



# Scotland Act 2016

## 2016 CHAPTER 11

### PART 7

#### GENERAL

#### **68 Subordinate legislation under functions exercisable within devolved competence**

- (1) Schedule 2 to the Interpretation and Legislative Reform (Scotland) Act 2010 (“the 2010 Act”) (Scottish statutory instruments: transitional and consequential provision) has effect in relation to any function so far as exercisable within devolved competence by virtue of a provision of section 3, 22, 23, 24, 25, 26, 27, 31 or 50, as if references to a “pre-commencement enactment” were to—
  - (a) an Act passed before or in the same session as the relevant date,
  - (b) any other enactment passed or made before the relevant date.
- (2) Schedule 3 to the 2010 Act (modification of pre-commencement enactments) has effect in relation to devolved subordinate legislation, where the function of making it is exercisable within devolved competence by virtue of a provision of section 3, 22, 23, 24, 25, 26, 27, 31 or 50, as if references to a “pre-commencement enactment” were to—
  - (a) an Act passed before or in the same session as the relevant date,
  - (b) any other enactment passed or made before the relevant date.
- (3) In this section—
  - (a) “devolved subordinate legislation” and “enactment” have the same meaning as in Part 2 of the 2010 Act;
  - (b) references to the exercise of a function being within devolved competence are to be read in accordance with section 54 of the Scotland Act 1998;
  - (c) in relation to a provision of section 3, 22, 23, 24, 25, 26, 27, 31 or 50, the relevant date for any purpose is the date on which the provision comes into force for that purpose.

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## **69 Transfers of property etc to the Scottish Ministers**

In section 60 of the Scotland Act 1998 (transfers to the Scottish Ministers), in subsection (3), after “this Act” insert “ or the Scotland Act 2016 ”.

## **70 Transitional provision**

- (1) Nothing in a provision of this Act affects the validity of anything done by or in relation to a Minister of the Crown before the provision comes into force.
- (2) Anything (including legal proceedings) which is in the process of being done by or in relation to a Minister of the Crown at the time when a provision of this Act comes into force may, so far as it relates to a function transferred to the Scottish Ministers by virtue of that provision, be continued by or in relation to the Scottish Ministers.
- (3) Anything done (or which has effect as if done) by or in relation to a Minister of the Crown—
  - (a) which is in force when a provision of this Act comes into force, and
  - (b) which was done for the purposes of or in connection with a function transferred by virtue of that provision,
 has effect as if done by or in relation to the Scottish Ministers, so far as that is required for continuing its effect.
- (4) This section applies subject to any provision made by regulations under section 71.
- (5) In this section “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

## **71 Power to make consequential, transitional and saving provision**

- (1) The Secretary of State may by regulations make—
  - (a) such consequential provision in connection with any provision of Part 1, 3, 4, 5 or 6, or
  - (b) such transitional or saving provision in connection with the coming into force of any provision of Part 1, 3, 4, 5 or 6,
 as the Secretary of State considers appropriate.
- (2) Regulations under this section may amend, repeal, revoke or otherwise modify any of the following—
  - (a) an enactment or an instrument made under an enactment;
  - (b) a prerogative instrument;
  - (c) any other instrument or document.
- (3) For the purposes of making provision in connection with, or with the coming into force of, a provision of Part 3, subsection (2) applies to an enactment, instrument or document whenever passed or made.
- (4) Otherwise, subsection (2) applies to—
  - (a) an Act of Parliament passed before or in the same session as this Act;
  - (b) an Act of the Scottish Parliament passed, or an instrument or document made, before the end of the session in which this Act is passed.
- (5) Regulations under this section may make—

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- (a) different provision for different purposes or cases;
  - (b) provision generally or for specific cases;
  - (c) provision subject to exceptions;
  - (d) provision for the delegation of functions;
  - (e) transitional or saving provision.
- (6) Regulations under this section must be made by statutory instrument.
- (7) A statutory instrument containing regulations under this section which includes provision amending or repealing any provision of primary legislation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (8) Any other statutory instrument containing regulations under this section, if made without a draft having been approved by a resolution of each House of Parliament, is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this section—
- “enactment”—
    - (a) includes an Act of the Scottish Parliament, and
    - (b) for the purposes of making provision in connection with, or with the coming into force of, a provision of Part 3, also includes a Measure or Act of the National Assembly for Wales and Northern Ireland legislation;
  - “prerogative instrument” means an Order in Council, warrant, charter or other instrument made under the prerogative;
  - “primary legislation” means—
    - (a) an Act of Parliament,
    - (b) an Act of the Scottish Parliament,
    - (c) a Measure or Act of the National Assembly for Wales, and
    - (d) Northern Ireland legislation.
- (10) In Schedule 4 to the Scotland Act 1998 (enactments etc protected from modification), in paragraph 14, after “section 105” insert “ or under section 71 of the Scotland Act 2016 ”.

## 72 Commencement

- (1) The following come into force on the day on which this Act is passed—
- (a) section 1;
  - (b) section 36(1), (5), (6) and (9) to (12);
  - (c) this Part.
- (2) The other provisions of section 36 come into force on the date specified under section 90B(20) of the Scotland Act 1998 (transfer date for Crown Estate scheme).
- (3) Part 2 comes into force at the end of 2 months beginning with the day on which this Act is passed, subject to the provision made by that Part.
- (4) The following provisions come into force on such day as the Secretary of State may appoint by regulations made by statutory instrument—
- (a) sections 3 to 12;

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- (b) Part 3;
  - (c) sections 47 to 49;
  - (d) sections 58 to 60;
  - (e) section 62;
  - (f) section 65.
- (5) Sections 20, 21 and 67 come into force on such day as the Treasury may appoint by regulations made by statutory instrument.
- (6) Regulations under subsection (4) or (5) may appoint different days for different purposes.
- (7) The other provisions of this Act come into force at the end of 2 months beginning with the day on which this Act is passed.

### **73 Short title**

This Act may be cited as the Scotland Act 2016.

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/455, reg. 3 by [S.I. 2019/1438 reg. 2](#)