sums borrowed by Scottish Secretaries shall not exceed £75 million.

(5) The Secretary of State may from time to time by order made with the consent of the Treasury substitute for the amount specified in subsection (4) of this section such increased amount as may be specified in the order.

(6) A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

51.—(1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of and the payment of interest on any sums borrowed by a Scottish Secretary.

Treasury guarantee of sums borrowed by Scottish Executive.

PART III

(2) Immediately after a guarantee is given under this section the Treasury shall lay a statement of the guarantee before each House of Parliament; and where any sum is issued for fulfilling such a guarantee the Treasury shall as soon as possible after the end of each financial year (beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged) lay before each House of Parliament a statement relating to that sum.

(3) Any sums required by the Treasury for fulfilling a guarantee under this section shall be charged on the Consolidated Fund.

(4) If any sums are issued in fulfilment of a guarantee given under this section, a Scottish Secretary shall make to the Treasury, at such time and in such manner as the Treasury may from time to time determine, payments of such amounts as the Treasury may determine in or towards repayment of the sums so issued and payments of interest, at such rate as the Treasury may from time to time determine, on what is outstanding for the time being in respect of sums so issued.

(5) Any sums payable to the Treasury under subsection (4) above shall be charged on the Scottish Consolidated Fund and any sums received by the Treasury under that subsection shall be paid into the Consolidated Fund of the United Kingdom.

Limitation
of capital
expenditure
financed by
borrowing.
1973 c. 65.

52.—(1) In exercising his powers in relation to the bodies specified in subsection (3) of this section and his powers under section 94 of the Local Government (Scotland) Act 1973 (capital expenses) a Scottish Secretary shall endeavour to secure that the aggregate of the expenditure incurred in any financial year which is relevant capital expenditure does not exceed such amount as the Secretary of State may by order made with the consent of the Treasury determine as the limit of such expenditure for that year.

(2) For the purposes of this section only expenditure met out of borrowed money is relevant capital expenditure and, subject thereto, relevant capital expenditure is capital expenditure—

- (a) incurred by any body specified in paragraphs (c) to (j) of subsection (3) of this section, or
- (b) incurred by the British Waterways Board or the Housing Corporation and met out of money borrowed from, or with the consent of, a Scottish Secretary, or
- (c) incurred with the consent of a Scottish Secretary by local authorities or bodies formed by local authorities.

(3) The bodies referred to in subsection (1) of this section are— PART III

- (a) the Housing Corporation ;
- (b) the British Waterways Board ;
- (c) the Scottish Development Agency ;
- (d) the Highlands and Islands Development Board ;
- (e) the Scottish Transport Group ;
- (f) the Scottish Special Housing Association ;
- (g) any development corporation within the meaning of the 1968 c. 16.
New Towns (Scotland) Act 1968 ;
- (h) the Central Scotland Water Development Board and any
new board established under section 5(1) of the Water
(Scotland) Act 1967 ; 1967 c. 78.
- (i) the Scottish Tourist Board ;
- (j) any river purification board.

(4) If power to incur capital expenditure is conferred on any body established by or under a Scottish Assembly Act the Secretary of State may by order add that body to those specified in subsection (3) of this section and amend subsection (2) of this section accordingly.

(5) In this section “expenditure” includes the making of loans.

(6) No order under subsection (1) of this section shall be made unless a draft of it has been laid before the House of Commons and approved by a resolution of that House ; and there shall be laid before that House, together with the draft, a statement of the considerations leading to the determination to be made by the order.

(7) A statutory instrument made under subsection (4) of this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

53. Where a Scottish Secretary has power to advance any sums to a body established by or under a Scottish Assembly Act the rate of interest on any advance made in the exercise of the power shall be not less than the lowest rate determined by the Treasury under section 5 of the National Loans Act 1968 in respect of similar advances made out of the National Loans Fund on the day the advance is made. Rates of interest on certain loans from Scottish Loans Fund.
1968 c. 13.

Accounts and audit

54.—(1) There shall be a Scottish Comptroller and Auditor General. Scottish Comptroller and Auditor General.

(2) The Scottish Comptroller and Auditor General shall be appointed by Her Majesty and, subject to subsection (3) of this section, shall hold office during good behaviour.

PART III

(3) The Scottish Comptroller and Auditor General—

- (a) may be relieved of office by Her Majesty at his own request ; and
- (b) may be removed from office by Her Majesty if the Assembly resolves that the Secretary of State be requested to recommend the removal to Her Majesty.

(4) The Scottish Comptroller and Auditor General shall not be a member of the House of Commons or of the Scottish, Welsh or Northern Ireland Assembly.

(5) The Scottish Comptroller and Auditor General may appoint officers and servants, subject to the consent as to numbers of a Scottish Secretary.

(6) Subject to subsection (7) of this section, any functions of the Scottish Comptroller and Auditor General may be performed by an officer of his authorised by him for that purpose.

(7) An authority given under subsection (6) of this section to certify and report on accounts for the Assembly—

- (a) shall extend only to accounts in respect of which the presiding officer of the Assembly has certified to the Assembly that the Scottish Comptroller and Auditor General is unable to do so himself ; and
- (b) shall cease on a vacancy arising in the office of the Scottish Comptroller and Auditor General.

(8) The expenses of the Scottish Comptroller and Auditor General shall be defrayed out of the Scottish Consolidated Fund.

Salary and pension of Scottish Comptroller and Auditor General.

55.—(1) There shall be paid to the Scottish Comptroller and Auditor General such salary as the Assembly may from time to time determine.

(2) There shall be paid to or in respect of a person who ceases to hold office as Scottish Comptroller and Auditor General such amounts by way of pensions, allowances or gratuities or by way of provision for any such benefits as the Assembly may from time to time determine.

(3) Any determination under the preceding provisions of this section may take effect from the date on which it is made or such other date as the Assembly may specify, but not so as to diminish the sums payable for any period preceding the determination.

(4) If a person ceases to be Scottish Comptroller and Auditor General and it appears to the Assembly that there are special circumstances which make it right that he should receive compensation there shall be paid to him such amount as the Assembly may determine.

(5) Any sums payable under this section shall be charged on the Scottish Consolidated Fund.

56. The Scottish Comptroller and Auditor General shall have free access, at all convenient times, to the books of account and other documents relating to the accounts of a Scottish Secretary and may require a Scottish Secretary to furnish him from time to time, or at regular periods, with accounts of his transactions.

PART III
Access of
Scottish
Comptroller
and Auditor
General to
books and
documents.

57.—(1) For each financial year—

(a) accounts shall be prepared by Scottish Secretaries of sums paid and received by them ; and

(b) a Scottish Secretary shall prepare an account of payments into and out of the Scottish Consolidated Fund and an account of payments into and out of the Scottish Loans Fund.

Appropriation
and other
accounts
and audit.

(2) The accounts prepared under subsection (1) above shall be sent to the Scottish Comptroller and Auditor General not later than the end of November following the end of the financial year to which they relate ; and he shall examine, certify and report on the accounts and lay copies of them, together with his report, before the Assembly.

58.—(1) The Assembly shall appoint an Accounts Committee, which shall examine and report to the Assembly on the accounts and reports laid before the Assembly by the Scottish Comptroller and Auditor General.

Accounts
Committee.

(2) The Accounts Committee may include one but shall not include more than one person who is a Scottish Secretary or an assistant to a Scottish Secretary.

59. The Assembly shall publish the accounts and reports received by it under sections 57 and 58 of this Act.

Publication
of accounts
and reports
under sections
57 and 58.

Modification of existing enactments

60.—(1) So much of any Act passed before this Act as—

(a) charges any sum on the Consolidated Fund ; or

(b) requires or authorises the payment of any sum into or out of the Consolidated Fund ; or

(c) requires or authorises the payment of any sum out of moneys provided by Parliament ;

shall have effect, in relation to any devolved matter, as if it provided for the sum to be charged on or, as the case may be, paid out of or into the Scottish Consolidated Fund (except to the extent that, by virtue of section 23(3) of this Act, the sums are to be paid by or to a Minister of the Crown).

Modification
of enactments
providing for
payments into
or out of
Consolidated
Fund or
authorising
advances from
National
Loans Fund.

PART III (2) So far as any power to advance money conferred by the enactments mentioned in Schedule 9 to this Act is exercisable by a Scottish Secretary—

- 1968 c. 13.
- (a) any sums which for the purpose or as the result of the exercise of the power are required to be issued or paid shall, instead of being issued to the Secretary of State out of the National Loans Fund or paid to him or into that Fund, be issued to a Scottish Secretary out of the Scottish Loans Fund or, as the case may be, paid to a Scottish Secretary or into that Fund ; and
 - (b) the rate of interest on any advance made in the exercise of the power shall be not less than the lowest rate determined by the Treasury under section 5 of the National Loans Act 1968 in respect of similar advances made out of the National Loans Fund on the day the advance is made ; and
 - (c) any account relating to the sums mentioned in paragraph (a) above shall be sent to and audited and reported on by the Scottish Comptroller and Auditor General and his report shall be laid before and published by the Assembly.

Existing debt

Existing debt. **61.** Where any power to advance money conferred by the enactments mentioned in Schedule 9 to this Act is exercisable by a Scottish Secretary but was, before it became so exercisable, exercised by the Secretary of State—

- (a) any amount payable by way of repayment of or interest on the sum advanced by the Secretary of State in the exercise of that power shall, instead of being paid to the Secretary of State and into the National Loans Fund, be paid to a Scottish Secretary and into the Scottish Loans Fund ; and
- (b) amounts equal to those which, by virtue of this section, are to be received by a Scottish Secretary in repayment of principal shall be deemed to be amounts of advances made at the coming into operation of this section to a Scottish Secretary by the Secretary of State and repayable at such times and with interest at such rates as may be determined by the Treasury ; and
- (c) any sums received by the Secretary of State by virtue of paragraph (b) above shall be paid into the National Loans Fund.

Accounts by Secretary of State

PART III

62. The Secretary of State shall for each financial year prepare an account in such form and manner as the Treasury may direct of sums paid and received by him under section 49 or 61 of this Act, and send it to the Comptroller and Auditor General not later than the end of November following the year; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.

Accounts by
Secretary
of State.

PART IV

DEVOLVED MATTERS AND DETERMINATION OF QUESTIONS
RELATING THERETO

63.—(1) References in this Act to devolved matters shall be construed in accordance with the following provisions of this section, but subject to section 64 of this Act.

Devolved
matters.

(2) In relation to the legislative competence of the Assembly, a devolved matter is one which is included in the Groups in Part I of Schedule 10 to this Act.

(3) In relation to the powers and duties of a Scottish Secretary, a devolved matter is—

- (a) any matter included in the Groups in Part I of Schedule 10 to this Act;
- (b) any matter with respect to which powers within the Groups in Schedule 11 to this Act are exercisable; and
- (c) any matter with respect to which powers are exercisable by a Scottish Secretary under any other provision of this Act (including any provision contained in Schedule 16).

64.—(1) The prerogative of mercy is not a devolved matter.

Reservations.

(2) To the extent that a matter involves the conduct of relations with any country outside the United Kingdom it is not a devolved matter.

(3) If it appears to a Minister of the Crown—

- (a) that the implementation of a Community obligation or any other international obligation of the United Kingdom requires the exercise of any power to make a subordinate instrument; and
- (b) that the power could be exercised by a Scottish Secretary; but
- (c) that it is desirable that it should be exercised by a Minister of the Crown,

he may exercise the power as if the matter with respect to which it is exercisable were not a devolved matter.

PART IV
Legal
proceedings
involving
devolution
issues.

65. Schedule 12 to this Act shall have effect with respect to the legal proceedings and questions mentioned therein.

PART V
MISCELLANEOUS

Voting of Scottish Members of Parliament

Voting of
Scottish
Members of
Parliament.

66.—(1) Subject to subsection (2) of this section, if, following the first meeting of the Scottish Assembly, a Bill to which this section applies has been passed by the House of Commons but there would not have been a majority in support of the Bill if there had been excluded from the members who voted in the division of that House on the question that the Bill be read the second time all those representing parliamentary constituencies in Scotland, that Bill shall be deemed not to have been read the second time unless after the next fourteen days on which that House has sat after the division took place that House confirms its decision that the Bill be read the second time.

(2) Subsection (1) of this section shall not come into operation unless it has been approved by a resolution of the House of Commons.

(3) This section applies to any Bill which does not relate to or concern Scotland or any part of Scotland but would, if it had related to or concerned Scotland, have been within the legislative competence of the Assembly.

Civil Servants

Status and
remuneration
of certain
officers and
servants.

67.—(1) Service as an officer or servant of a Scottish Secretary or of the Scottish Comptroller and Auditor General shall be service in Her Majesty's Home Civil Service, and appointments to any position as such an officer or servant shall be made accordingly.

(2) Service in the capacity of—

(a) the Registrar General of Births, Deaths and Marriages for Scotland or any officer or servant of his ;

(b) the Accountant of Court or any officer or servant of his ; shall continue to be service in Her Majesty's Home Civil Service.

(3) Any salary and allowances in respect of service in any such capacity as is mentioned in subsections (1) and (2) above (including contributions to any pension scheme) shall be payable out of the Scottish Consolidated Fund.

(4) A Scottish Secretary shall pay to the Minister for the Civil Service out of the Scottish Consolidated Fund such sums in respect of each financial year as the Minister for the Civil Service may determine, subject to any directions of the Treasury, as being equivalent to—

- (a) the increase during that year of such of his liabilities as are attributable to the provision of pensions, allowances or gratuities to or in respect of persons who are or have been serving in any such capacity as is mentioned in subsections (1) and (2) above, in so far as that increase results from their service, their ceasing to serve or their suffering diminution of emoluments during that financial year ; and
- (b) the increase during that year of such of his liabilities as are attributable to the expenses to be incurred in administering those pensions, allowances or gratuities.

PART V

(5) Her Majesty may by Order in Council designate any description of person for the purposes of this section ; and references in this section to an officer or servant of a Scottish Secretary shall include any person of a description so designated.

Rate support grants

68.—(1) Grants for any financial year which, after the coming into force of this section, fall to be made under sections 2 to 6 of the Local Government (Scotland) Act 1966 to local authorities in Scotland shall be made by a Scottish Secretary out of the Scottish Consolidated Fund (instead of by the Secretary of State out of moneys provided by Parliament).

Rate support grants.
1966 c. 51.

(2) In taking into consideration the matters mentioned in paragraphs (a) to (d) of subsection (3) of section 2 of the Local Government (Scotland) Act 1966 (as substituted by Schedule 2 to the Local Government (Scotland) Act 1975) a Scottish Secretary shall have regard to such considerations affecting scheduled functions as the Secretary of State may bring to his notice after consulting with such associations of local authorities as appear to him to be concerned and before the conclusion of the consultations required by that subsection.

1975 c. 30.

Public bodies

69.—(1) A Minister of the Crown may by order make such provision in relation to any body listed in Schedule 13 to this Act as is mentioned in subsection (2) below ; and

Public bodies.

- (a) in relation to any body listed in Part II of that Schedule the provisions of sections 21, 22, 60, 61 and 78 of this Act shall not apply ; and
- (b) in relation to any body listed in Part I of that Schedule the order may modify or exclude any of the provisions specified in paragraph (a) above.

(2) The provisions that may be made by an order under this section in relation to any body are provisions—

- (a) enabling powers to be exercised or requiring duties to be performed by a Scottish Secretary instead of by a

PART V

Minister of the Crown, or by the one or by the other, or by a Scottish Secretary with the consent of a Minister of the Crown ;

- (b) requiring or authorising the appointment of additional members ;
- (c) apportioning any assets or liabilities ;
- (d) imposing, or enabling the imposition of, any limits in addition to or in substitution for existing limits ;
- (e) providing, in the case of a body listed in Part II of Schedule 13 to this Act, for the application of section 52 of this Act ;
- (f) requiring or authorising payments into or out of the Scottish Consolidated or Loans Fund (instead of or in addition to payments into or out of the Consolidated Fund of the United Kingdom or the National Loans Fund or out of moneys provided by Parliament) ;
- (g) requiring payments, with or without interest, to a Minister of the Crown or into the Consolidated Fund or National Loans Fund ;

and such provisions, including provisions relating to the keeping, auditing and certification of accounts and the making of reports and provisions modifying any enactment, as appear to the Minister making the order necessary or expedient in consequence of other provisions of the order or incidental or supplementary thereto.

(3) Before making an order under this section relating to any body the Minister making the order shall consult the body ; and if the body is listed in Part II of Schedule 13 to this Act the order shall not be made except at the request of a Scottish Secretary.

(4) No order shall be made under this section unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

Tourism

Tourism.
1969 c. 51.

70.—(1) The British Tourist Authority shall cease to discharge the functions conferred on it by section 2(1)(a) of the Development of Tourism Act 1969 of encouraging people living in Great Britain to take their holidays there.

(2) A Scottish Secretary may make arrangements with the British Tourist Authority for that Authority to carry on activities outside the United Kingdom for the purpose of encouraging people to visit Scotland.

Planning

Planning.

71. Section 39 of this Act does not apply to any action proposed to be taken or capable of being taken by a Scottish Secretary in the exercise of any of the powers specified in Part I

of Schedule 14 to this Act ; but the provisions of Part II of that Schedule shall have effect in relation to those powers. PART V

Property

72.—(1) The Secretary of State shall by order provide— Transfer of property.

(a) for the transfer to and vesting in the First Secretary of property vested in the Secretary of State and appearing to him to be property used or to be used solely or mainly for the Assembly or for or in connection with the exercise of functions concerned with devolved matters ; and

(b) for the exercise by a Scottish Secretary of rights specified in or determined under the order to use property vested in the Secretary of State and appearing to the Secretary of State to be property used or to be used as mentioned in paragraph (a) above but not solely or mainly so used or to be used.

(2) Without prejudice to the power under section 37 of this Act, if a Scottish Assembly Act provides for any functions of a body listed in Schedule 13 to this Act to be no longer exercisable in Scotland, a Minister of the Crown may by order provide for the transfer of property vested in the body and used in connection with those functions and for reserving or conferring rights to use property so transferred or property excepted from the transfer.

(3) An order under subsection (1) or (2) of this section may be made with respect to any property, notwithstanding any provision (of whatever nature) which would prevent or restrict its transfer or, as the case may be, the granting of the rights concerned by other means.

(4) The preceding provisions of this section shall not apply to land acquired by the Secretary of State (whether under section 39 of the Forestry Act 1967 or otherwise) as land suitable for afforestation or for purposes connected with forestry or as land necessarily acquired with any such land. 1967 c. 10.

(5) An order under this section may be made subject to any exceptions or reservations specified in or determined under the order and may contain such consequential, incidental or supplementary provisions (including provisions for the transfer of liabilities connected with the property concerned) as appear to the Minister making the order to be necessary or expedient.

(6) A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

73.—(1) In relation to so much of the public service as is concerned with devolved matters the First Secretary shall have the like powers to acquire and dispose of land as are conferred Acquisition and disposal of land by First Secretary.

PART V on the Secretary of State by the enactments specified in subsection (2) of this section; and those enactments, and the enactments applied by them, shall have effect accordingly with the necessary modifications.

1852 c. 28.
1972 c. 52.
1975 c. 77.

(2) The enactments referred to in subsection (1) of this section are section 2 of the Commissioners of Works Act 1852, section 103 of the Town and Country Planning (Scotland) Act 1972 and section 37 of the Community Land Act 1975, except subsection (3) of that section.

Supplementary provisions as to property vested in First Secretary.

74.—(1) Any property vested in the First Secretary shall be deemed to be vested in the person for the time being holding the office of First Secretary; and in any instrument relating to any property so vested it shall be sufficient to describe the First Secretary by that title.

(2) References in any enactment passed or made before the passing of this Act to property vested in or held for the purposes of a Government department shall be construed as including references to property vested in the First Secretary or held for the purposes of a Scottish Secretary; and in relation to land so vested or held the First Secretary shall be deemed to be a Government department for the purposes of any such enactment.

(3) No stamp duty shall be chargeable on any instrument made by, to or with a Scottish Secretary.

Jury Service

Exemption from jury service.

1974 c. 23.

75.—(1) In Part III of Schedule 1 to the Juries Act 1974 (excusal of certain persons from jury service) after the entries under the heading “Parliament” there shall be inserted the following:

“*Scottish Assembly and Scottish Executive*
Member of Scottish Assembly.
Scottish Secretary.
Assistant to Scottish Secretary.”

(2) A person who is a member of the Assembly, a Scottish Secretary or an assistant to a Scottish Secretary shall not be liable to serve on any jury in Scotland.

Maladministration

Complaints of maladministration.

76.—(1) Her Majesty may by Order in Council make provision, to have effect pending the making of such provision by or under any Scottish Assembly Act, for the investigation of administrative action taken by or on behalf of a Scottish Secretary, the Scottish Record Office, the Department of the Registers of Scotland or the General Register Office, Scotland.

(2) The provisions of sections 21, 22(6), 60 and 78 of this Act shall not apply in relation to the Parliamentary Commissioner Act 1967, but an Order in Council under this section may apply, with such exceptions and modifications as appear to Her Majesty to be necessary or expedient, any of the provisions of that Act. PART V
1967 c. 13.

(3) A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PART VI

GENERAL AND SUPPLEMENTARY

77. In reckoning any period for the purposes of section 38, 39 or 40 of this Act, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. Reckoning
of time for
certain
purposes.

78.—(1) Where any enactment passed or made before the passing of this Act makes provision for any report to be laid before Parliament or either House of Parliament and the report relates exclusively to devolved matters it shall be laid instead before the Assembly. Modification
of enactments
requiring
laying of
reports before
Parliament.

(2) In this section “ report ” includes any statement.

79.—(1) Any power to make orders conferred by this Act on a Minister of the Crown shall be exercisable by statutory instrument. Orders.

(2) Any order made under any provision of this Act may be varied or revoked by a subsequent order made under that provision.

80. There shall be paid out of moneys provided by Parliament any administrative expenses incurred by a Minister of the Crown under this Act and any increase attributable to this Act in the sums so payable under any other Act. Expenses.

81.—(1) In this Act, except where the context otherwise requires— Interpretation.

“ Assembly ” means the Scottish Assembly ;

“ devolved matter ” has the meaning assigned to it by section 63 of this Act ;

“ enactment ” includes an enactment of the Parliament of Northern Ireland, a Measure of the Northern Ireland Assembly, an Order in Council under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972 or paragraph 1 of Schedule 1 to the Northern Ireland Act 1974, a Scottish Assembly Act, any instrument made by virtue of an enactment (as defined herein) and a Royal Warrant ; 1972 c. 22.
1974 c. 28

PART VI

“excepted statutory undertakers” means—

(a) persons (other than the Scottish Transport Group and such other authority, body and undertakers as the Secretary of State may by order specify) authorised by any enactment to carry on any road transport, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of electricity, gas or hydraulic power; and

(b) the Post Office, the British Railways Board and the National Coal Board;

and for such purposes as the Secretary of State may by order specify, includes such other authority, body or undertakers as he may so specify;

“financial year” means a year ending with 31st March;

“grants to universities” does not include payments to universities by education authorities;

“the Highlands and Islands” means the Western Isles, the Shetland Islands, the Orkney Islands, the Highland Region and, in the Strathclyde Region, the district of Argyll and Bute and the Island of Arran;

“Minister of the Crown” includes the Treasury;

“navigation authority” means persons authorised by any enactment to work, maintain, conserve, improve or control any estuary, harbour or dock;

“property” includes rights and interests of any description;

“recreative activities” includes any form of sport;

“road transport undertaking” does not include a passenger transport undertaking;

“scheduled functions” means functions relating to matters listed in Schedule 15 to this Act;

“Scottish Secretary” has the meaning assigned to it by section 20(2) of this Act; and

“terms and conditions of service” includes pensions, gratuities or allowances payable on retirement or death and compensation for loss of office or employment or loss or diminution of emoluments, or provision for such benefits.

(2) Except where the context otherwise requires, references in this Act to the proceedings of the Assembly include references to proceedings of any committee of the Assembly or of any sub-committee of such a committee.

(3) Except where the context otherwise requires, any reference in this Act to an enactment is a reference to that enactment as amended, and includes a reference to it as applied, by any other enactment.

(4) A statutory instrument made for the purposes of the definition of "excepted statutory undertakers" in subsection (1) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PART VI

82.—(1) So far as may be necessary for the purpose or in consequence of the exercise by a Scottish Secretary of any executive power or of any such power as is mentioned in section 22(1) of this Act, any enactment or other document passed or made before the passing of this Act and relating to a devolved matter shall be construed as if references to a Minister of the Crown were or included references to a Scottish Secretary.

Construction and amendment of existing enactments, etc.

(2) The enactments mentioned in Schedule 16 to this Act shall have effect subject to the amendments specified in that Schedule.

(3) A Minister of the Crown may by order make such amendments in any Act passed before or in the same session as this Act and in any other enactment passed or made before the passing of this Act as appear to him necessary or expedient in consequence of this Act.

(4) Where a provision of an enactment is amended or replaced by or under this Act—

(a) that provision or the provision replacing it shall not be taken to be affected by section 21, 22, 60, 61 or 78 of this Act or subsection (1) of this section; and

(b) the amendment or replacement shall not be taken to prejudice the effect of any of those sections or that subsection on other provisions of that enactment.

(5) A statutory instrument made under subsection (3) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

83.—(1) The preceding provisions of this Act (and the Schedules relating to them) shall not come into operation until such day as the Secretary of State may by order appoint.

Commencement.

(2) Different days may be appointed under this section for different provisions of this Act and for different purposes of the same provision.

(3) An order under this section may contain such transitional and supplementary provisions as appear to the Secretary of State to be necessary or expedient, including provisions for expenses to be defrayed out of moneys provided by Parliament.

(4) The first order under this section shall not be made unless a draft of it has been laid before Parliament and approved by a resolution of each House of Parliament.

84.—(1) The Secretary of State shall, within three months of making the first order under section 83 of this Act, establish a

Special provisions as to Orkney and Shetland.

PART VI commission to recommend such changes in the government of the Orkney Islands and the Shetland Islands as may be desirable.

(2) In making its recommendations the commission shall have regard, among other things, to the special social and economic needs and interests of the Islands; and the recommendations may include recommendations for making changes in this Act, including changes in the constitution and powers of the Assembly.

Referendum. **85.**—(1) Before a draft of the first order to be made under section 83 of this Act is laid before Parliament a referendum shall be held in accordance with Schedule 17 to this Act on the question whether effect is to be given to the provisions of this Act.

(2) If it appears to the Secretary of State that less than 40 per cent. of the persons entitled to vote in the referendum have voted “Yes” in reply to the question posed in the Appendix to Schedule 17 to this Act or that a majority of the answers given in the referendum have been “No” he shall lay before Parliament the draft of an Order in Council for the repeal of this Act.

(3) If a draft laid before Parliament under this section is approved by a resolution of each House, Her Majesty in Council may make an Order in the terms of the draft.

Period between general election and referendum. **86.** If a proclamation summoning a new Parliament is made before a referendum is held in pursuance of section 85 of this Act, the referendum shall not be held earlier than three months after the date of the poll at the election of members for the new Parliament; and if an earlier date has been appointed by Order in Council under paragraph 1 of Schedule 17 to this Act, the Order shall not take effect, but without prejudice to the making of a new Order under that paragraph.

Short title. **87.** This Act may be cited as the Scotland Act 1978.

SCHEDULES

SCHEDULE 1

Section 1.

ASSEMBLY CONSTITUENCIES

PART I

REPORTS OF BOUNDARY COMMISSION AND ORDERS IN COUNCIL

1. Where the Boundary Commission for Scotland submit to the Secretary of State a report under subsection (1) of section 2 of the Act of 1949 they shall submit with it a supplementary report showing into what Assembly constituencies Scotland should be divided in accordance with the provisions of Part II of this Schedule ; and where, after the first supplementary report submitted under this paragraph, they submit a report under subsection (3) of that section, they shall submit with it a supplementary report showing into what Assembly constituencies the area to which the report relates should be divided in accordance with the provisions of Part II of this Schedule.

2. Sections 2(4), 2(5), and 3 of the Act of 1949 (notice of proposed report of Boundary Commission and implementation of recommendations in report) paragraphs 3 and 4 of Part III of Schedule 1 to that Act (notice of proposed recommendation and local inquiries) and section 4 of the Act of 1958 (procedure) shall apply in relation to a supplementary report made under this Schedule and a recommendation made or proposed to be made in such a report ; and in those provisions as they apply by virtue of this paragraph references to constituencies shall be construed as references to Assembly constituencies and references to electors as references to electors for the Assembly.

3. Subsections (4) and (5) of section 210 of the Local Government 1973 c. 65. (Scotland) Act 1973 (attendance of witnesses at inquiries) shall apply in relation to an inquiry held in pursuance of paragraph 2 of this Schedule.

4. Nothing in paragraph 2 of this Schedule shall be taken as enabling the Secretary of State to modify any recommendation or draft Order in Council in a manner conflicting with the provisions of Part II of this Schedule.

5. An Order in Council under the provisions applied by paragraph 2 of this Schedule shall apply to the first ordinary election for the Assembly held after the Order comes into force and (subject to any further Order in Council) to any subsequent election for the Assembly, but shall not affect any earlier election or the constitution of the Assembly before the first election to which the Order applies.

SCH. 1

PART II

DIVISION OF SCOTLAND INTO ASSEMBLY CONSTITUENCIES

6. Each Assembly constituency shall be wholly comprised in one parliamentary constituency.

7. The electorate of any Assembly constituency shall be as near the electorate of any other Assembly constituency comprised in the same parliamentary constituency as is practicable, having regard to paragraph 8 of this Schedule.

8. Regard shall be had, so far as practicable, to the boundaries of local government areas.

9. A parliamentary constituency the electorate of which is more than 125 per cent. of the electoral quota shall comprise three Assembly constituencies and any other parliamentary constituency shall comprise two Assembly constituencies.

10. The Boundary Commission may depart from the strict application of paragraph 8 of this Schedule if it appears to them that the departure is desirable to avoid an excessive disparity between the electorates of Assembly constituencies comprised in the same parliamentary constituency.

11. The Boundary Commission may depart from the strict application of paragraph 7 or 8 of this Schedule—

- (a) if special geographical considerations, including in particular the size, shape and accessibility of an Assembly constituency, appear to them to render the departure reasonable; or
- (b) if, taking account, so far as they reasonably can, of the inconvenience resulting from alterations of Assembly constituencies, and of any local ties which would be broken by such alterations, a departure appears to them desirable.

PART III

RETURN OF INITIAL MEMBERS

12. The Secretary of State shall by order specify the areas for which, in accordance with section 1(2) and (3) of this Act, the initial members of the Assembly are to be returned, and the order shall indicate the electoral quota and, for each of those areas, the electorate and the number of initial members to be returned.

PART IV

INTERPRETATION

13. In Parts I and II of this Schedule—

“electoral quota” means the number obtained by dividing the electorate by the number of parliamentary constituencies

into which Scotland would be divided if effect were given to the recommendations of the Boundary Commission ; SCH. 1

“electorate” means the number of persons whose names, on the date specified for the purposes of this paragraph in the supplementary report of the Boundary Commission, appear on the registers of electors for the Assembly or, as the case may require, such parts of those registers as relate to the constituency or proposed constituency concerned ;

“the Act of 1949” means the House of Commons (Redistribution of Seats) Act 1949 ; 1949 c. 56.

“the Act of 1958” means the House of Commons (Redistribution of Seats) Act 1958. 1958 c. 26.

14. In Part III of this Schedule, this paragraph and section 1 of this Act—

“electoral quota” means the number obtained by dividing the electorate (as defined in this paragraph) of Scotland by the number of parliamentary constituencies there at the time of the election of initial members ; and

“electorate” means the number of persons whose names appear on the relevant registers of parliamentary electors last published before the date on which the order under paragraph 12 of this Schedule was made, the relevant registers being, as the case may require, those for the constituency concerned or those for all constituencies in Scotland.

SCHEDULE 2

Section 18.

LEGISLATIVE COMPETENCE OF ASSEMBLY

1. Subject to the following provisions of this Schedule, a provision is within the legislative competence of the Assembly if, and only if, the matter to which it relates is a devolved matter.

2. A provision is not within the legislative competence of the Assembly if it extends to any part of the United Kingdom other than Scotland.

3.—(1) Subject to sub-paragraph (2) below, a provision is not within the legislative competence of the Assembly if it would—

- (a) confer on any public body a power to borrow money, other than a power to borrow from a Scottish Secretary or by overdraft or temporary loan ;
- (b) confer on any body a power to borrow money outside the United Kingdom or otherwise than in sterling ;
- (c) confer on any body a power to guarantee a loan ;
- (d) alter the sources from which or the methods by which a public body existing at the passing of this Act may borrow money ; or
- (e) alter the power of a body existing at the passing of this Act to guarantee a loan.

SCH. 2

(2) Sub-paragraphs (1)(a) to (1)(c) above do not prevent a provision from being within the legislative competence of the Assembly if the body on which it confers a power replaces directly or indirectly a body existing at the passing of this Act and the power is no different from that of the body which it replaces.

4.—(1) A provision is not within the legislative competence of the Assembly if it would impose, alter or abolish any tax.

(2) This paragraph does not prevent a provision from being within the legislative competence of the Assembly if its effect is only—

- (a) to alter a rate levied at the passing of this Act without substantially changing its character ; or
- (b) to replace such a rate (whether or not so altered) by a local tax substantially of the same character ; or
- (c) to alter such a local tax without substantially changing its character or to replace it by a local tax substantially of the same character.

5. A provision relating to any body listed in Part II of Schedule 13 to this Act is not within the legislative competence of the Assembly if it would take effect before an order under section 69 of this Act relating to that body has come into force.

6. A provision is not within the legislative competence of the Assembly if its effect could be produced by an order under section 72(2) of this Act.

7. A provision is not within the legislative competence of the Assembly if its effect would be to amend this Act ; but nothing in this paragraph shall prevent the further amendment by a Scottish Assembly Act of any of the enactments amended by paragraphs 3 to 7, 21, 26, 30, 31, 39, 40 and 52 of Schedule 16 to this Act.

8. Paragraph 1 above does not prevent a provision from being within the legislative competence of the Assembly if it is merely incidental to or consequential on other provisions and those other provisions are within that competence.

Section 22.

SCHEDULE 3

POWERS OF SCOTTISH SECRETARY TO MAKE OR CONFIRM ORDERS
SUBJECT TO SPECIAL PARLIAMENTARY PROCEDURE

*Circumstances in which special parliamentary procedure
applies or may apply*

1. If objection in pursuance of the enactment conferring the power is made by excepted statutory undertakers or by a navigation authority.

2. If the power is exercised in relation to land of excepted statutory undertakers or land held by a local authority for the purpose of scheduled functions.

3. If the power is exercised in relation to the rights, or apparatus, or powers and duties of excepted statutory undertakers. SCH. 3

4. If the power is a power to make or confirm a compulsory purchase order and is exercised in relation to land belonging to the National Trust for Scotland which is inalienable under section 22 of the Order confirmed by the National Trust for Scotland Order Confirmation Act 1935. 26 Geo. 5 c. ii.

SCHEDULE 4

Section 23.

STATUTORY POWERS EXERCISABLE WITH CONCURRENCE OR SUBJECT TO CONSENT OR APPROVAL OF A MINISTER OF THE CROWN

Preliminary

Where there is an entry in column 2 opposite an enactment listed in column 1 the exercise of the power conferred by the enactment requires consent only to the extent that it relates to the matter specified in that entry; and if the entry is or includes a condition, only if that condition is satisfied.

<i>Enactment</i>	<i>Limitation of requirement of consent</i>	
The Public Health (Scotland) Act 1945, section 1(1)(b).		9 & 10 Geo. 6 c. 15.
The National Health Service (Scotland) Act 1947, sections 34, 39, 40 and 42, and regulations made under any of those sections.	Terms and conditions of service.	1947 c. 27.
The Fire Services Act 1947, section 26.		1947 c. 41.
The Fire Services Act 1947, section 36.	Terms and conditions of service.	
The Superannuation (Miscellaneous Provisions) Act 1948, section 2.		1948 c. 33.
The Hospital Endowments (Scotland) Act 1953, section 3(1)(c).	Terms and conditions of service.	1953 c. 41.
The Mental Health (Scotland) Act 1960, section 90(3).	Terms and conditions of service.	1960 c. 61.
The Housing (Scotland) Act 1966, Schedule 7, paragraph 6.		1966 c. 49.
The Superannuation (Miscellaneous Provisions) Act 1967, section 7.		1967 c. 28.
The Police (Scotland) Act 1967, section 47(1).		1967 c. 77.

SCH. 4	<i>Enactment</i>	<i>Limitation of requirement of consent</i>
1968 c. 16.	The New Towns (Scotland) Act 1968, sections 10(5), 26(5), 26(6) and 28(4).	Excepted statutory undertakers or operational land of such undertakers.
	The New Towns (Scotland) Act 1968, section 36.	Extension or modification of powers and duties of excepted statutory undertakers.
1968 c. 73.	The Transport Act 1968, sections 7, 8 and 29.	The making of a scheme or order for the transfer of any property, rights or liabilities to or from the Scottish Transport Group or any of its subsidiaries.
	The Transport Act 1968, section 135(6).	If the exercise of the power relates to a case where the Scottish Transport Group is a compensating authority.
1970 c. 20.	The Roads (Scotland) Act 1970, section 28(2).	Appliances or vehicles of excepted statutory undertakers.
1971 c. 8.	The Hospital Endowments (Scotland) Act 1971, section 8(2)(c).	Terms and conditions of service.
1971 c. 56.	The Pensions (Increase) Act 1971, section 13(2) to (5).	
1972 c. 11.	The Superannuation Act 1972, sections 7, 8 and 10.	
	The Superannuation Act 1972, section 24.	Provision for or in respect of persons in relation to whom the Firemen's Pension Scheme, or regulations under section 7 or 10 of the Act, may be made.
1972 c. 52.	The Town and Country Planning (Scotland) Act 1972, section 219.	The making of an order against excepted statutory undertakers.
	The Town and Country Planning (Scotland) Act 1972, section 222.	Powers and duties of excepted statutory undertakers.
	The Town and Country Planning (Scotland) Act, 1972, section 226(4).	Excepted statutory undertakers.
	The Town and Country Planning (Scotland) Act 1972, section 259.	

<i>Enactment</i>	<i>Limitation of requirement of consent</i>	SCH. 4
The National Health Service (Scotland) Act 1972, section 34A, Schedule 1, Part I, paragraphs 7 and 8, and Schedule 3, paragraphs 7 and 8(e).	Terms and conditions of service.	1972 c. 58.
The Local Government (Scotland) Act 1973, sections 219 and 220.		1973 c. 65.
The Community Land Act 1975, Schedule 4, paragraphs 17 and 18(1)(b).	The making of an order against excepted statutory undertakers.	1975 c. 77.
The Inner Urban Areas Act 1978, section 8(1).		1978 c. 50.
Any enactment conferring power to make or confirm a compulsory purchase order.	If— (a) the land in respect of which the order is made, or an interest or right in the land, is held by excepted statutory undertakers for the purposes of their undertaking or by a local authority, or any body formed by local authorities, for the purposes of scheduled functions ; and (b) the undertakers, authority or body have duly objected to the making of the order and have not withdrawn their objection.	

SCHEDULE 5

ENACTMENTS CONFERRING POWERS EXERCISABLE CONCURRENTLY	Section 23.
The Requisitioned Land and War Works Act 1945, section 52.	1945 c. 43
The Agriculture Act 1947, section 78.	1947 c. 48.
The Criminal Justice (Scotland) Act 1949, section 75(1)(b) and (3)(f).	1949 c. 94.
The Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951, section 15.	1951 c. 26.
The Historic Buildings and Ancient Monuments Act 1953, sections 4 to 6.	1953 c. 49.
The Transport Act 1968, section 57.	1968 c. 73.
The Local Authorities (Goods and Services) Act 1970, section 1(5)	1970 c. 39.
The Community Land Act 1975, section 18.	1975 c. 77.
The Inner Urban Areas Act 1978, paragraph 2 of the Schedule.	1978 c. 50.

Section 24.

SCHEDULE 6

PROVISIONS IN ASSEMBLY BILLS REQUIRING CROWN'S CONSENT

1. Any provision affecting the Crown in its private capacity.
2. Any provision affecting the rules of law authorising or requiring the withholding of any document or the refusal to answer any question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.
3. Any provision affecting property vested in a Minister of the Crown or property vested in Her Majesty in right of the Crown or of the Duchy of Lancaster or forming part of the Crown Estate or held in trust for Her Majesty, or affecting property belonging to the Duchy of Cornwall or the Principality and Stewartry of Scotland.
4. Any provision imposing duties on, or on officers or servants of, a Minister of the Crown, on members of the armed forces of the Crown or on any person whose remuneration is paid out of central United Kingdom funds.
5. Any provision—
 - (a) conferring on any person any privilege or immunity of the Crown ;
 - (b) depriving any person of any such privilege or immunity ;
 - (c) requiring or enabling any person to exercise any functions on behalf of the Crown ; or
 - (d) securing that any functions exercisable by any person on behalf of the Crown are no longer so exercisable by him.
6. Any provision affecting the provisions of a Royal Charter.
7. Any provision relating to the care and preservation of, or access to, records in the custody of the Keeper of the Records of Scotland at the coming into operation of this paragraph, except court records and private records.

Section 42.

SCHEDULE 7

ENACTMENTS CONFERRING POWER RELATING TO THE DISPOSAL OF PREMISES OR OTHER LAND FOR INDUSTRIAL PURPOSES

- | | |
|-------------|---|
| 1965 c. 46. | The Highlands and Islands Development (Scotland) Act 1965, sections 2, 3 and 4. |
| 1968 c. 16. | The New Towns (Scotland) Act 1968, sections 4 and 18. |
| 1972 c. 52. | The Town and Country Planning (Scotland) Act 1972, section 113. |
| 1973 c. 65. | The Local Government (Scotland) Act 1973, sections 74 and 74A. |
| 1975 c. 69. | The Scottish Development Agency Act 1975, sections 4, 6 and 9. |
| 1975 c. 77. | The Community Land Act 1975, section 45. |

SCHEDULE 8

Section 43.

TERMS AND CONDITIONS OF SERVICE—DESCRIPTION OF PERSONS
REFERRED TO IN SECTION 43*Description of persons*

Pharmacists and opticians providing services under contract with health authorities.

Officers and servants of health authorities.

Staff employed at State hospitals (within the meaning of section 89 of the Mental Health (Scotland) Act 1960). 1960 c. 61.

Officers and servants of the Scottish Hospital Trust.

Officers and servants of the Scottish Hospital Endowment Research Trust.

Definition

In this Schedule “health authority” means a health board established under the National Health Service (Scotland) Act 1972 or the Common Services Agency for the Scottish Health Service. 1972 c. 58.

SCHEDULE 9

Sections 60, 61.

ENACTMENTS AUTHORISING THE LENDING OF MONEY

The Transport Act 1962. 1962 c. 46.

The New Towns (Scotland) Act 1968. 1968 c. 16.

The Housing (Financial Provisions) (Scotland) Act 1968. 1968 c. 31.

The Transport Act 1968. 1968 c. 73.

The Housing Act 1974. 1974 c. 44.

The Scottish Development Agency Act 1975. 1975 c. 69.

SCHEDULE 10

Section 63.

MATTERS WITHIN LEGISLATIVE COMPETENCE OF ASSEMBLY, AND
WITHIN POWERS OF SCOTTISH EXECUTIVE

PART I

THE GROUPS OF DEVOLVED MATTERS

Preliminary

Subject to paragraphs (a) and (b) below, a matter is included in the Groups in this Part of this Schedule if, and only if, it falls within the subjects listed in them; but—

(a) the matters specified in Part II of this Schedule are not included in those Groups; and

(b) any question whether, or how far, the matters dealt with in the enactments listed in the first column of Part III of this Schedule are included in those Groups is to be determined in accordance with the second column of that Part.

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GROUP 1 (*Health*)

Prevention, treatment and alleviation of disease or illness, including injury, disability and mental disorder. Family planning. Investigation of maladministration.

GROUP 2 (*Social welfare*)

Social welfare, including children and adoption.

GROUP 3 (*Education, etc.*)

Education, the arts, crafts, social, cultural and recreative activities. Libraries, museums and art galleries. Teaching profession.

GROUP 4 (*Housing*)

Housing. Regulation of rents. Rent allowances and rebates. Mobile homes and caravans.

GROUP 5 (*Local government and local finance*)

Constitution, area and general powers and duties of local authorities and similar bodies. Investigation of maladministration. Revenue and expenditure of local authorities and similar bodies. Rating and valuation for rating. Rate support grants and grants for specific purposes.

GROUP 6 (*Land use and development*)

Town and country planning. Building control. New towns. Industrial sites. Improvement of derelict land. Mitigation of the injurious effect of public works.

GROUP 7 (*Pollution*)

Control of pollution.

GROUP 8 (*Erosion and flooding*)

Protection of the coast against erosion and encroachment from the sea. Prevention or mitigation of flooding of land.

GROUP 9 (*Countryside*)

Development of the countryside for public enjoyment and the conservation and enhancement of its natural beauty and amenity.

GROUP 10 (*Transport*)

Provision of public passenger and freight transport services within Scotland. Payment of subsidies to operators of such services within Scotland. Aerodromes. Insulation of nearby buildings from noise and vibration attributable to the use of aerodromes.

GROUP 11 (*Roads, etc.*)

Provision, improvement and maintenance of streets, roads and bridges.

GROUP 12 (*Marine works*)

Provision, improvement and maintenance of harbours and boatslips principally used or required for the fishing or agricultural industries

or for the maintenance of communications between places in Scotland. Provision of financial assistance for the execution of works, in connection with any other harbours, for the benefit of the fishing industry.

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GROUP 13 (*Agricultural land*)

Tenure and management of agricultural land. Grants, loans and subsidies payable in relation to landholders. Crofting, including grants, loans and subsidies payable primarily in relation to crofters, cottars and persons of substantially the same economic status.

GROUP 14 (*Fisheries*)

Protection, improvement and maintenance of salmon, migratory trout and fresh water fisheries in any waters, including any part of the sea up to a distance of 3 nautical miles from the low water mark of any part of the mainland or adjacent islands of Scotland (other than the Island of Rockall) or, where an estuarial limit fixed under the Salmon Fisheries (Scotland) Acts 1828 to 1868 extends beyond that distance, up to that estuarial limit.

GROUP 15 (*Water, etc.*)

Supply of water and safety of reservoirs. Inland waterways.

GROUP 16 (*Fire Services*)

Fire services and fire precautions.

GROUP 17 (*Tourism*)

Development of tourism.

GROUP 18 (*Ancient monuments, etc.*)

Ancient monuments and historic buildings.

GROUP 19 (*Registration services*)

Registration of births, deaths, marriages and adoptions. Population statistics.

GROUP 20 (*Miscellaneous*)

Charities, including collections for charities. Public holidays. Deer and sale of venison. Local regulation of trades. Provision or control by local authorities of facilities and local activities. Parks and open spaces. Markets and fairs. Lotteries. Liquor licensing. Local licensing. Shop hours. Allotments. Burial and cremation. Licensing of dogs and keepers of dogs. Control of stray dogs.

GROUP 21 (*Courts and legal profession, etc.*)

Courts, including juries. Court jurisdiction and procedure. Contempt of court. Vexatious litigation. Justices of the peace. Legal profession. Legal aid, advice and assistance.

GROUP 22 (*Tribunals and inquiries*)

Tribunals and inquiries related to matters included in other Groups in this Part of this Schedule. The Lands Tribunal for Scotland.

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GROUP 23 (*Public records*)

Records of the Scottish Assembly, the Scottish Executive and the courts and of any body created by or under any Scottish Assembly Act or whose functions are matters which are wholly within the legislative competence of the Assembly. Private records. Any records in the custody of the Keeper of the Records of Scotland on the coming into force of this Group.

GROUP 24 (*Civil law matters*)

Natural and juristic persons and unincorporated bodies. Obligations, including voluntary and conventional obligations, obligations of restitution and obligations of reparation. Heritable and moveable property. Conveyancing. Trusts. Bankruptcy. Succession. Remedies. Evidence. Diligence. Recognition and enforcement of court orders. Arbitration. Prescription and limitation of actions. Private international law.

GROUP 25 (*Crime*)

Principles of criminal liability. Offences against the person. Sexual offences. Offences against property. Offences of dishonesty. Offences against public order, decency and religion. Offences against the administration of justice. Offences related to matters included in other Groups in this Part of this Schedule. Criminal penalties. Treatment of offenders (including children and young persons, and mental health patients, involved in crime). Compensation out of public funds for victims of crime. Criminal evidence. Criminal procedure, including arrest, search, custody and time limits for prosecutions. Recognition and enforcement of court orders. Criminal research.

PART II

MATTERS NOT INCLUDED IN THE GROUPS

1. Control of drugs, medicinal products, biological substances and food.
2. Social security and war pensions.
3. Universities, university staff and grants to universities. Career guidance.
4. Provision by private financial institutions of finance for housing.
5. Grants for specific purposes relating to scheduled functions.
6. Compensation in respect of the compulsory acquisition of land by bodies possessing statutory powers and in respect of depreciation caused to land by the activities of bodies possessing statutory powers of compulsory acquisition.
7. Control of pollution as respects motor vehicles, aircraft, hovercraft and dumping at sea and as respects vessels other than those in inland waters.
8. Provision of air services, provision of freight transport services by road (other than by the Scottish Transport Group or any body directly or indirectly replacing it) and provision of railway services

by the British Railways Board. Payments, in respect of public freight services, of subsidies— SCH. 10

- (a) to operators (other than the Scottish Transport Group or any body directly or indirectly replacing it) of such services by road ;
- (b) to operators (other than those providing services to or from places in the Highlands and Islands) of such services by air ; and
- (c) to operators of such services by rail.

9. Any regulatory powers of the Civil Aviation Authority relating to aerodromes. Protection of aircraft and aerodromes against acts of violence.

10. The following, except in relation to the provision of financial assistance for the execution of works for the benefit of the fishing industry: harbours, ferries and boatslips vested in the British Transport Docks Board, the British Railways Board, the British Waterways Board or the National Freight Corporation or in any subsidiary (within the meaning of the Transport Act 1968) of any of those 1968 c. 73. Boards or of that Corporation, or vested in any of the bodies specified in Schedule 3 to the Harbours, Piers and Ferries (Scotland) 1937 c. 28. Act 1937.

11. Payment of grants and subsidies in relation to agricultural land other than those mentioned in Group 13 and those relating to arterial drainage works.

12. Plant health. Control of diseases of animals, including fish.

13. Taking of censuses of the population.

14. The continued existence of—

- (a) the High Court of Justiciary as a criminal court of first instance and of appeal ;
- (b) the Court of Session as a civil court of first instance and of appeal ;
- (c) the sheriff courts.

15. Judges of the High Court of Justiciary and the Court of Session, the Chairman and members of the Scottish Land Court, sheriffs principal, temporary sheriffs principal, sheriffs and temporary sheriffs.

The matters above do not extend to the number of such persons or to the determination of the territorial areas in respect of which sheriffs principal or sheriffs are to act.

16. The jurisdiction—

- (a) of the High Court of Justiciary over any offence of a description which on the date of commencement of this paragraph was within its jurisdiction at first instance, and in respect of its *nobile officium* ;
- (b) of the sheriff court over any offence of a description which at that date was within its jurisdiction ;
- (c) of the Court of Session over any question of status, right or obligation of a description and value which at that date

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was within its jurisdiction at first instance, and in respect of its *nobile officium* ;

- (d) of the sheriff court over any question of status, right or obligation of a description and value which at that date was within its jurisdiction at first instance.

The matters above do not extend to the continued existence of the privative nature of any jurisdiction or to the determination of the territorial jurisdiction of the sheriff courts.

17. Appeals to the House of Lords against decisions of the Court of Session. Recourse to the High Court of Justiciary by any person found to have committed an offence by any court.

The matters above do not extend to the manner or grounds of recourse to the High Court of Justiciary.

18. The power of the High Court of Justiciary to regulate its own procedure and the procedure in criminal matters of all inferior courts. The power of the Court of Session to regulate its own procedure and the procedure in civil matters of the sheriff courts.

19. The following courts—

Courts-martial and the Courts-Martial Appeal Court ;

and all matters of penalties, jurisdiction, evidence and procedure relating to those courts ;

The Lyon Court ;

Election Courts constituted under section 110 of the Representation of the People Act 1949 ;

1949 c. 68.

Courts constituted under section 45(9) (registration appeals) of the said Act of 1949 ;

The Restrictive Practices Court ;

The Employment Appeal Tribunal ;

and special matters of penalties, jurisdiction, evidence and procedure relating to those courts.

20. Corporate bodies other than public bodies related to devolved matters. Insurance. Banking. Legal tender. Intellectual property. Safety standards for goods. Restrictive trading practices and monopolies. Regulation of interest rates and credit.

21. Regulation of charges and prices other than those charged by—

(a) a Scottish Secretary ; or

(b) a public body or person appointed by a Scottish Secretary or appointed under an enactment relating to a devolved matter ; or

(c) a local authority in relation to a function which is not a scheduled function.

22. Trade unions and employers' associations. Trade disputes and labour relations.

23. Terms and conditions of employment and related statutory rights and duties of employment, but excluding regulation of terms and conditions of service in respect of a person who is paid—

(a) by a Scottish Secretary ; or

(b) by a public body or person appointed by a Scottish Secretary or appointed under an enactment relating to a devolved matter ; or

(c) by a local authority.

Paragraphs (a) and (b) above do not apply to a person who is a member of Her Majesty's Home Civil Service, including a person of a description designated under section 67(5) of this Act ; and paragraph (c) above does not apply to a person who is employed exclusively for the purpose of a scheduled function.

24. Any matter relating to the right to prosecute any offence, or to organisation, accommodation, appointments, qualifications or terms or conditions of service in relation to the prosecution of offences.

25. Any special matter of criminal penalties, evidence or procedure relating to matters not included in any Group in Part I of this Schedule. Deportation and extradition.

PART III

ENACTMENTS RELATING TO THE GROUPS IN PART I

<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups</i>
The Anatomy Acts 1832 and 1871.	Included.
The Harbours, Docks and Piers Clauses Act 1847 (c.27), sections 28 and 102.	Not included.
The Salmon Fisheries (Scotland) Act 1863 (c.50), section 4.	Not included.
The Congested Districts (Scotland) Act 1897 (c.53), section 4(1)(e).	Included, so far as relating to the erection and formation of fishermen's dwellings and holdings in congested districts.
The Development and Road Improvement Funds Act 1909 (c.47), Part I.	Not included.
The Registration of Business Names Act 1916 (c.58).	Not included.
The National Library of Scotland Act 1925 (c.73).	The power to recommend to Her Majesty the appointment of members of the Board of Trustees is not included.
The Land Drainage (Scotland) Act 1930 (c.20) sections 7 and 8.	Not included, except for the power of consent under section 7 which is included so far as it relates to land vested in the First Secretary or held for the purposes of a Scottish Secretary.

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*Enactment**Whether, or how far, matters dealt with are included in the Groups*

The Harbours, Piers and Ferries (Scotland) Act 1937 (c.28), sections 5(6), 9(a) and (d) and 26.

Not included, except that section 5(6) is included so far as it relates to matters other than works to be constructed below the high water mark of ordinary spring tides.

The Disabled Persons (Employment) Acts 1944 and 1958.

Not included.

The Hill Farming Act 1946 (c.73).

Not included, except for the matters dealt with in sections 23 to 31.

The Statistics of Trade Act 1947 (c.39).

Not included.

The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c.42).

Not included.

The National Health Service (Scotland) Act 1947 (c.27), Schedule 3 paragraph 6.

Not included.

The Radioactive Substances Act 1948 (c. 37), sections 5(1)(b) and 7.

The power under section 5(1)(b) is not included so far as it relates to sites and premises mentioned in section 2(1) and (2) of the Radioactive Substances Act 1960 (c.34); and the matters dealt with in section 7 are included only in relation to offences under regulations made by a Scottish Secretary.

The Agriculture (Scotland) Act 1948 (c.45), Parts IV and V.

Included, except for the matters dealt with in sections 55(d), 56 and 61(2) so far as they relate to land used wholly or mainly for agricultural research or experiment.

The Civil Aviation Act 1949 (c.67), Part III and section 56.

Included, except for the matters dealt with in section 37.

The Coast Protection Act 1949 (c.74), Part I.

Included except that—

- (a) the powers of the Treasury under section 11(2)(b) and the power to determine questions under section 32 are not included;

*Enactment**Whether, or how far, matters dealt with are included in the Groups*

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	(b) the powers to give directions under section 17(5) and determine questions under section 17(8) are not included so far as exercisable in relation to excepted statutory undertakers in cases where an objection is made by a coast protection authority ;
	(c) the power to give consent under section 32 is included only so far as it relates to land vested in the First Secretary or held for the purposes of a Scottish Secretary ;
	(d) the matters dealt with in section 46 are included only so far as relating to matters with respect to which a Scottish Secretary exercises functions.
The Agricultural Holdings (Scotland) Act 1949 (c.75), section 86.	Included so far as it relates to land vested in the First Secretary or held for the purposes of a Scottish Secretary.
The National Parks and Access to the Countryside Act 1949 (c.97).	The matters dealt with in Part VI are included so far as that Part is applicable to section 21 ; and the matters dealt with in section 101 are included so far as relating to land vested in the First Secretary or held for the purposes of a Scottish Secretary.
The Shops Act 1950 (c.28), section 67.	Included.
The Nurses (Scotland) Act 1951 (c.55), Part III.	Included.
The Rivers (Prevention of Pollution) (Scotland) Act 1951, (c.66), section 29.	Not included.
The Historic Buildings and Ancient Monuments Act 1953 (c.49), section 7.	Not included.

SCH. 10	<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups</i>
	The Clean Air Act 1956 (c. 52), section 22.	Not included, except so far as relating to property vested in the First Secretary or held for the purposes of a Scottish Secretary.
	The Prevention of Fraud (Investments) Act 1958 (c.45).	Not included.
	The Opencast Coal Act 1958 (c.69), section 2.	Not included.
	The Building (Scotland) Acts 1959 and 1970.	The powers to give approval, directions and consent under section 26 of the Building (Scotland) Act 1959 (c.24) (but not to determine questions) are included only so far as they relate to buildings or land vested in the First Secretary or held for the purposes of a Scottish Secretary.
	The Weeds Act 1959 (c. 54).	Included.
	The Road Traffic Act 1960 (c.16).	The following matters are not included:— <ul style="list-style-type: none"> (a) those dealt with in section 120 so far as relating to the establishment of traffic commissioners and their power and duty of issuing licences ; (b) those dealt with in section 135(1) so far as relating to the authority having power to grant a road service licence ; (c) those dealt with in section 137(1) ; (d) the other matters dealt with in Part III, except so far as they relate to the two traffic commissioners other than the chairman and to road service licences or permits under section 30 of the Transport Act 1968 (c.73) ; and (e) the matters dealt with otherwise than in Part III.

<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups.</i>	SCH. 10
The Radioactive Substances Act 1960 (c.34).	Included, except that— (a) the matters dealt with in section 2(1) and (2) are not included ; (b) the matters dealt with in sections 6 to 8 are not included so far as they relate to sites and premises mentioned in section 2(1) and (2) ; (c) the powers under section 10 are not included so far as they relate to such sites and premises ; (d) the powers under section 12 are not included, so far as they relate to premises mentioned in subsection (3)(b) of that section ; (e) the powers under section 14(3) are included only so far as they relate to premises vested in the First Secretary or held for the purposes of a Scottish Secretary.	
The Mental Health (Scotland) Act 1960 (c.61), section 2(4).	The power to recommend to Her Majesty the appointment of Commissioners is not included.	
The Flood Prevention (Scotland) Act 1961 (c.41), section 14(2).	The power to determine questions is not included.	
The Human Tissue Act 1961 (c.54).	Included.	
The Transport Act 1962 (c.46).	Not included, except that— (a) the matters dealt with in sections 62, 63 and 91 are included ; (b) the matters dealt with otherwise than in sections 21 and 27(6) are included so far as they relate to the Scottish Transport Group and its subsidiaries ;	

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Whether, or how far, matters dealt with are included in the Groups

- (c) the matters dealt with in Parts I, II and III (except sections 21 and 27(6) and Schedule 1) and sections 66, 86, 89 and 90 are included so far as they relate to the property and activities of the British Waterways Board and its subsidiaries.
- The Education (Scotland) Act 1962 (c.47). The following matters are not included:—
- (a) so much of sections 49 and 75(f) as relates to grants, bursaries, scholarships or other allowances to persons attending courses of initial teacher training, courses leading to a degree of a university or to a Higher National Diploma or courses of equivalent or higher standard ;
- (b) any provision relating to the Carnegie Trust ;
- (c) the power to recommend to Her Majesty the appointment of inspectors of schools (section 145(24)).
- The Pipe-lines Act 1962 (c.58), section 5. Not included.
- The Protection of Depositors Act 1963 (c.16). Not included.
- The Land Compensation (Scotland) Act 1963 (c.51). Not included, except for the matters dealt with in Parts II and IV.
- The Housing Act 1964 (c. 56), section 8. Not included.
- The Local Government (Development and Finance) (Scotland) Act 1964 (c.67), section 7. Not included, so far as relating to the erection of industrial buildings, within the meaning of

<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups.</i>	SCH. 10
	section 64 of the Town and Country Planning (Scotland) Act 1972 (c.52).	
The Highlands and Islands Development (Scotland) Acts 1965 and 1968.	Not included.	
The Science and Technology Act 1965 (c.4).	Not included so far as relating to bodies which are Research Councils for the purposes of the Act.	
The Rivers (Prevention of Pollution) (Scotland) Act 1965 (c.13), section 8.	Not included.	
The Law Commissions Act 1965 (c. 22).	Included so far as relating to the Scottish Law Commission.	
The Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49), section 1(1).	Included.	
The Nuclear Installations Act 1965 (c.57).	Not included.	
The Housing (Scotland) Act 1966 (c. 49), section 25.	Not included.	
The Local Government (Scotland) Act 1966 (c.51).	The matters dealt with in section 11, and the power in section 18(3) to determine questions (so far as it relates to excepted statutory undertakers), are not included.	
The Forestry Act 1967 (c 10), section 15.	Included.	
The Parliamentary Commissioner Act 1967 (c.13).	Included (subject to section 76 of this Act).	
The Agriculture Act 1967 (c.22), Part III.	Included, except for the matters dealt with in sections 43 and 44.	
The Housing Subsidies Act 1967 (c.29), Part II.	Not included.	
The Countryside (Scotland) Act 1967 (c.86).	The powers under section 73 are included only so far as exercisable in relation to land vested in the First Secretary or held for the purposes of a Scottish Secretary ; and the matters dealt with in section 58 are not included.	

SCH. 10	<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups</i>
	The Abortion Act 1967 (c.87).	Not included.
	The New Towns (Scotland) Act 1968 (c.16), sections 4, 10(3), 14(2), 18, 19(1) (proviso), 24, 28, 30(1), (3) and (5), 38A, 47(4) and Schedules 3, 4 and 8.	<p>Not included, except that—</p> <p>(a) the matters dealt with in sections 4 and 18 are excluded only in relation to the disposal of premises or other land for industrial purposes ;</p> <p>(b) those dealt with in section 28 are excluded only so far as they relate to representations made by excepted statutory undertakers ;</p> <p>(c) those dealt with in sections 10(3), 30(1), (3) and (5), 47(4) and Schedule 8 are excluded only so far as they relate to excepted statutory undertakers or operational land of such undertakers.</p>
	The Trade Descriptions Act 1968 (c.29).	Not included.
	The Housing (Financial Provisions) (Scotland) Act 1968 (c.31), section 50.	Not included.
	The Sewerage (Scotland) Act 1968 (c.47).	The power to determine questions under section 55(4) is not included.
	The Civil Aviation Act 1968 (c.61), sections 1 to 6, 8, 12, 21, 22 and 27.	Included.
	The Transport Act 1968 (c.73).	<p>Not included except that—</p> <p>(a) the matters dealt with in sections 9 to 19, 20(1) to (5) and (8), 21 to 23, 30, 31, 34, 36, 37, 56, 57, 110 and 138 are included ;</p> <p>(b) the power to make regulations under section</p>

*Enactment**Whether, or how far, matters dealt with are included in the Groups*

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- 135, by virtue of subsection (1)(d) of that section, is included ;
- (c) the matters dealt with in section 26(1)(a) are included so far as relates to passenger services within Scotland and passenger services by road outside Scotland ;
 - (d) the matters dealt with in section 162 are included except so far as subsection (2) provides for determination of disputes ;
 - (e) the powers under sections 116 to 119, 121 and 122 are included so far as exercisable in relation to bridges over inland waterways ;
 - (f) the powers under sections 157 and 158 are included so far as exercisable in relation to functions exercised by a Scottish Secretary ;
 - (g) the powers under sections 7, 8 and 29 are included so far as they relate to schemes or orders transferring property to or from the Scottish Transport Group or any of its subsidiaries ;
 - (h) the powers under section 135(6) are included in cases where the Scottish Transport Group is the compensating authority ;
 - (i) the matters dealt with in the other provisions of the Act are included so far as they relate to the Scottish Transport

SCH. 10	<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups</i>
		Group and its subsidiaries ;
		(j) the matters dealt with in Parts IV and VII are included so far as they relate to the British Waterways Board and its subsidiaries.
	The Housing (Scotland) Act 1969 (c. 34), section 21.	Not included.
	The Post Office Act 1969 (c.48), Schedule 4 paragraph 93(4).	Not included.
	The Development of Tourism Act 1969 (c.51).	Included, so far as relating to the Scottish Tourist Board and hotels and other establishments in Scotland, except that— (a) the matters dealt with in section 1(2) and paragraph 18 of Schedule 1 are not included ; (b) the matters dealt with in sections 19 and 20 are not included so far as they relate to grants or loans made under Part II.
	The Roads (Scotland) Act 1970 (c.20), section 44.	The power of the Treasury under subsection (4) is not included and the other matters dealt with are included only so far as relating to land vested in the First Secretary or held for the purposes of a Scottish Secretary.
	The Chronically Sick and Disabled Persons Act 1970 (c.44), sections 9, 21 and 23.	Not included.
	The Radiological Protection Act 1970 (c.46).	Not included.
	The Fire Precautions Act 1971 (c.40), sections 36(4) to (6) and 41.	Not included.
	The Prevention of Oil Pollution Act 1971 (c.60).	Not included, except that the power in section 23(b) is included so far as it relates to— (a) discharges from land in Scotland ; and

<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups</i>	SCH. 10
<p>The Tribunals and Inquiries Act 1971 (c.62).</p> <p>The Civil Aviation Act 1971 (c.75).</p> <p>The Road Traffic Act 1972 (c.20), sections 154 to 156.</p> <p>The Town and Country Planning (Scotland) Act 1972 (c.52).</p>	<p>(b) discharges (otherwise than from land or vessels) into tidal waters in Scotland or other waters which are adjacent to Scotland and are controlled waters for purposes of Part II of the Control of Pollution Act 1974 (c.40).</p> <p>The matters dealt with in sections 1 to 4(1) and 15(1) and (5) are not included and the other matters dealt with in the Act are included only so far as they relate to matters with respect to which a Scottish Secretary exercises functions otherwise than under the Act.</p> <p>Not included, except so far as relating to the insulation of buildings near aerodromes against aircraft noise and vibration and except for—</p> <p>(a) the matters dealt with in sections 30 to 32 ; and</p> <p>(b) those dealt with in sections 6 to 11, 13, 14, 16 to 20, 34 and 36, so far as relating to the operation of aerodromes.</p> <p>Included.</p> <p>The following matters are not included:—</p> <p>(a) those dealt with in sections 37, 47, 64 to 70, 103, 108(2), 117(1) (proviso), 121(1), 209, 227 to 229, 240 and 241 and paragraph 70 of Schedule 22 ;</p> <p>(b) the powers conferred by sections 44, 45 and 46(4), so far as they relate to the reference</p>	

SCH. 10

Enactment

Whether, or how far, matters dealt with are included in the Groups

to a Planning Inquiry Commission of a proposal that a government department should give a direction under section 37 or that development should be carried out by or on behalf of a government department ;

- (c) the power to decide any question under section 195(6), where the appropriate authority is a government department or an excepted statutory undertaker ;
- (d) the power to make orders under section 221, so far as exercisable in relation to notices served by excepted statutory undertakers ;
- (e) the powers under sections 222 and 224 (and the supplementary powers under section 225), so far as exercisable by virtue of representations made by excepted statutory undertakers ;
- (f) the powers under sections 253 and 254, except so far as exercisable in relation to land vested in the First Secretary or held for the purposes of a Scottish Secretary ;
- (g) the power of the Treasury under section 253(7) ;
- (h) the power under section 266(6) in respect of land held by excepted statutory undertakers ;

<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups.</i>	SCH. 10
	(i) the powers under section 275(2), so far as exercisable in relation to excepted statutory undertakers ;	
	(j) the power under paragraph 4(2) of Schedule 18, so far as exercisable in relation to excepted statutory undertakers.	
The British Library Act 1972 (c.54).	Not included.	
The National Health Service (Scotland) Act 1972 (c. 58), section 55.	Included.	
The Counter-Inflation Act 1973 (c. 9).	Not included.	
The Fire Precautions (Loans) Act 1973 (c. 11), section 1(3) and (4).	Not included.	
The Employment Agencies Act 1973 (c. 35).	Not included.	
The Social Security Act 1973 (c. 38).	Not included.	
The Fair Trading Act 1973 (c.41).	Not included.	
The Employment and Training Act 1973 (c.50).	Not included.	
The Nature Conservancy Council Act 1973 (c.54).	Not included.	
The Land Compensation (Scotland) Act 1973 (c. 56).	Not included, except that the matters dealt with in Parts II and V and in sections 14 and 36 to 40 are included so far as they do not affect any Minister of the Crown in his capacity as a responsible authority.	
The Local Government (Scotland) Act 1973 (c.65).	The following matters are not included:—	
	(a) those dealt with in sections 4 to 11, 20, 29 to 37, 59 and 197(2) to (5) ;	

SCH. 10

*Enactment**Whether, or how far, matters dealt with are included in the Groups*

- (b) the power to give consent under sections 71, 73, 74 and 74A, except in cases where the functions of the Minister concerned are exercisable by a Scottish Secretary ;
- (c) the power under section 87, so far as it relates to scheduled functions and the power under section 94, so far as it relates to expenses for the purpose of scheduled functions ;
- (d) the power under section 202(9) to give a direction with respect to byelaws and the power under section 202(10) to confirm byelaws, except in cases where the byelaws deal with matters within the legislative competence of the Assembly ;
- (e) the power under section 209(2) and (3), except in so far as it relates to enactments dealing with matters within the legislative competence of the Assembly ;
- (f) the powers under sections 199, 210, 211, 215, 225 and 233, except in so far as they relate to matters with which a Scottish Secretary (but no Minister of the Crown) is concerned.

The Prices Act 1974 (c.24).

Not included.

The Health and Safety at Work etc. Act 1974 (c.37).

Not included, except for section 75.

<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups</i>	SCH. 10
The Consumer Credit Act 1974 (c. 39).	Not included.	
The Control of Pollution Act 1974 (c.40).	The following matters are not included:— <ul style="list-style-type: none"> (a) those dealt with in section 21, except in so far as they relate to the production of heat from waste ; (b) the power under section 56(1) to prescribe in relation to controlled waters ; (c) those dealt with in sections 75 to 77 and 100 to 103 ; (d) those dealt with in section 30(5) so far as they relate to sites and premises mentioned in section 2(1) and (2) of the Radioactive Substances Act 1960 (c.34). 	
The Policing of Airports Act 1974 (c. 41).	Not included.	
The Housing (Scotland) Act 1974 (c.45), section 30.	Not included.	
The Friendly Societies Act 1974 (c.46).	Not included.	
The Railways Act 1974 (c.48), section 8.	Included.	
The Criminal Procedure (Scotland) Act 1975 (c.21), sections 5, 10, 11, 21, 35, 41, 76, 113(4), 114, 245(1) and 263.	Not included, except so far as section 35 relates to the High Court.	
The Local Government (Scotland) Act 1975 (c.30) Schedule 3, paragraphs 2 to 9 and 26.	Not included.	
The Prices Act 1975 (c.32).	Not included.	
The Air Travel Reserve Fund Act 1975 (c.36).	Not included.	

SCH. 10	<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups</i>
	The Safety of Sports Grounds Act 1975 (c. 52).	Included.
	The Remuneration, Charges and Grants Act 1975 (c.57).	Not included.
	The Social Security Pensions Act 1975 (c.60).	Not included.
	The Sex Discrimination Act 1975 (c.65).	Not included.
	The Scottish Development Agency Act 1975 (c.69).	<p>Not included, except for the matters dealt with in—</p> <ul style="list-style-type: none"> (a) section 2(1)(d) ; (b) section 2(2)(d), (e), (g) and (h) ; (c) section 2(2)(i), (3), (4)(a) to (e) and (6), so far as relating to the functions specified in section 2(2) (d), (e), (g) and (h) ; (d) section 2(4)(g) to (m) ; (e) section 2(4)(f) and (7) and section 3, so far as relating to the functions specified in section 2(2) (d), (e), (g) and (h) ; (f) section 2(8) and (9) ; (g) section 2(10), so far as relating to the functions specified in section 2(2)(d), (e), (g) and (h) ; (h) section 4, so far as relating to the functions specified in the provisions as mentioned in (a) to (g) above ; (i) sections 6, 7, 8(1) to (5), 9, 11(1) to (5), 13(2) to (5), 18, 21, 22 and 24 ; (j) sections 12, 13(1) and 19 and Schedule 2, paragraphs 3 to 5 and 7 to 9, so far as relating to the functions specified in section 2(2) (d), (e), (g) and (h) ; (k) section 10, so far as relating to matters other than excepted statutory undertakers ;

<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups.</i>	SCH. 10
	(l) section 16, so far as relating to property held by any person for the purposes of a devolved matter ;	
	(m) Schedule 2, paragraph 2 so far as it relates to administrative expenses and to functions other than those to which public dividend capital relates ;	
	(n) sections 25 to 28, so far as relating to the provisions as mentioned in (a) to (m) above.	
The Community Land Act 1975 (c.77).	Not included	
The Airports Authority Act 1975 (c.78), section 7.	Not included.	
The Lotteries and Amusements Act 1976 (c.32).	The matters dealt with in Parts I and II are included, except for those dealt with in sections 5(3)(d)(ii), 6(2)(c), 9 and 12(5)(a). The matters dealt with in section 18(1)(e) and (2) are not included.	
The Valuation and Rating (Exempted Classes) (Scotland) Act 1976 (c.64).	Not included.	
The Licensing (Scotland) Act 1976 (c.66), sections 54(3)(j), 87(3) and 138(1)(a).	Not included.	
The Race Relations Act 1976 (c.74).	Not included.	
The Dock Work Regulation Act 1976 (c.79).	Not included.	
The Passenger Vehicles (Experimental Areas) Act 1977 (c.21).	Included, except for— (a) the matters dealt with in section 2(3) ; (b) the matters dealt with in section 2(8) (other than those in respect of	

SCH. 10	<i>Enactment</i>	<i>Whether, or how far, matters dealt with are included in the Groups.</i>
		the imposition of conditions), so far as relating to the treatment of vehicles for the purposes of enactments dealing with matters which are not devolved matters.
	The Minibus Act 1977 (c.25).	Not included, except for— (a) the powers under section 1 to give directions and to make orders; and (b) the power under section 3(1)(a) to prescribe matters to be taken account of under section 2(2)(b).
	The Price Commission Act 1977 (c.33).	Not included.
	The Refuse Disposal (Amenity) Act 1978 (c.3), section 4(2).	Not included.
	The Civil Aviation Act 1978 (c.8), sections 8 and 9.	Not included.
	The Inner Urban Areas Act 1978 (c.50).	Not included.
	The Transport Act 1978 (c.55).	Not included, except so far as relating to inland waterway transport and grants to assist the provision of facilities for freight haulage by rail and except for the matters dealt with in sections 5(1) to (4) and 6 to 8 so far as relating to road service licences or permits under section 30 of the Transport Act 1968 (c.73).

SCHEDULE 11

Section 63.

MATTERS WITHIN POWERS OF SCOTTISH EXECUTIVE BUT NOT
WITHIN LEGISLATIVE COMPETENCE OF ASSEMBLYGROUP A (*Abortion*)

The powers under the Abortion Act 1967.

1967 c. 87.

GROUP B (*Grants to universities*)

The powers under section 75(b) of the Education (Scotland) Act 1962 c. 47. 1962 to apply sums for the purpose of the payment of grants to universities and the powers under sections 76 and 144(5) of that Act so far as relating to section 75(b).

GROUP C (*Local authority guarantees of housing loans*)

The powers to approve guarantees by local authorities under section 50 of the Housing (Financial Provisions) (Scotland) Act 1968 1968 c. 31. and to undertake to make good up to one half of any loss sustained under the terms of such a guarantee.

GROUP D (*Grants for expenditure due to immigrant population*)

The powers under section 11 of the Local Government (Scotland) Act 1966 c. 51. Act 1966.

GROUP E (*Land use and development*)

1. The powers under the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, in cases where the compulsory purchase order is or would be made or confirmed by a Scottish Secretary, except—

- (a) in cases where the apparatus belongs to excepted statutory undertakers, those under section 3(4); and
- (b) those under paragraph 18 of Schedule 1.

2. The powers under the Highlands and Islands Development (Scotland) Acts 1965 and 1968 except—

- (i) the powers to extend the area of the Highlands and Islands Development Board under section 1 of the Act of 1965; and
- (ii) the power under section 10(4) of the Act of 1965 to authorise the carrying out of works, so far as exercisable in relation to excepted statutory undertakers.

3. The powers under paragraphs 2 and 5 to 7 of Schedule 3 to 1965 c. 36. the Gas Act 1965.

4. The powers under sections 4 and 18 of the New Towns (Scotland) Act 1968 so far as they are not included in the Groups in Schedule 10 to this Act.

- SCH. 11 5. The powers under Schedules 3 and 4 to that Act.
- 1972 c. 52. 6. The powers exercisable under section 37 of the Town and Country Planning (Scotland) Act 1972 in relation to sanctions granted by a Scottish Secretary.
7. The powers under section 121(1) of that Act, so far as exercisable in relation to matters with respect to which a Scottish Secretary exercises functions.
8. The power under section 240 of that Act.
- 1975 c. 69. 9. The following powers under the Scottish Development Agency Act 1975:—
- (i) the powers under section 1 ;
 - (ii) the powers under section 2(6) so far as exercisable in relation to the functions specified in section 2(2)(c) ;
 - (iii) the powers under section 2(7) so far as exercisable in relation to the functions specified in section 2(2)(a) to (c) ;
 - (iv) the powers under section 4 so far as exercisable in relation to the functions specified in section 2(2)(a) to (c) ;
 - (v) the powers under section 4 so far as exercisable in relation to the powers specified in subsection (4)(a) to (f) of section 2 but so far only as that section relates to the functions in subsection (2) (a) to (c) of section 2 ;
 - (vi) the powers under section 4 so far as exercisable in relation to the powers specified in section 3 but so far only as that section relates to the functions in section 2(2)(a) to (c) ;
 - (vii) the powers under section 12 so far as exercisable in relation to the functions specified in section 2(2)(a) to (c) and (f) ;
 - (viii) the powers under section 14 ;
 - (ix) the power under section 19 so far as exercisable in relation to the functions specified in section 2(2)(c) ;
 - (x) the powers under Schedule 1 ;
 - (xi) the powers under Schedule 2, except paragraph 6, so far as exercisable in relation to the functions specified in section 2(2)(a) to (c) and (f).
- 1975 c. 77. 10. The powers exercisable under the Community Land Act 1975 except—
- (i) the powers under section 3 ;
 - (ii) the powers under section 5(1)(c) and (4)(b), and the powers under section 5(3) and (5) so far as exercisable in relation to excepted statutory undertakers ;
 - (iii) the powers under section 7 and the power to vary or revoke any order made by the Secretary of State under section 18 ;

- (iv) the powers to make, or consent to the making of, orders under section 26(3);
- (v) the powers under section 37;
- (vi) the powers under section 39, save in so far as they are exercisable in relation to land vested in the First Secretary or held for the purposes of a Scottish Secretary;
- (vii) the powers under section 40, save in so far as they are exercisable in relation to the acquisition from the First Secretary of any interest in land;
- (viii) the powers under sections 43 and 44 (except section 44(4));
- (ix) the powers exercisable under paragraph 19 of Schedule 4 in relation to the apparatus of excepted statutory undertakers;
- (x) the power under paragraph 21(6)(b) of Schedule 4 to authorise works on land held by excepted statutory undertakers.

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11. The following powers under the Inner Urban Areas Act 1978 c. 50. 1978:—

- (a) the powers under sections 1, 7(1), 8(1) and 9(6) and paragraph 2 of the Schedule;
- (b) the powers under section 3(2), as applied to loans under section 5.

GROUP F (*Pollution etc.*)

1. The powers exercisable under the Alkali etc. Works Regulations 1906 c. 14. Act 1906.

2. The power under section 1(1)(d) of the Health and Safety at Work etc. Act 1974 to prescribe classes of premises, except so far as exercisable in relation to motor vehicles, aircraft, hovercraft or vessels.

3. The powers under sections 3(3), 5, 11, 12, 14(1) to (6), 15, 16, 18(2), 20(3), 27(1), 44, 45, 50 and 80 of that Act so far as exercisable in relation to the control of emissions into the atmosphere of noxious or offensive substances otherwise than from motor vehicles, aircraft or hovercraft.

4. So far as they relate to vessels other than those in inland waters, the powers under:—

- (a) sections 32(1) to (3) and 36(1) of the Public Health (Scotland) Act 1897 c. 38. Act 1897;
- (b) sections 6, 8, 146(1), 148, 149 and 178 of that Act (so far as they relate to sections 16 to 27, 29 to 32 and 36 of that Act);
- (c) section 1(2) of the Clean Air Act 1956; and 1956 c. 52.
- (d) the Control of Pollution Act 1974 (other than those under 1974 c. 40. sections 30(5), 75 to 77 and 100 to 103).

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GROUP G (*Road traffic*)

1967 c. 76.

1. The power under section 13 of the Road Traffic Regulation Act 1967 to make regulations with respect to the use of particular special roads.

2. The power under section 23 of that Act to make regulations with respect to a particular crossing or particular crossings.

3. The power under subsection (2) of section 54 of that Act to authorise the erection or retention of signs which are not of a prescribed type.

4. The power under section 77 of that Act to prohibit, by order, the driving of motor vehicles—

(a) on all roads in any area specified in the order, or on any road so specified, at a speed greater than that so specified ;
or

(b) on any road so specified, at a speed less than that so specified.

5. The powers under the other sections of that Act except those in sections 55(1), 59, 71, 78, 80, 81, 95 to 97, 99, 101, 103 and 104(1B).

1972 c. 20.

6. The powers under sections 15, 20, 26, 31(5), 36A(3A), 36B(4), 38 and 39 of the Road Traffic Act 1972.

1974 c. 50.

7. The powers under section 17 of the Road Traffic Act 1974.

GROUP H (*Race discrimination*)

1976 c. 74.

The powers under sections 19(3) and (5) and 57(5) of the Race Relations Act 1976 so far as exercisable in relation to establishments falling within paragraphs 6 and 7 of the Table in section 17 of that Act.

GROUP I (*Sex discrimination*)

The powers under—

1975 c. 65.

(a) sections 25(3) and (5), 27 and 66(5) of, and Schedule 2 to, the Sex Discrimination Act 1975, so far as exercisable in relation to establishments falling within paragraphs 6 and 7 of the Table in section 22 of that Act, and

(b) section 79, except so far as exercisable in relation to university endowments or the Carnegie Trust.

GROUP J (*Royal parks*)

1851 c. 42.

The powers exercisable by virtue of section 22 of the Crown Lands Act 1851 and any provision of the Parks Regulation Acts 1872 to 1974.

GROUP K (*Criminal statistics*)

1967 c. 77.

The power of the Secretary of State to give directions under section 47(1) of the Police (Scotland) Act 1967.

SCHEDULE 12

Section 65.

LEGAL PROCEEDINGS INVOLVING DEVOLUTION ISSUES

PART I

PRELIMINARY

1. In this Schedule “devolution issue” means a question—
 - (a) whether a Scottish Assembly Act or any provision of a Scottish Assembly Act is within the legislative competence of the Assembly ; or
 - (b) whether a matter with respect to which a Scottish Secretary has purported to exercise or proposes to exercise a power is a devolved matter.
2. A devolution issue shall not be taken to arise in any legal proceedings by reason only of any contention of a party to the proceedings which appears to the court or tribunal before which the proceedings take place to be frivolous or vexatious.

PART II

PROCEEDINGS IN SCOTLAND

Application of Part II

3. This Part of this Schedule applies with respect to devolution issues in proceedings in Scotland.

Institution of proceedings

4. Without prejudice to any power exercisable apart from this paragraph, proceedings for the determination of a devolution issue may be instituted by the Lord Advocate and defended by any person who, as a Scottish Secretary or assistant to a Scottish Secretary, performs functions corresponding to those performed by a Law Officer of the Crown.

Intimation of devolution issue

5. Where a devolution issue arises in any proceedings before a court or tribunal the court or tribunal shall order intimation of it to be given to the Lord Advocate and to any person who, as a Scottish Secretary or assistant to a Scottish Secretary, performs functions corresponding to those performed by a Law Officer of the Crown (unless the person to whom the intimation would be given is a party to the proceedings).

6. A person to whom intimation is given in pursuance of paragraph 5 above may take part as a party in the proceedings, so far as they relate to a devolution issue.

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Reference of devolution issue to higher court

7. Where a devolution issue arises in civil proceedings, other than proceedings before the House of Lords or before any court consisting of three or more judges of the Court of Session, the court or tribunal before which the proceedings take place may refer the issue to the Inner House of the Court of Session.

8. Where a devolution issue arises in criminal proceedings, other than proceedings before any court consisting of three or more judges of the High Court of Justiciary, the court before which the proceedings take place may refer the issue to the High Court of Justiciary.

*Appeals from superior courts to
Judicial Committee of Privy Council*

9. Where a devolution issue has been determined on a reference to the Inner House of the Court of Session under paragraph 7 above, an appeal against the determination shall lie to the Judicial Committee of the Privy Council.

10. Where a devolution issue has been determined by a court of three or more judges of the High Court of Justiciary, whether in the ordinary course of proceedings or on a reference under paragraph 8 above, an appeal against the determination shall lie to the Judicial Committee of the Privy Council, but only with leave of the High Court or, failing such leave, with special leave of the Judicial Committee.

PART III

PROCEEDINGS IN ENGLAND AND WALES

Application of Part III

11. This Part of this Schedule applies with respect to devolution issues in proceedings in England and Wales.

Institution of proceedings

12. Without prejudice to any power exercisable apart from this paragraph, proceedings for the determination of a devolution issue may be instituted by the Attorney General and defended by any person who, as a Scottish Secretary or assistant to a Scottish Secretary, performs functions corresponding to those performed by a Law Officer of the Crown.

Notice of devolution issue

13. Where a devolution issue arises in any proceedings before a court or tribunal, the court or tribunal shall order notice of it to be given to the Attorney General and to any person who, as a Scottish Secretary or assistant to a Scottish Secretary, performs

functions corresponding to those performed by a Law Officer of the Crown (unless the person to whom the notice would be given is a party to the proceedings). SCH. 12

14. A person to whom notice is given in pursuance of paragraph 13 above may take part as a party in the proceedings, so far as they relate to a devolution issue.

Reference of devolution issue to Court of Appeal or High Court

15. Where a devolution issue arises in civil proceedings, other than proceedings before the House of Lords or the Court of Appeal, the court or tribunal before which the proceedings take place may refer the issue to the Court of Appeal.

16. Where a devolution issue arises in criminal proceedings, other than proceedings before the House of Lords or the Court of Appeal, the court before which the proceedings take place may refer the issue—

- (a) if the proceedings are summary proceedings, to the High Court; and
- (b) if they are proceedings on indictment, to the Court of Appeal.

Appeals from superior courts to Judicial Committee of Privy Council

17. Where a devolution issue has been determined on a reference to the High Court or to the Court of Appeal under paragraph 15 or 16 above, an appeal against the determination shall lie to the Judicial Committee of the Privy Council, but only with leave of the High Court or, as the case may be, of the Court of Appeal or, failing such leave, with special leave of the Judicial Committee.

PART IV

PROCEEDINGS IN NORTHERN IRELAND

Application of Part IV

18. This Part of this Schedule applies with respect to devolution issues in proceedings in Northern Ireland.

Institution of proceedings

19. Without prejudice to any power exercisable apart from this paragraph, proceedings for the determination of a devolution issue may be instituted by the Attorney General for Northern Ireland and defended by any person who, as a Scottish Secretary or assistant to a Scottish Secretary, performs functions corresponding to those performed by a Law Officer of the Crown.

Notice of devolution issue

20. Where a devolution issue arises in any proceedings before a court or tribunal, the court or tribunal shall order notice of the issue to be given to the Attorney General for Northern Ireland and to any

SCH. 12 person who, as a Scottish Secretary or assistant to a Scottish Secretary, performs functions corresponding to those performed by a Law Officer of the Crown (unless the person to whom the notice would be given is a party to the proceedings).

21. A person to whom notice is given in pursuance of paragraph 20 above may take part as a party in the proceedings, so far as they relate to a devolution issue.

Reference of devolution issue to Court of Appeal

22. Where a devolution issue arises in any proceedings, other than proceedings before the Court of Appeal or Court of Criminal Appeal in Northern Ireland, the court or tribunal before which the proceedings take place may refer the issue to the Court of Appeal in Northern Ireland.

*Appeals from Court of Appeal
to Judicial Committee of Privy Council*

23. Where a devolution issue has been determined on a reference to the Court of Appeal in Northern Ireland under paragraph 22 above, an appeal against the determination shall lie to the Judicial Committee of the Privy Council, but only with leave of the Court of Appeal in Northern Ireland or, failing such leave, with special leave of the Judicial Committee.

PART V

GENERAL

Proceedings in the House of Lords

24. If a devolution issue arises in judicial proceedings in the House of Lords it shall be referred to the Judicial Committee of the Privy Council, unless the House considers it more appropriate, having regard to all the circumstances, that they should determine the issue.

Effect of decision of Judicial Committee on subsequent proceedings

25. A decision of the Judicial Committee of the Privy Council in proceedings under this Schedule shall be binding in all subsequent legal proceedings.

Expenses

26. Where it appears to the court or tribunal before which any proceedings take place that the participation of any person in pursuance of paragraph 6, 14 or 21 above has occasioned any party to the proceedings additional expense, the court or tribunal may take account of it in deciding any question as to costs or expenses and may, whatever the decision on the devolution issue, award the whole or part of the additional expense as costs or, as the case may be, expenses, to that party.

Procedure

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27. Her Majesty may by Order in Council make rules for regulating the procedure with respect to proceedings under this Schedule before the Judicial Committee of the Privy Council.

28. Any power to make provision for regulating the procedure before any court or tribunal shall include power to make provision for the purposes of this Schedule including (without prejudice to the generality of the foregoing) provision—

- (a) for prescribing the stage in the proceedings at which a devolution issue is to be raised ;
- (b) for the sisting or staying of proceedings for the purpose of any proceedings under this Schedule ; and
- (c) for determining the manner in which and the time within which any intimation or notice is to be given.

SCHEDULE 13

Section 69.

PUBLIC BODIES

PART I

<i>Name of body</i>	<i>Constituting enactment</i>
The Housing Corporation.	The Housing Act 1964, section 1.

PART II

<i>Name of body</i>	<i>Constituting enactment</i>
The Advisory Committee for Scotland.	The Hill Farming Act 1946, section 32.
The Area Committee for Scotland.	The Transport Act 1962, section 56.
The British Airports Authority.	The Airports Authority Act 1975, section 1.
The British Waterways Board.	The Transport Act 1962, section 1.
The Civil Aviation Authority.	The Civil Aviation Act 1971, section 1.
The Council on Tribunals and its Scottish Committee.	The Tribunals and Inquiries Act 1971, sections 1 and 2.
The Fire Service College Board.	The Fire Services Act 1947, section 23(2).
The General Practice Finance Corporation.	The National Health Service Act 1966, section 1.
The Health Services Board and its Scottish Committee.	The Health Services Act 1976, section 1.
The Housing Association Registration Advisory Committee.	The Housing Act 1974, section 14.
The Inland Waterways Amenity Advisory Council.	The Transport Act 1968, section 110.
The National Water Council.	The Water Act 1973, section 4.

Section 71.

SCHEDULE 14

INTERVENTION BY SECRETARY OF STATE IN PLANNING MATTERS

PART I

POWERS AFFECTED

1972 c. 52. 1. The powers exercisable under or by virtue of the following provisions of the Town and Country Planning (Scotland) Act 1972 (but subject to paragraph 2 below)—

sections 32 to 34

section 42

section 49

section 85

section 91

section 260 so far as it relates to sections 42, 49, 84 and 87.

2. The powers specified in paragraph 1 above do not include the powers under sections 32 and 91 to give directions in relation to applications other than particular applications.

PART II

POWERS OF SECRETARY OF STATE

3. The Secretary of State may intervene in accordance with the following provisions of this Schedule in any case where—

(a) action is being or is capable of being taken by a Scottish Secretary in the exercise of a power specified in Part I of this Schedule ; and

(b) it appears to the Secretary of State that any action so taken would or might affect, directly or indirectly, any matter which concerns Scotland (whether or not it also concerns any other part of the United Kingdom) but with respect to which a Scottish Secretary has no power to act and that it is desirable in the public interest that he should intervene.

4. Where the Secretary of State intervenes in a case under this Schedule—

(a) no action (or no further action) shall be taken in the case by a Scottish Secretary ;

(b) any action previously taken in the case, whether by a Scottish Secretary or by any other person, shall be of no effect except to the extent (if any) that contrary provision is made in accordance with paragraph 6 below ; and

(c) the Secretary of State shall in relation to the case have all the powers and duties that a Scottish Secretary would have if the Secretary of State had not intervened and no action (except action the effect of which is saved in accordance with paragraph 6 below) had previously been taken in the case.

5. An intervention by the Secretary of State under this Schedule shall be made by notice published in the Edinburgh Gazette. SCH. 14

6. A notice under paragraph 5 above may save the whole or part of the effect of any action previously taken, whether by a Scottish Secretary or by any other person, and may extend the time for the taking of any action by the Secretary of State or any other person, whether or not the time for taking it would otherwise have expired at the time the notice is published.

7. Where the Secretary of State has intervened in a case he shall, in addition to the notice under paragraph 5 above, give notice of the intervention—

- (a) to a Scottish Secretary,
- (b) to any planning authority concerned, and
- (c) to any person who has previously been given notice of any action taken or proposed to be taken in the case ;

and he shall also publish a notice in two successive weeks in one or more local newspapers circulating in the area concerned.

8.—(1) Before he determines an application or appeal or confirms or makes an order in a case in which he has intervened under this Schedule, the Secretary of State shall afford to a Scottish Secretary an opportunity of making representations at a hearing before a person appointed by the Secretary of State.

(2) Sub-paragraph (1) above does not apply to an intervention in relation to the powers exercisable under or by virtue of section 260(5) of the Town and Country Planning (Scotland) Act 1972 ; but before exercising those powers in any case the Secretary of State shall consult a Scottish Secretary. 1972 c. 52.

9.—(1) A notice under paragraph 5 or 7 above shall state the reason for the Secretary of State's intervention.

(2) Section 269 of the Town and Country Planning (Scotland) Act 1972 shall apply to notices given under paragraph 5 above as it applies to notices under that Act.

10.—(1) Where the Secretary of State has intervened, or is considering whether to intervene, in a case under this Schedule, he may require a Scottish Secretary or any planning authority concerned to supply him with information or copies of documents relating to the case.

(2) The Secretary of State may require a Scottish Secretary to make available to him the services of any of his officers for the purposes of any local inquiry held in respect of a case in which the Secretary of State has intervened under this Schedule.

11.—(1) The Secretary of State may by order require such planning authorities as may be prescribed by or under the order to give him such information as may be so prescribed with respect to applications for planning permission made to them (including information

SCH. 14 as to the manner in which any such application has been dealt with) and with respect to proposals for the development by them of land in respect of which they are the planning authority.

(2) A statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Section 81.

SCHEDULE 15

LOCAL GOVERNMENT BODIES: SCHEDULED FUNCTIONS

Police (including police houses).	Electoral registration.
Diseases of animals.	Slaughter of animals.
Plant health.	Offices, shops and railway premises.
Issue of game licences.	Factory inspection.
Licensing of game dealers.	Protection of birds.
Animal keeping, breeding and welfare.	Traffic wardens.
Civil defence.	Control of filling materials (rag flock, etc.).
Fertilisers and feedingstuffs.	Ports (other than marine works).
Careers service.	Motor and oil fuel standards.
Sheltered employment.	Petroleum spirit licensing.
Consumer protection (including weights and measures).	
Rodent control.	
Food, drugs and medicines.	

Section 82(2).

SCHEDULE 16

AMENDMENTS OF ENACTMENTS

1937 c. 43.

THE PUBLIC RECORDS (SCOTLAND) ACT 1937

1. In section 5 of the Public Records (Scotland) Act 1937, there shall be inserted at the end the following subsection:—

“(4) Any record (other than a court, justice of the peace or private record) which was in the custody of the Keeper on the day on which Group 23 in Schedule 10 to the Scotland Act 1978 came into force may, by direction of a Minister of the Crown, be withdrawn from the Keeper’s custody either temporarily or permanently; and the Keeper shall act in accordance with any direction given by a Minister of the Crown under this subsection.”.

1946 c. 36.

THE STATUTORY INSTRUMENTS ACT 1946

2 The Statutory Instruments Act 1946 shall be amended as follows.

3. At the end of section 1 there shall be added the following subsection:—

“(3) References in this section to a Minister of the Crown shall be construed as including references to a Scottish Secretary.”.

4. At the end of section 4 there shall be added the following subsection:—

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“(4) In relation to a statutory instrument required to be laid before the Scottish Assembly the foregoing provisions of this section shall have effect as if for any reference to Parliament or to each House of Parliament there were substituted a reference to the Scottish Assembly, and for the reference to the Lord Chancellor and the Speaker of the House of Commons a reference to the presiding officer of that Assembly.”

5. After section 5 there shall be inserted the following section:—

“5A.—(1) Where any statutory instrument is subject to annulment in pursuance of a resolution of the Scottish Assembly the instrument shall be laid before the Assembly, and if the Assembly, within the period of forty days beginning with the date on which the instrument is laid before it, resolves that the instrument be annulled, no further proceedings shall be taken under the instrument, and a Scottish Secretary may by order made by a statutory instrument revoke the instrument, but without prejudice to the validity of anything previously done under it or to the making of a new statutory instrument.

Statutory instruments subject to annulment by resolution of Scottish Assembly.

(2) Where any such provision as is mentioned in section 5(2) of this Act is made with respect to any instrument which is made in the exercise of a power exercisable, by virtue of section 22 of the Scotland Act 1978, by a Scottish Secretary, that instrument shall be subject to annulment in pursuance of a resolution of the Scottish Assembly and subsection (1) of this section shall apply to it accordingly in substitution for that provision.”

6. After section 6 there shall be inserted the following section:—

“Statutory Instruments of which drafts are to be laid before Scottish Assembly. 6A.—(1) Where any provision requires or has effect by virtue of section 22 of the Scotland Act 1978, as requiring the draft of any statutory instrument to be laid before the Scottish Assembly but the provision does not prohibit the making of the instrument without the approval of the Assembly, the instrument shall not be made until after the expiration of a period of forty days beginning with the day on which the draft is laid before the Assembly, and if within that period the Assembly resolves that the instrument be not made, no further proceedings shall be taken on it, but without prejudice to the laying of a new draft before the Assembly.

(2) Where any such provision as is mentioned in section 6(2) of this Act is made with respect to the draft of any instrument to be made in the exercise of a power which, by virtue of section 22 of the Scotland Act 1978, is exercisable by a Scottish Secretary, a draft of any such instrument shall be laid before the Scottish Assembly and subsection (1) of this section shall apply accordingly in substitution for that provision.”

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7. In section 7—

- (a) in subsection (1) for the words “either of the last two foregoing sections” there shall be substituted the words “section 5 or 6 of this Act”;
- (b) in subsection (2) for the words “the last three foregoing sections” there shall be substituted the words “sections 4, 5 and 6 of this Act”; and
- (c) at the end of the section there shall be inserted the following subsections:—

“ (4) In reckoning for the purposes of sections 5A and 6A of this Act any period of forty days, no account shall be taken of any time during which the Scottish Assembly is adjourned for more than four days.

(5) The provisions of section 5A of this Act shall not apply to any statutory instrument which is an order subject to special parliamentary procedure and the provisions of that section and section 4 of this Act shall not apply to any other instrument which, by virtue of section 22 of the Scotland Act 1978 is required to be laid before the Scottish Assembly for any period before it comes into operation.”

8. In section 8(1)(b) after the words “House of Commons” there shall be inserted the words “or by the Scottish Assembly”.

1947 c. 39.

THE STATISTICS OF TRADE ACT 1947

9.—(1) In section 1(1) of the Statistics of Trade Act 1947 the reference to the discharge by government departments of their functions shall include a reference to the discharge by a Scottish Secretary of his functions.

(2) Section 9(1) of that Act shall apply in relation to a Scottish Secretary as it applies in relation to a government department (or the Minister in charge of a government department).

1949 c. 74.

THE COAST PROTECTION ACT 1949

10.—(1) The Coast Protection Act 1949 shall be amended as follows.

(2) In subsections (4) and (5) of sections 5 and 8 there shall be inserted, in each case at the beginning, the words “Subject to subsection (5A) below”.

(3) After subsection (5) of each of those sections there shall be inserted the following subsection:—

“(5A) Where—

- (a) notice of objection has been served under subsection (3) above by an excepted statutory undertaker (within the meaning of section 81(1) of the Scotland Act 1978) and not withdrawn; and

(b) the coast protection authority proposing to carry out the work concerned is in Scotland ;

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the powers of the Minister under subsections (4) and (5) above shall be exercised by a Scottish Secretary with the consent of a Minister of the Crown.”.

(4) In subsection (4) of section 17 there shall be inserted at the beginning the words “ Subject to subsection (4A) below”.

(5) After subsection (4) of that section there shall be inserted the following subsection:—

“(4A) Where—

(a) the undertakers are an excepted statutory undertaker (within the meaning of section 81(1) of the Scotland Act 1978); and

(b) notice of objection has been served under subsection (3) above by a coast protection authority in Scotland and has not been withdrawn ;

a Scottish Secretary, after affording to the undertakers and to the authority an opportunity of being heard by a person appointed for the purpose by him with the approval of the appropriate Minister, shall, subject to the consent of that Minister, determine the objection.”.

THE DEFAMATION ACT 1952

1952 c. 66.

11. In section 10 of the Defamation Act 1952 after the words “ local government authority ” there shall be inserted the words “ to the Scottish Assembly ”.

12. After paragraph 1 of the Schedule to that Act there shall be inserted the following paragraph:—

“ 1A. A fair and accurate report of any proceedings in public of the Scottish Assembly. ”.

13. In paragraph 13 of that Schedule—

(a) after the words “ Act of the Parliament of Northern Ireland ” there shall be inserted the words “ and a Scottish Assembly Act ”, and

(b) at the appropriate place there shall be inserted the words “ “ Scottish Assembly ’ includes any committee of the Assembly and any sub-committee of such a committee. ”.

THE DEFAMATION ACT (NORTHERN IRELAND) 1955

1955 c. 11
(N.I.).

14. In section 10(1) of the Defamation Act (Northern Ireland) 1955 after the words “ local authority ” there shall be inserted the words “ to the Scottish Assembly ”.

15. After paragraph 1 of the Schedule to that Act there shall be inserted the following paragraph:—

“ 1A. A fair and accurate report of any proceedings in public of the Scottish Assembly ”.

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16. In paragraph 13 of that Schedule—

- (a) after the words “Act of the Parliament of the United Kingdom” there shall be inserted the words “and a Scottish Assembly Act”, and
- (b) at the appropriate place there shall be inserted the words “‘Scottish Assembly’ includes any committee of the Assembly and any sub-committee of such a committee.”.

1958 c. 69.

THE OPENCAST COAL ACT 1958

17. After section 2(1) of the Opencast Coal Act 1958 there shall be inserted the following subsection:—

“(1A) The Minister shall not give a direction under this section in relation to land in Scotland unless—

- (a) he has, at least twenty-eight days previously, given notice of the proposed direction to a Scottish Secretary, or
- (b) a Scottish Secretary has informed him of his agreement to the giving of the proposed direction or to the giving of directions of a class that includes the proposed direction.”.

1962 c. 58.

THE PIPE-LINES ACT 1962

18. After section 5(1) of the Pipe-lines Act 1962 there shall be inserted the following subsection:—

“(1A) The Minister shall not give a direction under this section in relation to land in Scotland unless—

- (a) he has, at least twenty-eight days previously, given notice of the proposed direction to a Scottish Secretary, or
- (b) a Scottish Secretary has informed him of his agreement to the giving of the proposed direction or to the giving of directions of a class that includes the proposed direction.”.

1964 c. 40.

THE HARBOURS ACT 1964

19.—(1) In section 57(1) of the Harbours Act 1964 for the definition of “marine work” there shall be substituted the following:—

“‘marine work’ means a harbour or boatslip in Scotland (other than a harbour or boatslip which is vested in any of the bodies specified in Schedule 3 to the Harbours, Piers and Ferries (Scotland) Act 1937 or which is vested in any of the Boards other than the Scottish Transport Group or a subsidiary, within the meaning of section 154 of the Companies Act 1948, of that Group)—

- (a) which a Scottish Secretary, with the concurrence of the Secretary of State, determines is principally used or required for the fishing industry, or
- (b) which, being situated in one of the areas mentioned in paragraph 19(2) of Schedule 16 to the Scotland Act 1978, a Scottish Secretary, with the concurrence of

the Secretary of State, determines is principally used or required for the fishing or agricultural industries or the maintenance of communications between any place in those areas and any other place in Scotland.”

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(2) The areas referred to in the definition set out in sub-paragraph (1) above are, subject to sub-paragraph (3) below, the Highland Region, the islands areas of Orkney, Shetland and the Western Isles and the district of Argyll and Bute other than the former burgh of Rothesay and the former district of Bute.

(3) A Scottish Secretary may by order made by statutory instrument vary the description of any area in sub-paragraph (2) above or delete from that sub-paragraph any area for the time being specified in it or add any area to those so specified.

(4) An order made under sub-paragraph (3) above shall be subject to annulment in pursuance of a resolution of the Scottish Assembly.

THE HIGHLANDS AND ISLANDS DEVELOPMENT (SCOTLAND) ACT 1965 1965 c. 46.

20. In section 3 of the Highlands and Islands Development (Scotland) Act 1965:—

(a) in subsections (1)(b) and (d) and (2) for references to the Secretary of State there shall be substituted references to a Scottish Secretary;

(b) for paragraph (e) of subsection (1) there shall be substituted the following paragraph:—

“(e) as soon as possible after the end of each calendar year to make a report as respects that year on the exercise and performance of their functions under this Act—

(i) relating to economic development, to a Scottish Secretary and the Secretary of State,

(ii) relating to social development, to a Scottish Secretary;

each such report shall set out any directions given to the Board under section 2(1) of this Act and a summary of any proposals submitted to a Scottish Secretary under paragraph (b) of this subsection, and where he has refused to approve any such proposals, a summary of his reasons for so refusing but shall not disclose any such information as is referred to in section 12(1) of this Act without the consent referred to in that subsection.”;

(c) after subsection (3) there shall be inserted the following subsection:—

“(3A) Every report made to a Scottish Secretary under subsection (1)(e) of this section shall be laid by him before the Scottish Assembly.”.

THE NEW TOWNS ACT 1965

1965 c. 59.

21.—(1) Section 43 of the New Towns Act 1965 shall not apply in relation to any sums advanced to or borrowed by development corporations in Scotland after the coming into force of this paragraph.

SCH. 16 (2) A Scottish Secretary may by order impose a limit on the amount outstanding at any time in respect of the principal of any money so advanced to or borrowed by development corporations in Scotland; but no such order shall be made by a Scottish Secretary unless a draft of it has been laid before and approved by the Scottish Assembly.

1967 c. 13.

THE PARLIAMENTARY COMMISSIONER ACT 1967

22. In section 6(1)(b) of the Parliamentary Commissioner Act 1967 after the word "department" there shall be inserted the words "by a Scottish Secretary" and at the end there shall be added the words "or sums payable out of the Scottish Consolidated Fund".

23. In section 8(4) of that Act after the word "Cabinet" in the second place, there shall be inserted the words "or of any body performing the functions of a secretariat of the Scottish Executive", and after the words "Prime Minister" there shall be inserted the words "or, as the case may be, by the First Secretary."

24. At the end of section 11(4) of that Act there shall be added the words "and to a Scottish Secretary".

25. In section 12(1) of that Act for the definition of "enactment" there shall be substituted the following:—

"'enactment' includes an enactment of the Parliament of Northern Ireland, a Measure of the Northern Ireland Assembly, an Order in Council under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972 or paragraph 1 of Schedule 1 to the Northern Ireland Act 1974, a Scottish Assembly Act, and any instrument made by virtue of an enactment (as herein defined)."

1967 c. 43.

THE LEGAL AID (SCOTLAND) ACT 1967

26. In section 4(6) of the Legal Aid (Scotland) Act 1967, for the words "the Supplementary Benefits Commission, and the Commission" there shall be substituted the words "a Scottish Secretary and the Scottish Secretary".

1968 c. 16.

THE NEW TOWNS (SCOTLAND) ACT 1968

27. Section 47(4) of the New Towns (Scotland) Act 1968 shall have effect as if it provided for the appropriate Minister alone to determine the question whether land in Scotland of excepted statutory undertakers is operational land.

1968 c. 73.

THE TRANSPORT ACT 1968

28. In the Transport Act 1968 the following shall be omitted:—

- (a) in sections 7(2) and (7) and 8(2) and (5) the words from "and in" to the end;
- (b) in sections 8(2) (where they first occur) and 29(5)(b), the words "and the Secretary of State acting jointly"; and
- (c) in section 135, subsection (7).

THE DEVELOPMENT OF TOURISM ACT 1969

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29.—(1) In section 1 of the Development of Tourism Act 1969, in paragraph (a) of subsection (2), for the word “five” there shall be substituted the word “two” and the word “and”, where it last occurs, shall be omitted. ^{1969 c. 51.}

(2) After paragraph (b) of that subsection there shall be inserted the following paragraphs:—

- “(c) a member of the English Tourist Board, appointed by the Secretary of State;
- (d) a member of the Scottish Tourist Board, appointed by a Scottish Secretary; and
- (e) a member of the Wales Tourist Board, appointed by the person who, at the time of the appointment, is responsible for appointing members of that Board.”.

30. Notwithstanding the provisions of subsection (3) of section 2 of that Act, the Scottish Tourist Board shall have power, by virtue of subsection (2) of that section, to carry on activities outside the United Kingdom for the purpose of encouraging people to visit Scotland.

31. In section 3 of that Act—

- (a) subsection (1) shall have effect as if the reference to the Scottish Tourist Board were omitted and as if the reference to Great Britain did not include a reference to Scotland;
- (b) after subsection (1) there shall be inserted the following subsection:—

“(1A) The Scottish Tourist Board may prepare a scheme providing for the giving of financial assistance by it for the carrying out of projects of such classes as may be specified in the scheme, being projects which in the opinion of the Board will provide or improve tourist amenities and facilities in Scotland.”;

- (c) in subsection (2) after the words “the Board of Trade” there shall be inserted the words “and any scheme prepared under subsection (1A) of this section shall be submitted to a Scottish Secretary”;
- (d) in subsection (6) the words “of the Board of Trade” shall be omitted and after the word “section”, in the third place where it occurs, there shall be inserted the words “relating to a scheme prepared by the British Tourist Authority”.

32. In sections 17(1) and 18(1) of that Act the words “in Great Britain” shall be omitted.

THE BANKING AND FINANCIAL DEALINGS ACT 1971

1971 c. 80.

33. After section 1(2) of the Banking and Financial Dealings Act 1971 there shall be inserted the following subsection:—

“(2A) Subsection (2) above does not apply to Scotland, but if it appears to a Scottish Secretary that, in the special circumstances of any year, it is inexpedient that a day specified

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in Schedule 1 to this Act should be a bank holiday in Scotland, the Scottish Secretary may by order declare that that day shall not in that year be a bank holiday and appoint another day in place of it; and the day appointed by the order shall, in that year, be a bank holiday under this Act instead of the day specified in Schedule 1.”.

34. After section 1(3) of that Act there shall be inserted the following subsection:—

“(3A) A Scottish Secretary may from time to time by order appoint a special day to be a bank holiday in Scotland under this Act.”.

1972 c. 5.

THE LOCAL EMPLOYMENT ACT 1972

35.—(1) In relation to a development area or intermediate area in Scotland, subsection (1) of section 7 of the Local Employment Act 1972 shall have effect as if—

- (a) for the words “the Minister in charge of any Government department” there were substituted the words “a Minister of the Crown”; and
- (b) the words “for which the department is responsible” were omitted.

(2) After that subsection there shall be inserted—

“(1B) Where it appears to a Scottish Secretary that adequate provision has not been made for the needs of any development area or intermediate area in Scotland in respect of a basic service for which he is responsible, and that it is expedient with a view to contributing to the development of industry in that area that the service should be improved, he may make grants or loans towards the cost of improving it to such persons and in such manner as appear to him appropriate.”

(3) In subsection (3) of that section before the words “to make” there shall be inserted the words “or of a Scottish Secretary”.

1972 c. 6.

THE SUMMER TIME ACT 1972

36.—(1) In sections 2(1)(b), 4(1) and 5(1) and (2) of the Summer Time Act 1972, for the words “Great Britain” there shall be substituted, in each case, the words “England and Wales”.

(2) After section 2 of that Act there shall be inserted the following section:—

“Modification
for Scotland.

2A.—Section 2 of this Act shall have effect in relation to Scotland, as if for references in subsections (1) and (2) to an Order in Council there were substituted references to an order of a Scottish Secretary, as if for the reference in subsection (1)(b) to England and Wales there were substituted a reference to Scotland and as if for

subsection (3) there were substituted the following subsection:— Sch. 16

‘(3) No order under this section shall be made unless a draft thereof has been laid before and approved by resolution of the Scottish Assembly.’”.

THE FINANCE ACT 1972

1972 c. 41.

37. In section 19(4) of the Finance Act 1972 after the words “Minister of the Crown” there shall be inserted the words “or of a Scottish Secretary”.

THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

1972 c. 52.

38. After section 37(1) of the Town and Country Planning (Scotland) Act 1972 there shall be inserted the following subsection:—

“(1A) A government department shall not give a direction under this section in respect of development in Scotland unless—

- (a) the department has, at least 28 days previously, given notice of the proposed direction to a Scottish Secretary, or
- (b) a Scottish Secretary has informed the department of his agreement to the giving of the proposed direction or to the giving of directions of a class that includes the proposed direction.”.

39. After section 241 of that Act there shall be inserted the following section:—

“Contributions by Scottish Secretaries towards compensation paid by local authorities. 241A. Where compensation is payable by a local authority under this Act in consequence of any such decision or order as is mentioned in section 241 of this Act and the decision or order was given or made wholly or partly in the interest of a service provided by a Scottish Secretary, he may pay a contribution to that authority.”.

THE NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1972

1972 c. 58.

40.—(1) In section 42(3) of the National Health Service (Scotland) Act 1972 for the words from “in consequence” to “Parliament” there shall be substituted the words “if the Scottish Assembly resolves that the Secretary of State be requested to recommend his removal to Her Majesty”.

(2) In section 43(1) of that Act for the reference to the House of Commons there shall be substituted a reference to the Scottish Assembly.

(3) In section 46(1) of that Act for paragraph (b) there shall be substituted the following paragraph:—

“(b) any other authority or body whose members are appointed by Her Majesty or any Minister of the Crown or government department or Scottish Secretary or whose revenues

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(4) In paragraphs (a) and (b) of section 55(1) of that Act for the words “the Secretary of State” there shall be substituted the words “a Scottish Secretary”.

1972 c. 68.

THE EUROPEAN COMMUNITIES ACT 1972

41. The references in subsection (2) of section 2 of the European Communities Act 1972 to a Minister of the Crown or government department and to a statutory power or duty shall include references to a Scottish Secretary and to a power or duty arising under or by virtue of a Scottish Assembly Act; and “enactment” in subsection (4) of that section shall include a Scottish Assembly Act and any instrument made by virtue of a Scottish Assembly Act.

42. In relation to a statutory instrument made in the exercise of a power conferred on a Scottish Secretary paragraph 2(2) of Schedule 2 to that Act shall have effect as if the references to each House of Parliament and either House were references to the Scottish Assembly.

1973 c. 54.

THE NATURE CONSERVANCY COUNCIL ACT 1973

43. In section 1(1)(a) of the Nature Conservancy Council Act 1973, after sub-paragraph (iv) there shall be inserted the following sub-paragraph:—

“(v) the provision of advice for any Scottish Secretary for the purposes of any functions exercised by him in relation to the conservation of features of geological or physiographical interest and of flora and fauna; and”.

1974 c. 37.

THE HEALTH AND SAFETY AT WORK ETC. ACT 1974

44. In relation to regulations made by a Scottish Secretary section 14(4) of the Health and Safety at Work etc. Act 1974 shall have effect as if in paragraph (c) for the reference to a Minister of the Crown there were substituted a reference to a Scottish Secretary and as if it required the regulations to include provision for such an inquiry as is mentioned therein to be held otherwise than in public where or to the extent that a Minister of the Crown so directs.

45. In section 44(1) of that Act at the end there shall be added the words “or, where a licence is required under regulations made by a Scottish Secretary, to a Scottish Secretary”.

46. In section 48(4) of that Act after the words “this Part” there shall be inserted the words “or of regulations made under this Part by a Scottish Secretary”.

47. Any modification made by an Order in Council under section 84(3) of that Act may include provisions conferring functions on a Scottish Secretary.

THE FINANCE ACT 1975

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48. In paragraph 12(1) of Schedule 6 to the Finance Act 1975, after the entry beginning "Any Government department" there shall be inserted the words "A Scottish Secretary". 1975 c. 7.

THE HOUSE OF COMMONS DISQUALIFICATION ACT 1975

1975 c. 24.

49. In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 the following shall be inserted at the appropriate place:—

"Scottish Comptroller and Auditor General".

THE NORTHERN IRELAND ASSEMBLY DISQUALIFICATION ACT 1975

1975 c. 25.

50. In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 the following shall be inserted at the appropriate place:—

"Scottish Comptroller and Auditor General".

THE SCOTTISH DEVELOPMENT AGENCY ACT 1975

1975 c. 69.

51.—(1) In section 18 of the Scottish Development Agency Act 1975 for the words "the Secretary of State", in both places, there shall be substituted the words "a Scottish Secretary".

(2) In Schedule 2 to that Act, in paragraph 9—

(a) for sub-paragraph (1) there shall be substituted the following sub-paragraph:—

"(1) It shall be the duty of the Agency, as soon as possible after the end of each financial year, to make a report dealing with the operations of the Agency during that year—

(a) in pursuance of section 2(2)(a) to (c) of this Act, to a Scottish Secretary and the Secretary of State;

(b) in pursuance of section 2(2)(f) or 5 of this Act, to the Secretary of State; and

(c) in pursuance of any other provision of this Act, to a Scottish Secretary."

(b) after sub-paragraph (2) there shall be inserted the following sub-paragraph:—

"(2A) It shall be the duty of a Scottish Secretary to lay before the Scottish Assembly a copy of each report received by him under this paragraph."

(c) in sub-paragraph (3) for the words from "the Secretary of State" to the end there shall be substituted the words "—

(a) by the Secretary of State, in the case of a direction given by him,

(b) by a Scottish Secretary, in the case of a direction given by him,

and the said subsection (2) shall not apply to the direction."

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1976 c. 66.

THE LICENSING (SCOTLAND) ACT 1976

52. In section 138(1) of the Licensing (Scotland) Act 1976, after paragraph (a) there shall be inserted the following paragraph:—

“(aa) trafficking in alcoholic liquor on premises used for the purposes of the Scottish Assembly while they are so used or, under the authority of the Assembly, at other times.”.

1977 c. 37.

THE PATENTS ACT 1977

53. Sections 55 to 59 of the Patents Act 1977 shall have effect as if references to a government department included references to a Scottish Secretary; and, in relation to any use of an invention by a Scottish Secretary or by any person authorised in writing by a Scottish Secretary, section 55(4) of that Act shall have effect as if the words “with the approval of the Treasury” were omitted.

1978 c. 50.

THE INNER URBAN AREAS ACT 1978

54.—(1) Section 2(4)(b) of the Inner Urban Areas Act 1978 (power of Secretary of State to fix rate of interest for loan under section 2) shall have effect, in any case where—

(a) the loan is made by a designated district authority in Scotland; and

(b) a Scottish Secretary is satisfied that it is not for the acquisition, construction or alteration of a building intended for use for industrial or commercial purposes;

as if the reference to the Secretary of State were a reference to a Scottish Secretary.

(2) Paragraphs 1(3)(b) and 3(3)(b) of the Schedule to that Act shall have effect, in relation to any area within Scotland, as if the reference to the Secretary of State included a reference to a Scottish Secretary.

Section 85.

SCHEDULE 17

REFERENDUM

Date of referendum

1. The referendum shall be held on such day, not less than six weeks after the making of the Order, as Her Majesty may by Order in Council appoint.

Persons eligible to vote

2. Those entitled to vote in the referendum shall be—

(a) the persons who, at the date of the referendum, would be entitled to vote as electors at a parliamentary election in any constituency in Scotland; and

(b) peers who at that date would be entitled to vote as electors at a local government election in any electoral area in Scotland.

Question to be asked and form of ballot paper

3. The question to be asked in the referendum and the front of the ballot paper to be used for that purpose shall be in the form set out in the Appendix to this Schedule.

Conduct of referendum

SCH. 17

4. Subject to the following provisions of this Schedule, Her Majesty may by Order in Council make provision as to the conduct of the referendum and apply in relation to it, with such modifications or exceptions as may be specified in the Order, any provision of the Representation of the People Acts, any provision of the enactments relating to returning officers and any provision made under any enactment.

5. An Order in Council under this Schedule shall not charge any sum on the Consolidated Fund but may provide for the expenses of the returning officers to be defrayed as administrative expenses of the Secretary of State.

6. The functions which, in relation to a parliamentary election, are conferred on returning officers by any provision applied by an Order in Council under this Schedule shall in relation to the referendum be discharged by the persons who, under section 6 of the Local Government (Scotland) Act 1973 are, or may discharge 1973 c. 65. the functions of, returning officers, at elections of councillors for regional or islands councils.

7. The Secretary of State shall appoint a Chief Counting Officer, who shall appoint a counting officer for each region and islands area, and each counting officer shall conduct the counting of votes cast in the area for which he is appointed in accordance with any directions given to him by the Chief Counting Officer.

8. The counting officer for each area shall certify the number of ballot papers counted by him and the number of respective answers given by valid votes ; and the Chief Counting Officer shall certify the total of the ballot papers and the respective answers for the whole of Scotland.

9. Every regional and islands council shall place the services of its officers at the disposal of the counting officer for its area ; and if the council of any region or the counting officer for any region so requests, the council of any district situated in that region shall place the services of its officers at the disposal of the counting officer for that region.

Exclusion of legal proceedings

10. No court shall entertain any proceedings for questioning the numbers, as certified by the Chief Counting Officer or any counting officer, of any ballot papers counted or answers given in the referendum.

Orders in Council

11. No recommendation shall be made to Her Majesty in Council to make an Order under this Schedule until a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.

SCH. 17

APPENDIX**FORM OF BALLOT PAPER**

Parliament has decided to consult the electorate in Scotland on the question whether the Scotland Act 1978 should be put into effect.

**DO YOU WANT THE PROVISIONS OF THE SCOTLAND
ACT 1978 TO BE PUT INTO EFFECT?**

Put a cross (X) in the appropriate box.

YES	
NO	

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