

Status: Point in time view as at 12/03/2020.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: Head B – Home Affairs. (See end of Document for details)

SCHEDULES

SCHEDULE 5

RESERVED MATTERS

PART II

SPECIFIC RESERVATIONS

Head B – Home Affairs

B1. Misuse of drugs

Section B1.

The subject-matter of—

- (a) the Misuse of Drugs Act 1971,
- (b) sections 12 to 14 of the Criminal Justice (International Co-operation) Act 1990 (substances useful for manufacture of controlled drugs), and
- (c) Part V of the Criminal Law (Consolidation) (Scotland) Act 1995 (drug trafficking) and, so far as relating to drug trafficking, the Proceeds of Crime (Scotland) Act 1995.

B2. Data protection

Section B2.

The subject-matter of—

- (a) the Data Protection Act 1998, and
- (b) Council Directive [95/46/EC](#) (protection of individuals with regard to the processing of personal data and on the free movement of such data).

Interpretation

If any provision of the Data Protection Act 1998 is not in force on the principal appointed day, it is to be treated for the purposes of this reservation as if it were.

B3. Elections

[^{F1}(A) *Elections for membership of the House of Commons and the European Parliament*]

Section B3.

Elections for membership of the House of Commons [^{F2}and the European Parliament] , including the subject-matter of—

- (a) [^{F3}the European Parliamentary Elections Act 2002.]
- (b) the Representation of the People Act 1983 and the Representation of the People Act 1985, and
- (c) the Parliamentary Constituencies Act 1986,

so far as those enactments apply, or may be applied, in respect of such membership.

^{F4}
...

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[^{F5}(B) Elections for membership of the Parliament and local government elections in Scotland

The subject-matter of sections 2(2A) and 12A of this Act.

The subject-matter of section 43(1AA) of the Representation of the People Act 1983.

The combination of—

- (a) polls at elections or referendums that are outside the legislative competence of the Parliament with polls at—
 - (i) elections for membership of the Parliament, or
 - (ii) local government elections in Scotland, and
- (b) polls at ordinary general elections for membership of the Parliament with polls at ordinary local government elections in Scotland.

Any digital service provided by a Minister of the Crown for the registration of electors.

The subject matter of—

- (a) Parts 5 and 6 of the Political Parties, Elections and Referendums Act 2000 (expenditure in connection with elections) where a limit applies to expenditure in relation to a period determined by reference both to the date of the poll for an election within the legislative competence of the Parliament and to the date of the poll at an election for membership of the House of Commons or the European Parliament, and
- (b) sections 145 to 148 and 150 to 154 of that Act (enforcement) as they apply for the purposes of Part 5 or 6, so far as the subject-matter of that Part is reserved by paragraph (a).

The subject-matter of the following sections of the Political Parties, Elections and Referendums Act 2000 in relation to elections for membership of the Parliament—

- (a) section 1, except in relation to—
 - (i) financing the Electoral Commission,
 - (ii) preparation, laying and publication by the Commission of reports about the performance of its functions, and
 - (iii) provision by the Commission of copies of regulations made by it or notice of the alteration or revocation of such regulations,
- (b) sections 2 to 4, 6(1)(e) and (f) (and (g) to the extent that it relates to the law mentioned in those paragraphs),
- (c) sections 12, 21 to 33, 35 to 37, 39 to 57, 58 to 67, 69, 71, 71F, 71G, 71H to 71Y and 140A,
- (d) section 149 (except in relation to the register kept under section 89),
- (e) sections 157 and 159 to 163, and
- (f) sections 145 to 148 and 150 to 154 as they apply for the purposes of a provision mentioned in paragraphs (a) to (e), so far as the subject matter of that provision is reserved by those paragraphs.]

[^{F6}Exceptions

[^{F7}Exception 1]

The reduction of the minimum voting age to 16 at elections to the Parliament and local government elections.

[^{F8}Exception 2]

The registration of electors, in order to give effect to provision reducing the minimum voting age at those elections to 16, including—

- (a) disregarding alterations in a register of electors,

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(b) the content of a register and the effect of registration, and
(c) supplying or otherwise dealing with a register,
but not including the use of the digital service for applications for registration or for verifying information contained in applications for registration.

[^{F9}Exception 3

The day of the poll at the first ordinary general election for membership of the Parliament after 2016.

That day must not be the same as the day of the poll at—

- (a) a parliamentary general election, other than an early parliamentary general election,
- (b) a European parliamentary general election, or
- (c) an ordinary local election.

If under section 3(3) the ordinary general election that would have been the first after 2016 is not held, this exception does not apply to any later election.]

[^{F10}Interpretation

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

^{F11} ...

^{F11} ...

[^{F12}Paragraph 5(1) of Part 3 of this Schedule does not apply to the subject-matter of the Political Parties, Elections and Referendums Act 2000; and references to the subject-matter of that Act are to be read as at the day on which the Scotland Act 2016 received Royal Assent.]

Textual Amendments

- F1** Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 3(2)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F2** Words in Sch. 5 Pt. II s. B3 substituted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 3(3)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F3** Sch. 5 Pt. II Section B3: para. (a) substituted (24.10.2002) by [European Parliamentary Elections Act 2002 \(c. 24\)](#), **s. 15** {Sch. 3 para. 7(3)}
- F4** Words in Sch. 5 Pt. II s. B3 omitted (18.5.2017) by virtue of [Scotland Act 2016 \(c. 11\)](#), **ss. 3(4)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F5** Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), **ss. 3(4)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), arts. 2, **4(2)**
- F7** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5\) Order 2015 \(S.I. 2015/1764\)](#), arts. 1(2), **3(2)(a)**
- F8** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5\) Order 2015 \(S.I. 2015/1764\)](#), arts. 1(2), **3(2)(b)**
- F9** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5\) Order 2015 \(S.I. 2015/1764\)](#), arts. 1(2), **3(2)(c)**
- F10** Sch. 5 Pt. II Section B3: words added (17.12.2004) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2004 \(S.I. 2004/3329\)](#), arts. 1(1), **2**

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- F11** Words in Sch. 5 Pt. II s. B3 omitted (18.5.2017) by virtue of Scotland Act 2016 (c. 11), **ss. 3(5)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F12** Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by Scotland Act 2016 (c. 11), **ss. 3(5)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)

Textual Amendments

- F1** Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by Scotland Act 2016 (c. 11), **ss. 3(2)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F2** Words in Sch. 5 Pt. II s. B3 substituted (18.5.2017) by Scotland Act 2016 (c. 11), **ss. 3(3)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F3** Sch. 5 Pt. II Section B3: para. (a) substituted (24.10.2002) by European Parliamentary Elections Act 2002 (c. 24), **s. 15** {Sch. 3 para. 7(3)}
- F4** Words in Sch. 5 Pt. II s. B3 omitted (18.5.2017) by virtue of Scotland Act 2016 (c. 11), **ss. 3(4)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F5** Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by Scotland Act 2016 (c. 11), **ss. 3(4)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by The Scotland Act 1998 (Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.) Order 2015 (S.I. 2015/692), **arts. 2**, **4(2)**
- F7** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by The Scotland Act 1998 (Modification of Schedules 4 and 5) Order 2015 (S.I. 2015/1764), **arts. 1(2)**, **3(2)(a)**
- F8** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by The Scotland Act 1998 (Modification of Schedules 4 and 5) Order 2015 (S.I. 2015/1764), **arts. 1(2)**, **3(2)(b)**
- F9** Words in Sch. 5 Pt. II Section B3 inserted (9.10.2015) by The Scotland Act 1998 (Modification of Schedules 4 and 5) Order 2015 (S.I. 2015/1764), **arts. 1(2)**, **3(2)(c)**
- F10** Sch. 5 Pt. II Section B3: words added (17.12.2004) by The Scotland Act 1998 (Modifications of Schedule 5) Order 2004 (S.I. 2004/3329), **arts. 1(1)**, **2**
- F11** Words in Sch. 5 Pt. II s. B3 omitted (18.5.2017) by virtue of Scotland Act 2016 (c. 11), **ss. 3(5)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)
- F12** Words in Sch. 5 Pt. II s. B3 inserted (18.5.2017) by Scotland Act 2016 (c. 11), **ss. 3(5)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(a)

B4. Firearms

Section B4.

The subject-matter of the Firearms Acts 1968 to 1997.

^{F13}Exception

The regulation of air weapons within the meaning given by section 1(3)(b) of the Firearms Act 1968 (which is subject to the following which remain powers of the Secretary of State—

- (a) the power to make rules under section 53 of that Act for the purposes of that provision (specially dangerous weapons requiring firearms certificate), and
- (b) the power to make an order under section 1(4) of the Firearms (Amendment) Act 1988 (specially dangerous weapons to be prohibited).]

Textual Amendments

- F13** Words in Sch. 5 Pt. II inserted (3.7.2012) by Scotland Act 2012 (c. 11), **ss. 10**, 44(5); S.I. 2012/1710, **art. 2(e)**

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Textual Amendments

- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), arts. 2, **4(2)**
- F13** Words in Sch. 5 Pt. II inserted (3.7.2012) by [Scotland Act 2012 \(c. 11\)](#), ss. **10**, 44(5); S.I. 2012/1710, art. 2(e)

B5. Entertainment

Section B5.

The subject-matter of—

- (a) the Video Recordings Act 1984, and
- (b) sections 1 to 3 and 5 to 16 of the Cinemas Act 1985 (control of exhibitions).

The classification of films for public exhibition by reference to their suitability for viewing by persons generally or above a particular age, with or without any advice as to the desirability of parental guidance.

Textual Amendments

- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), arts. 2, **4(2)**

B6. Immigration and nationality

Section B6.

Nationality; immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens; free movement of persons within the European Economic Area; issue of travel documents.

Textual Amendments

- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), arts. 2, **4(2)**

B7. Scientific procedures on live animals

Section B7.

The subject-matter of the Animals (Scientific Procedures) Act 1986.

Textual Amendments

- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#), arts. 2, **4(2)**

B8. National security, interception of communications, official secrets and terrorism

Section B8.

National security.

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The interception of communications; but not

- (a) ^{F14}the interception of any communication made to or by a person detained at a place of detention, if the communication-
 - (i) is a written communication and is intercepted there, or
 - (ii) is intercepted in the course of its transmission by means of a private telecommunication system running there,
- (b) the subject matter of Part III of the Police Act 1997 (authorisation to interfere with property etc.) or surveillance not involving interference with property.

The subject-matter of—

- (a) the Official Secrets Acts 1911 and 1920, and
- (b) the Official Secrets Act 1989, except so far as relating to any information, document or other article protected against disclosure by section 4(2) (crime) and not by any other provision of sections 1 to 4.

Special powers, and other special provisions, for dealing with terrorism.

^{F15} Interpretation

“Place of detention” means a prison, young offenders institution, remand centre or legalised police cell (as those expressions are defined for the purposes of the Prisons (Scotland) Act 1989 or a hospital (within the meaning of the ^{F16} given in section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003]; and “person detained”, in relation to a hospital, means a person detained there^{F17} under—

- (a) section 24, 25 or 70 of the Mental Health (Scotland) Act 1984;
- (b) Part 6 of the Criminal Procedure (Scotland) Act 1995;
- (c) the Mental Health (Care and Treatment) (Scotland) Act 2003; or
- (d) regulations under—
 - (i) subsection (3) of section 116B of the Army Act 1955;
 - (ii) subsection (3) of section 116B of the Air Force Act 1955; or
 - (iii) section 63B of the Naval Discipline Act 1957.]

^{F18} “ Private telecommunication system ” has the meaning given in ^{F19}section 261(14) of the Investigatory Powers Act 2016] .]

Textual Amendments

- F14** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by S.I. 1999/1749 , **arts. 1** , 4(1) ; S.I. 1998/3178 , **art. 3**
- F15** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by The Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999 (S.I. 1999/1749) , **arts. 1** , 4(1) ; S.I. 1998/3178 , **art. 3**
- F16** Sch. 5 Pt. II Section B8: words in definition of "Place of detention" substituted (23.3.2005) by The Scotland Act 1998 (Modifications of Schedule 5) (No. 2) Order 2005 (S.I. 2005/866) , **art. 2(2)**
- F17** Sch. 5 Pt. II Section B8: words in definition of "person detained" substituted (23.3.2005) by The Scotland Act 1998 (Modifications of Schedule 5) (No. 2) Order 2005 (S.I. 2005/866) , **art. 2(3)**
- F18** Sch. 5 Pt. II Section B8: definition of "Private telecommunication system" substituted (23.3.2005) by The Scotland Act 1998 (Modifications of Schedule 5) (No. 2) Order 2005 (S.I. 2005/866) , **art. 2(4)**
- F19** Words in Sch. 5 Pt. II s. B8 substituted (27.6.2018) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 10 para. 41** (with Sch. 9 paras. 7, 8, 10); S.I. 2018/652, reg. 12(g)(iii)

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Textual Amendments

- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#) , arts. 2 , **4(2)**
- F14** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [S.I. 1999/1749](#) , arts. 1 , 4(1) ; [S.I. 1998/3178](#) , art. 3
- F15** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [The Scotland Act 1998 \(Modifications of Schedules 4 and 5\) Order 1999 \(S.I. 1999/1749\)](#) , arts. 1 , 4(1) ; [S.I. 1998/3178](#) , art. 3
- F16** Sch. 5 Pt. II Section B8: words in definition of "Place of detention" substituted (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) \(No. 2\) Order 2005 \(S.I. 2005/866\)](#) , art. 2(2)
- F17** Sch. 5 Pt. II Section B8: words in definition of "person detained" substituted (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) \(No. 2\) Order 2005 \(S.I. 2005/866\)](#) , art. 2(3)
- F18** Sch. 5 Pt. II Section B8: definition of "Private telecommunication system" substituted (23.3.2005) by [The Scotland Act 1998 \(Modifications of Schedule 5\) \(No. 2\) Order 2005 \(S.I. 2005/866\)](#) , art. 2(4)
- F19** Words in Sch. 5 Pt. II s. B8 substituted (27.6.2018) by [Investigatory Powers Act 2016 \(c. 25\)](#) , s. 272(1), [Sch. 10 para. 41](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2018/652](#), reg. 12(g)(iii)

B9. Betting, gaming and lotteries

Section B9.

Betting, gaming and lotteries.

^{F20}Exception

In the case of a betting premises licence under the Gambling Act 2005, other than one in respect of a track, the number of gaming machines authorised for which the maximum charge for use is more than £10 (or whether such machines are authorised).]

Textual Amendments

- F20** Words in Sch. 5 Pt. II Section B9 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , ss. 52(1) , 72(7) (with s. 52(6))

Textual Amendments

- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#) , arts. 2 , **4(2)**
- F14** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [S.I. 1999/1749](#) , arts. 1 , 4(1) ; [S.I. 1998/3178](#) , art. 3
- F15** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [The Scotland Act 1998 \(Modifications of Schedules 4 and 5\) Order 1999 \(S.I. 1999/1749\)](#) , arts. 1 , 4(1) ; [S.I. 1998/3178](#) , art. 3
- F20** Words in Sch. 5 Pt. II Section B9 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , ss. 52(1) , 72(7) (with s. 52(6))

B10. Emergency powers

Section B10.

Emergency powers.

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Textual Amendments

- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#) , [arts. 2](#) , [4\(2\)](#)
- F14** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [S.I. 1999/1749](#) , [arts. 1](#) , 4(1) ; [S.I. 1998/3178](#) , [art. 3](#)
- F15** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [The Scotland Act 1998 \(Modifications of Schedules 4 and 5\) Order 1999 \(S.I. 1999/1749\)](#) , [arts. 1](#) , 4(1) ; [S.I. 1998/3178](#) , [art. 3](#)

B11. Extradition

Section B11.

Extradition.

Textual Amendments

- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#) , [arts. 2](#) , [4\(2\)](#)
- F14** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [S.I. 1999/1749](#) , [arts. 1](#) , 4(1) ; [S.I. 1998/3178](#) , [art. 3](#)
- F15** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [The Scotland Act 1998 \(Modifications of Schedules 4 and 5\) Order 1999 \(S.I. 1999/1749\)](#) , [arts. 1](#) , 4(1) ; [S.I. 1998/3178](#) , [art. 3](#)

B12. Lieutenancies

Section B12.

The subject-matter of the Lieutenancies Act 1997.

Textual Amendments

- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#) , [arts. 2](#) , [4\(2\)](#)
- F14** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [S.I. 1999/1749](#) , [arts. 1](#) , 4(1) ; [S.I. 1998/3178](#) , [art. 3](#)
- F15** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [The Scotland Act 1998 \(Modifications of Schedules 4 and 5\) Order 1999 \(S.I. 1999/1749\)](#) , [arts. 1](#) , 4(1) ; [S.I. 1998/3178](#) , [art. 3](#)

^{F21}*B13. Access to information*

Public access to information held by public bodies or holders of public offices (including government departments and persons acting on behalf of the Crown).

Exception

Information held by–

- (a) the Parliament,
- (b) any part of the Scottish Administration,
- (c) the Parliamentary corporation,
- (d) any Scottish public authority with mixed functions or no reserved functions,

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unless supplied by a Minister of the Crown or government department and held in confidence.]]]]

Textual Amendments

- F6** Words in Sch. 5 Pt. II Section B3 inserted (20.3.2015) by [The Scotland Act 1998 \(Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc.\) Order 2015 \(S.I. 2015/692\)](#) , arts. 2 , **4(2)**
- F14** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [S.I. 1999/1749](#) , arts. 1 , 4(1) ; [S.I. 1998/3178](#) , art. 3
- F15** Sch. 5 Pt. II Section B8: words inserted (1.7.1999) by [The Scotland Act 1998 \(Modifications of Schedules 4 and 5\) Order 1999 \(S.I. 1999/1749\)](#) , arts. 1 , 4(1) ; [S.I. 1998/3178](#) , art. 3
- F21** Sch. 5 Pt. II Section B13 inserted (1.7.1999) by [S.I. 1999/1749](#) , arts. 1 , 5 ; [S.I. 1998/3178](#) , art. 3

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