

*Status: Point in time view as at 02/05/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Part I. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5

#### RESERVED MATTERS

#### PART I

#### GENERAL RESERVATIONS

##### *The Constitution*

- 1 The following aspects of the constitution are reserved matters, that is—
- (a) the Crown, including succession to the Crown and a regency,
  - (b) the Union of the Kingdoms of Scotland and England,
  - (c) the Parliament of the United Kingdom,
  - (d) the continued existence of the High Court of Justiciary as a criminal court of first instance and of appeal,
  - (e) the continued existence of the Court of Session as a civil court of first instance and of appeal.
- 2 (1) Paragraph 1 does not reserve—
- (a) Her Majesty’s prerogative and other executive functions,
  - (b) functions exercisable by any person acting on behalf of the Crown, or
  - (c) any office in the Scottish Administration.
- (2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of honours and dignities or the functions of the Lord Lyon King of Arms so far as relating to the granting of arms; but this sub-paragraph does not apply to the Lord Lyon King of Arms in his judicial capacity.
- (3) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the management (in accordance with any enactment regulating the use of land) of the Crown Estate [<sup>F1</sup>(that is, the property, rights and interests under the management of the Crown Estate Commissioners)].
- [<sup>F2</sup>(3A) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the requirements of section 90B(5) to (8).]
- (4) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the functions of the Security Service, the Secret Intelligence Service and the Government Communications Headquarters.
- [<sup>F3</sup>(5) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the functions exercisable through the Export Credits Guarantee Department.]

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#### Textual Amendments

- F1** Words in Sch. 5 Pt 1 para. 2(3) inserted (with effect in accordance with s. 72(2) of the amending Act) by [Scotland Act 2016 \(c. 11\)](#), [ss. 36\(3\)](#), 72(2)
- F2** Sch. 5 Pt 1 para. 2(3A) inserted (with effect in accordance with s. 72(2) of the amending Act) by [Scotland Act 2016 \(c. 11\)](#), [ss. 36\(4\)](#), 72(2)
- F3** Sch. 5 Pt. I para. 2(5) inserted (1.7.1999) by [S.I. 1999/1749](#), [arts. 1, 3](#); [S.I. 1998/3178](#), [art. 3](#)

- 3 (1) Paragraph 1 does not reserve property belonging to Her Majesty in right of the Crown or belonging to any person acting on behalf of the Crown or held in trust for Her Majesty for the purposes of any person acting on behalf of the Crown.
- (2) Paragraph 1 does not reserve the ultimate superiority of the Crown or the superiority of the Prince and Steward of Scotland.
- (3) Sub-paragraph (1) does not affect the reservation by paragraph 1 of—
- the hereditary revenues of the Crown, other than revenues from bona vacantia, ultimus haeres and treasure trove,
  - the royal arms and standard,
  - the compulsory acquisition of property held or used by a Minister of the Crown or government department.
- 4 (1) Paragraph 1 does not reserve property held by Her Majesty in Her private capacity.
- (2) Sub-paragraph (1) does not affect the reservation by paragraph 1 of the subject-matter of the Crown Private Estates Acts 1800 to 1873.
- 5 Paragraph 1 does not reserve the use of the Scottish Seal.

<sup>F4</sup>5A. ....

#### Textual Amendments

- F4** Sch. 5 para. 5A omitted (18.5.2017) by virtue of [Scotland Act 2016 \(c. 11\)](#), [ss. 10\(5\)](#), 72(4)(a); [S.I. 2017/608](#), [reg. 2\(1\)\(h\)](#)

#### *Political parties*

- 6 The registration and funding of political parties is a reserved matter [<sup>F5</sup>but this paragraph does not reserve making payments to any political party for the purpose of assisting members of the Parliament who are connected with the party to perform their Parliamentary duties].

#### Textual Amendments

- F5** Words in Sch. 5 Pt. I para. 6 inserted (1.7.1999) by [S.I. 1999/1749](#), [arts. 1, 2\(2\)](#); [S.I. 1998/3178](#), [art. 3](#)

#### *Foreign affairs etc.*

- 7 (1) International relations, including relations with territories outside the United Kingdom, the [<sup>F6</sup>European Union](and their institutions) and other international

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organisations, regulation of international trade, and international development assistance and co-operation are reserved matters.

- (2) Sub-paragraph (1) does not reserve—
- (a) observing and implementing international obligations, obligations under the Human Rights Convention and obligations under [F7EU] law,
  - (b) assisting Ministers of the Crown in relation to any matter to which that sub-paragraph applies.

#### Textual Amendments

- F6** Words in Sch. 5 Pt. 1 para. 7(1) substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 3, 4
- F7** Words in Sch. 5 Pt. 1 para. 7(2)(a) substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 3, 6

#### *Public service*

- 8 (1) The Civil Service of the State is a reserved matter.
- (2) Sub-paragraph (1) does not reserve the subject-matter of—
- (a) Part I of the Sheriff Courts and Legal Officers (Scotland) Act 1927 (appointment of sheriff clerks and procurators fiscal etc.),
  - (b) Part III of the Administration of Justice (Scotland) Act 1933 (officers of the High Court of Justiciary and of the Court of Session).

#### *Defence*

- 9 (1) The following are reserved matters—
- (a) the defence of the realm,
  - (b) the naval, military or air forces of the Crown, including reserve forces,
  - (c) visiting forces,
  - (d) international headquarters and defence organisations,
  - (e) trading with the enemy and enemy property.
- (2) Sub-paragraph (1) does not reserve—
- (a) the exercise of civil defence functions by any person otherwise than as a member of any force or organisation referred to in sub-paragraph (1)(b) to (d) or any other force or organisation reserved by virtue of sub-paragraph (1)(a),
  - (b) the conferral of enforcement powers in relation to sea fishing.

#### *Treason*

- 10 Treason (including constructive treason), treason felony and misprision of treason are reserved matters.

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