

*Status: Point in time view as at 25/01/2023.*

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## SCHEDULES

### SCHEDULE 3

#### MATTERS NOT SUBJECT TO INVESTIGATION

- 1 Action taken in matters certified by a Secretary of State or other Minister of the Crown to affect relations or dealings between the Government of the United Kingdom and any other Government or any international organisation of States or Governments.
- [<sup>F1</sup>2 (1) Action taken, in any country or territory outside the United Kingdom, by or on behalf of any officer representing or acting under the authority of Her Majesty in respect of the United Kingdom, or any other officer of the Government of the United Kingdom other than,
- (a) action which is taken by an officer (not being an honorary consular officer) in the exercise of a consular function on behalf of the Government of the United Kingdom;
  - (b) action which is taken by an officer within a control zone or a supplementary control zone; or
  - (c) action which is taken by a British sea-fishery officer.
- (2) In this paragraph—
- (a) “control zone” has the meaning given collectively by Schedule 1 to the Channel Tunnel (International Arrangements) Order 1993, Schedule 1 to the Channel Tunnel (Miscellaneous Provisions) Order 1994 and regulation 2 of the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003;
  - (b) “supplementary control zone” has the meaning given by Schedule 1 to the Channel Tunnel (International Arrangements) Order 1993;
  - (c) “British sea-fishery officer” has the meaning given by section 7 of the Sea Fisheries Act 1968.]

#### Textual Amendments

- F1** Sch. 3 para. 2 substituted (20.1.2006) by [The Parliamentary Commissioner \(No. 2\) Order 2005 \(S.I. 2005/3430\)](#), [art. 3](#)

- 3 Action taken in connection with the administration of the government of any country or territory outside the United Kingdom which forms part of Her Majesty’s dominions or in which Her Majesty has jurisdiction.

- [<sup>F2</sup>4 Action taken by the Secretary of State under the Extradition Act 2003.]

#### Textual Amendments

- F2** Sch. 3 para. 4 substituted (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), ss. 219, 221, [Sch. 3 para. 2](#); [S.I. 2003/3103](#), [art. 2](#) (subject to savings in Order)

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**Modifications etc. (not altering text)**

**C1** Para. 4 extended by [Fugitive Offenders Act 1967 \(c. 68, SIF 48\)](#), **s. 21(4)**

- 5 Action taken by or with the authority of the Secretary of State for the purposes of investigating crime or of protecting the security of the State, including action so taken with respect to passports.

**Modifications etc. (not altering text)**

**C2** Sch. 3 para. 5 extended (13.5.1999) by [S.I. 1999/1351](#), **art. 9(6)(a)**

- 6 The commencement or conduct of civil or criminal proceedings before any court of law in the United Kingdom, of [<sup>F3</sup>service law proceedings (as defined by section 324(5) of the Armed Forces Act 2006) (anywhere)] or the <sup>M1</sup>Air Force Act 1955, or of proceedings before any international court or tribunal.

**Textual Amendments**

**F3** Words in Sch. 3 para. 6 substituted (28.3.2009 for specified purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, **Sch. 16 para. 48(a)**; [S.I. 2009/812](#), **art. 3**; [S.I. 2009/1167](#), **art. 4**

**Modifications etc. (not altering text)**

**C3** Sch. 3 para. 6 modified (24.4.2009 for certain purposes and 31.10.2009 otherwise) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), **art. 205**, **Sch. 1 para. 9**

**Marginal Citations**

**M1** [1955 c. 19\(7:1\)](#).

- [<sup>F4</sup>6A Action taken by any person appointed by the Lord Chancellor as a member of the administrative staff of any court or tribunal, so far as that action is taken at the direction, or on the authority (whether express or implied), of any person acting in a judicial capacity or in his capacity as a member of the tribunal.]

**Textual Amendments**

**F4** Sch. 3 para. 6A inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), **s. 110(2)**

- [<sup>F5</sup>6B (1) Action taken by any member of the administrative staff of a relevant tribunal, so far as that action is taken at the direction, or on the authority (whether express or implied), of any person acting in his capacity as a member of the tribunal.

(2) In this paragraph, “relevant tribunal” has the meaning given by section 5(8) of this Act.]

**Textual Amendments**

**F5** Sch. 3 para. 6B inserted (5.9.1994) by [1994 c. 14](#), **ss. 1(2), 3(2)**

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#### Modifications etc. (not altering text)

C4 Sch. 3 para. 6B(2) extended (13.5.1999) by S.I. 1999/1351, [art. 9\(6\)\(b\)](#)

6C <sup>F6</sup> .....

#### Textual Amendments

F6 Sch. 3 para. 6C omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [art. 6](#), [Sch. 3 para. 25](#)

7 Any exercise of the prerogative of mercy or of the power of a Secretary of State to make a reference in respect of any person to <sup>F7</sup> . . . the High Court of Justiciary or the [<sup>F8</sup>Court Martial Appeal Court].

#### Textual Amendments

F7 Sch. 3 para. 7: words repealed (31.3.1997) by 1995 c. 35, s. 29(2), [Sch. 3](#); S.I. 1997/402, [arts. 3\(f\)](#), 4.

F8 Words in Sch. 3 para. 7 substituted (28.3.2009 for specified purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 48\(b\)](#); S.I. 2009/812, [art. 3](#); S.I. 2009/1167, [art. 4](#)

#### Modifications etc. (not altering text)

C5 Sch. 3 para. 7 extended (13.5.1999) by S.I. 1999/1351, [art. 9\(6\)\(a\)](#)

C6 Sch. 3 para. 7 continued (28.2.1999) by S.I. 1999/652, [art. 3\(2\)](#)

8 [<sup>F9</sup>(1)] Action taken on behalf of <sup>F10</sup>... the Secretary of State by [<sup>F11</sup>a local authority, [<sup>F12</sup>NHS England], [<sup>F13</sup>an integrated care board]]<sup>F14</sup>... <sup>F10</sup>[<sup>F15</sup>... <sup>F16</sup>..., [<sup>F17</sup>or] a Special Health Authority]<sup>F10</sup>....

[<sup>F18</sup>(2) For the purposes of this paragraph, action taken by [<sup>F19</sup>a local authority, [<sup>F12</sup>NHS England], [<sup>F20</sup>an integrated care board] or]<sup>F21</sup>... <sup>F22</sup>... , Special Health Authority <sup>F23</sup>... in the exercise of functions of the Secretary of State shall be regarded as action taken on his behalf.]

#### Textual Amendments

F9 Sch. 3 para. 8 renumbered (8.2.2000) as Sch. 3 para. 8(1) by S.I. 2000/90, [art. 3\(1\)](#), [Sch. 1 para. 5](#) (with [art. 2\(5\)](#))

F10 Words in Sch. 3 para. 8(1) omitted (13.2.2009) by virtue of [The Parliamentary Commissioner Order 2008 \(S.I. 2008/3115\)](#), [art. 3\(1\)](#)

F11 Words in Sch. 3 para. 8(1) inserted (1.10.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 8\(a\)\(i\)](#); S.I. 2012/1831, [art. 2\(2\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-10](#), Sch. para. 12)

F12 Words in Sch. 3 substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, [reg. 2\(a\)](#), Sch. (with [regs. 13, 29, 30](#))

F13 Words in Sch. 3 para. 8(1) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1, [Sch. 4 para. 5](#); S.I. 2022/734, [reg. 2\(a\)](#), Sch. (with [regs. 13, 29, 30](#))

F14 Words in Sch. 3 para. 8(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 8\(a\)\(ii\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-10](#), Sch. para. 12)

F15 Words in Sch. 3 para. 8 substituted (8.2.2000) by S.I. 2000/90, [art. 3\(1\)](#), [Sch. 1 para. 5\(a\)](#) (with [art. 2\(5\)](#))

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- F16** Words in Sch. 3 para. 8(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 8(a)(iii)**; S.I. 2013/160, art. 2(2) (with arts. 7-10, Sch. para. 12)
- F17** Word in Sch. 3 para. 8(1) inserted (13.2.2009) by The Parliamentary Commissioner Order 2008 (S.I. 2008/3115), **art. 3(2)**
- F18** Sch. 3 para. 8(2) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 5(b)** (with art. 2(5))
- F19** Words in Sch. 3 para. 8(2) inserted (1.10.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 8(b)(i)**; S.I. 2012/1831, art. 2(2); S.I. 2013/160, art. 2(2) (with arts. 7-10, Sch. para. 12)
- F20** Words in Sch. 3 para. 8(2) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1, **Sch. 4 para. 5**; S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 29, 30)
- F21** Words in Sch. 3 para. 8(2) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 8(b)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-10, Sch. para. 12)
- F22** Words in Sch. 3 para. 8(2) omitted (13.2.2009) by virtue of The Parliamentary Commissioner Order 2008 (S.I. 2008/3115), **art. 4**
- F23** Words in Sch. 3 para. 8(2) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 8(b)(iii)**; S.I. 2013/160, art. 2(2) (with arts. 7-10, Sch. para. 12)

**Modifications etc. (not altering text)**

- C7** Sch. 3 para. 8 extended (13.5.1999) by S.I. 1999/1351, **art. 9(6)(a)**

- 9 Action taken in matters relating to contractual or other commercial transactions, whether within the United Kingdom or elsewhere, being transactions of a government department or authority to which this Act applies or of any such authority or body as is mentioned in paragraph (a) or (b) of subsection (1) of section 6 of this Act and not being transactions for or relating to—
- (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;
  - (b) the disposal as surplus of land acquired compulsorily or in such circumstances as aforesaid.

**Modifications etc. (not altering text)**

- C8** Sch. 3 para. 9 extended (13.5.1999) by S.I. 1999/1351, **art. 9(6)(c)**

- 10<sup>[F24]</sup>(1) Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters, in relation to—
- (a) service in any of the armed forces of the Crown, including reserve and auxiliary and cadet forces;
  - (b) service in any office or employment under the Crown or under any authority <sup>[F25]</sup>to which this Act applies; or
  - (c) service in any office or employment, or under any contract for services, in respect of which power to take action, or to determine or approve the action to be taken, in such matters is vested in Her Majesty, any Minister of the Crown or any such authority as aforesaid.
- <sup>[F26]</sup>(1A) Sub-paragraph (1)(a) shall not apply to any action (not otherwise excluded from investigation by this Schedule) which is taken by the Secretary of State in connection with the provision of any allowance, grant, supplement or benefit under—
- (a) the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I.2006/606); or

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- (b) the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517).]

[<sup>F27</sup>(2) Sub-paragraph (1)(c) above shall not apply to any action (not otherwise excluded from investigation by this Schedule) which is taken by the Secretary of State in connection with:—

- (a) the provision of information relating to the terms and conditions of any employment covered by an agreement entered into by him under section 12(1) of the <sup>M2</sup>Overseas Development and Co-operation Act 1980 [<sup>F28</sup>or pursuant to the exercise of his powers under Part I of the International Development Act 2002] or
- (b) the provision of any allowance, grant or supplement or any benefit (other than those relating to superannuation) arising from the designation of any person in accordance with such an agreement.]

[<sup>F29</sup>(3) Sub-paragraph (1)(c) does not apply to any action (not otherwise excluded from investigation by this Schedule) which is taken by the Treasury in connection with—

- (a) the provision of information relating to the terms and conditions of any employment covered by an agreement entered into by the Treasury pursuant to the exercise of the Treasury's powers under Part 1 of the International Development Act 2002, or
- (b) the provision of any allowance, grant or supplement or any benefit (other than those relating to superannuation) arising from such an agreement.]

#### Textual Amendments

- F24** Sch. 3 para. 10 renumbered as Sch. 3 para. 10(1) by S.I. 1983/1707, **art. 2(a)**
- F25** Words substituted by Parliamentary and Health Service Commissioners Act 1987 (c. 39 SIF 89), s. 1(3)(c)
- F26** Sch. 3 para. 10(1A) inserted (1.4.2013) by The Parliamentary Commissioner Order 2013 (S.I. 2013/238), arts. 1(1), 3
- F27** Sch. 3 para. 10(2) inserted by S.I. 1983/1707, **art. 21(b)**
- F28** Words in Sch. 3 para. 10(2)(a) inserted (17.6.2002) by 2002 c. 1, s. 19, **Sch. 3 para. 2**; S.I. 2002/1408, **art. 2**
- F29** Sch. 3 para. 10(3) inserted (10.1.2018) by The Transfer of Functions (International Development) Order 2017 (S.I. 2017/1283), art. 1(2), **Sch. para. 1** (with art. 3)

#### Modifications etc. (not altering text)

- C9** Sch. 3 para. 10 extended (13.5.1999) by S.I. 1999/1351, **art. 9(6)(c)**

#### Marginal Citations

- M2** 1980 c. 63(88).

11 The grant of honours, awards or privileges within the gift of the Crown, including the grant of Royal Charters.

[<sup>F30</sup>12 (1) Action not otherwise within this Schedule which is taken in the course of administrative functions exercised at the direction, or on the authority (whether express or implied), of a judge of any court established under the law of England and Wales or Northern Ireland.

(2) In this paragraph “judge” includes—

- (a) a person appointed under section 89 of, and Part 2 or 3 of Schedule 2 to, the Supreme Court Act 1981, and

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- (b) a Master or District Judge appointed under section 70 of, and Schedule 3 to, the Judicature (Northern Ireland) Act 1978.]

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**Textual Amendments**

**F30** Sch. 3 para. 12 inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 145, 148, [Sch. 17 para. 6\(4\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 28

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