

*Status: Point in time view as at 12/04/2001.*

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## SCHEDULES

### SCHEDULE 5

#### RESERVED MATTERS

#### PART II

#### SPECIFIC RESERVATIONS

#### *Head C – Trade and Industry*

##### *C1. Business associations*

###### Section C1.

The creation, operation, regulation and dissolution of types of business association.

###### *Exceptions*

The creation, operation, regulation and dissolution of—

- (a) particular public bodies, or public bodies of a particular type, established by or under any enactment, and
- (b) charities.

###### *Interpretation*

“Business association” means any person (other than an individual) established for the purpose of carrying on any kind of business, whether or not for profit; and “business” includes the provision of benefits to the members of an association.

##### *C2. Insolvency*

###### Section C2.

In relation to business associations—

- (a) the modes of, the grounds for and the general legal effect of winding up, and the persons who may initiate winding up,
- (b) liability to contribute to assets on winding up,
- (c) powers of courts in relation to proceedings for winding up, other than the power to sist proceedings,
- (d) arrangements with creditors, and
- (e) procedures giving protection from creditors.

Preferred or preferential debts for the purposes of the Bankruptcy (Scotland) Act 1985, the Insolvency Act 1986, and any other enactment relating to the sequestration of the estate of any person or to the winding up of business associations, the preference of such debts against other such debts and the extent of their preference over other types of debt.

Regulation of insolvency practitioners.

Co-operation of insolvency courts.

###### *Exceptions*

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In relation to business associations—

- (a) the process of winding up, including the person having responsibility for the conduct of a winding up or any part of it, and his conduct of it or of that part,
- (b) the effect of winding up on diligence, and
- (c) avoidance and adjustment of prior transactions on winding up.

[<sup>F1</sup>In relation to business associations which are social landlords, the following additional exceptions—

- (a) the general legal effect of winding up,
- (b) procedures for the initiation of winding up,
- (c) powers of courts in relation to proceedings for winding up, and
- (d) procedures giving protection from creditors,

but only in so far as they relate to a moratorium on the disposal of property held by a social landlord and the management and disposal of such property.]

Floating charges and receivers, except in relation to preferential debts, regulation of insolvency practitioners and co-operation of insolvency courts.

#### *Interpretation*

“Business association” has the meaning given in Section C1 of this Part of this Schedule, but does not include any person whose estate may be sequestrated under the Bankruptcy (Scotland) Act 1985 or any public body established by or under an enactment.

[<sup>F2</sup>“Social landlord” means a body which is—

- (a) a society registered under the Industrial and Provident Societies Act 1965 which has its registered office for the purposes of that Act in Scotland and satisfies the relevant conditions, or
- (b) a company registered under the Companies Act 1985 which has its registered office for the purposes of that Act in Scotland and satisfies the relevant conditions.

“The relevant conditions” are that the body does not trade for profit and is established for the purpose of, or has among its objects and powers, the provision, construction, improvement or management of—

- (a) houses to be kept available for letting,
- (b) houses for occupation by members of the body, where the rules of the body restrict membership to persons entitled or prospectively entitled (as tenants or otherwise) to occupy a house provided or managed by the body, or
- (c) hostels,

“house” and “hostel” having the meanings given in section 338(1) of the Housing (Scotland) Act 1987.]

“Winding up”, in relation to business associations, includes winding up of solvent, as well as insolvent, business associations.

#### **Textual Amendments**

**F1** Words in Sch. 5 Pt. 2 Section C2 inserted (12.4.2001) by [S.I. 2001/1456](#), [art. 2\(1\)](#)

**F2** Definitions of "Social landlord", "The relevant conditions", "house" and "hostel" in Sch. 5 Pt. II Section C2 inserted (12.4.2001) by [S.I. 2001/1456](#), [art. 2\(2\)](#)

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- F1** Words in Sch. 5 Pt. 2 Section C2 inserted (12.4.2001) by [S.I. 2001/1456](#) , [art. 2\(1\)](#)
- F2** Definitions of "Social landlord", "The relevant conditions", "house" and "hostel" in Sch. 5 Pt. II Section C2 inserted (12.4.2001) by [S.I. 2001/1456](#) , [art. 2\(2\)](#)

### *C3. Competition*

#### Section C3.

Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers.

#### *Exception*

Regulation of particular practices in the legal profession for the purpose of regulating that profession or the provision of legal services.

#### *Interpretation*

“The legal profession” means advocates, solicitors and qualified conveyancers and executry practitioners within the meaning of Part II of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.

### *C4. Intellectual property*

#### Section C4.

Intellectual property.

#### *Exception*

The subject-matter of Parts I and II of the Plant Varieties Act 1997 (plant varieties and the Plant Varieties and Seeds Tribunal).

### *C5. Import and export control*

#### Section C5.

The subject-matter of the Import, Export and Customs Powers (Defence) Act 1939.

Prohibition and regulation of the import and export of endangered species of animals and plants.

#### *Exceptions*

Prohibition and regulation of movement into and out of Scotland of—

- (a) food, animals, animal products, plants and plant products for the purposes of protecting human, animal or plant health, animal welfare or the environment or observing or implementing obligations under the Common Agricultural Policy, and
- (b) animal feeding stuffs, fertilisers and pesticides [<sup>F3</sup>(including anything treated as if it were a pesticide by virtue of section 16(16) of the Food and Environment Protection Act 1985)] for the purposes of protecting human, animal or plant health or the environment.

#### **Textual Amendments**

- F3** Words in Sch. 5 Pt. 2 Section C5 inserted (14.12.2000) by [S.I. 2000/3252](#) , [art. 4](#)

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### Textual Amendments

**F3** Words in Sch. 5 Pt. 2 Section C5 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 4**

#### *C6. Sea fishing*

##### Section C6.

Regulation of sea fishing outside the Scottish zone (except in relation to Scottish fishing boats).

##### *Interpretation*

“Scottish fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging.

#### *C7. Consumer protection*

##### Section C7.

Regulation of—

- (a) the sale and supply of goods and services to consumers,
- (b) guarantees in relation to such goods and services,
- (c) hire-purchase, including the subject-matter of Part III of the Hire-Purchase Act 1964,
- (d) trade descriptions, except in relation to food,
- (e) misleading and comparative advertising, except regulation specifically in relation to food, tobacco and tobacco products,
- (f) price indications,
- (g) trading stamps,
- (h) auctions and mock auctions of goods and services, and
- (i) hallmarking and gun barrel proofing.

Safety of, and liability for, services supplied to consumers.

The subject-matter of—

- (a) the Hearing Aid Council Act 1968,
- (b) the Unsolicited Goods and Services Acts 1971 and 1975,
- (c) Parts I to III and XI of the Fair Trading Act 1973,
- (d) the Consumer Credit Act 1974,
- (e) the Estate Agents Act 1979,
- (f) the Timeshare Act 1992,
- (g) the Package Travel, Package Holidays and Package Tours Regulations 1992, and
- (h) the Commercial Agents (Council Directive) Regulations 1993.

##### *Exception*

The subject-matter of section 16 of the Food Safety Act 1990 (food safety and consumer protection).

#### *C8. Product standards, safety and liability*

##### Section C8.

Technical standards and requirements in relation to products in pursuance of an obligation under Community law.

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[<sup>F4</sup>The national accreditation body and the accreditation of bodies which certify or assess conformity to technical standards in relation to products or environmental management systems.]

Product safety and liability.

Product labelling.

#### *Exceptions*

Food, agricultural and horticultural produce, fish and fish products, seeds, animal feeding stuffs, fertilisers and pesticides [<sup>F5</sup>(including anything treated as if it were a pesticide by virtue of section 16(16) of the Food and Environment Protection Act 1985)].

In relation to food safety, materials which come into contact with food.

#### **Textual Amendments**

**F4** Words in Sch. 5 Pt. 2 s. C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 5**

**F5** Words in Sch. 5 Pt. 2 Section C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 4**

#### **Textual Amendments**

**F4** Words in Sch. 5 Pt. 2 s. C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 5**

**F5** Words in Sch. 5 Pt. 2 Section C8 inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 4**

#### *C9. Weights and measures*

##### Section C9.

Units and standards of weight and measurement.

Regulation of trade so far as involving weighing, measuring and quantities.

#### *C10. Telecommunications and wireless telegraphy*

##### Section C10.

Telecommunications and wireless telegraphy.

Internet services.

Electronic encryption.

The subject-matter of Part II of the Wireless Telegraphy Act 1949 (electromagnetic disturbance).

#### *Exception*

The subject-matter of Part III of the Police Act 1997 (authorisation to interfere with property etc.).

#### <sup>F6</sup>*C11 Posts*

##### The subject matter of the Postal Services Act 2000. *Exception*

Financial assistance for the provision of services (other than postal services and services relating to money or postal orders) to be provided from public post offices. *Interpretation* Paragraph 5(1) of Part III of this Schedule does not apply to this Section.

The reference to the subject matter of the Postal Services Act 2000 is to be read as a reference to the subject matter of that Act as at the date when it received Royal Assent.

“postal services” and “public post offices” have the same meaning as in the Postal Services Act 2000.]

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**Textual Amendments**

**F6** Sch. 5 Pt. 2 Section C11 substituted (14.12.2000) by [S.I. 2000/3252](#) , [art. 2\(1\)](#)

*C12. Research Councils*

Section C12.

Research Councils within the meaning of the Science and Technology Act 1965.

The subject-matter of section 5 of that Act (funding of scientific research) so far as relating to Research Councils.

*C13. Designation of assisted areas*

Section C13.

The subject-matter of section 1 of the Industrial Development Act 1982.

*C14. Industrial Development Advisory Board*

Section C14.

The Industrial Development Advisory Board.

*C15. Protection of trading and economic interests*

Section C15.

The subject-matter of—

- (a) section 2 of the Emergency Laws (Re-enactments and Repeals) Act 1964 (Treasury power in relation to action damaging to economic position of United Kingdom),
- (b) Part II of the Industry Act 1975 (powers in relation to transfer of control of important manufacturing undertakings), and
- (c) the Protection of Trading Interests Act 1980.

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