

Status: Point in time view as at 23/05/2016.

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

SCHEDULES

SCHEDULE 5

RESERVED MATTERS

PART II

SPECIFIC RESERVATIONS

Head E – Transport

E1. Road transport

Section E1.

The subject-matter of—

- (a) the Motor Vehicles (International Circulation) Act 1952,
- (b) the Public Passenger Vehicles Act 1981 and the Transport Act 1985, so far as relating to public service vehicle operator licensing,
- (c) [^{F1}section 17 of the Road Traffic Regulation Act 1984 (traffic regulation on special roads) except so far as relating to the speed of vehicles on special roads, and section 87 of that Act (exemption of emergency vehicles from speed limits) so far as relating to the training of drivers of vehicles,]
- (d) the Road Traffic Act 1988 [^{F2}, except so far as relating to the parking of vehicles on roads,] and the Road Traffic Offenders Act 1988,
- (e) the Vehicle Excise and Registration Act 1994,
- (f) the Road Traffic (New Drivers) Act 1995, and
- (g) the Goods Vehicles (Licensing of Operators) Act 1995.

Regulation of proper hours or periods of work by persons engaged in the carriage of passengers or goods by road.

The conditions under which international road transport services for passengers or goods may be undertaken.

Regulation of the instruction of drivers of motor vehicles.

Exceptions

The subject-matter of sections [^{F3}36 (offence of failing to comply with traffic sign),] 39 and 40 (road safety information and training) and 157 to 159 (payments for treatment of traffic casualties) of the Road Traffic Act 1988.

[^{F4}The subject-matter of the Road Traffic Act 1988 so far as relating to the regulation of the description, by reference to their construction and equipment, of motor vehicles and trailers which may be used under arrangements for persons to travel to and from the places where they receive education or training, but not the setting of technical standards for the construction or equipment of such motor vehicles or trailers different from the standards that might otherwise apply.]

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^{F5} Interpretation

The reference to the subject-matter of section 87 of the Road Traffic Regulation Act 1984 is to be construed as a reference to it as substituted by section 19 of the Road Safety Act 2006 as at the date when section 40 of the Scotland Act 2016 comes into force, treating section 19 and any amendment affecting it at that date as if they were in force (and, accordingly, paragraph 5(1) of Part 3 of this Schedule does not apply to that reference).]

Textual Amendments

- F1** Words in Sch. 5 Pt. II Section E1 substituted (23.5.2016) by [Scotland Act 2016 \(c. 11\), ss. 40\(2\), 72\(7\)](#)
- F2** Words in Sch. 5 Pt. II Section E1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\), ss. 40\(3\), 72\(7\)](#)
- F3** Words in Sch. 5 Pt. II Section E1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\), ss. 40\(4\), 72\(7\)](#)
- F4** Words in Sch. 5 Pt. II Section E1 inserted (11.6.2015) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2015 \(S.I. 2015/1379\), arts. 1\(2\), 2](#)
- F5** Words in Sch. 5 Pt. II Section E1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\), ss. 40\(5\), 72\(7\)](#)

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- F5** Words in Sch. 5 Pt. II Section E1 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\), ss. 40\(5\), 72\(7\)](#)

E2. Rail transport

Section E2.

Provision and regulation of railway services.

Rail transport security.

The subject-matter of the Channel Tunnel Act 1987.

The subject-matter of the Railway Heritage Act 1996.

Exceptions

Grants so far as relating to railway services; but this exception does not apply in relation to—

- (a) the subject-matter of section 63 of the Railways Act 1993 (government financial assistance where railway administration orders made),
- (b) “ railway services ” as defined in section 82(1)(b) of the Railways Act 1993 (carriage of goods by railway), or
- (c) the subject-matter of section 136 of the Railways Act 1993 (grants and subsidies).

^{F6}Imposing requirements about the preparation and submission of strategies relating to the provision of rail services on Scottish public authorities with mixed functions relating to such services.]

^{F7}The transfer of functions of passenger transport executives or passenger transport authorities relating to the provision and regulation of rail services conferred by Part II of the Transport Act 1968 and sections 32 to 36 of the Railways Act 1993 to, and the allocation of such functions among, ^{F8}relevant authorities].]

^{F9}The promotion and construction of railways which start, end and remain in Scotland.]

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[^{F10}Policing of railways and railway property.]

Textual Amendments

- F6** Sch. 5 Pt. II Section E2: paragraph inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 3(1)**
- F7** Sch. 5 Pt. II Section E2: paragraph inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 3(2)**
- F8** Sch. 5 Pt. II Section E2: words in third exception substituted (17.12.2004) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2004 \(S.I. 2004/3329\)](#) , arts. 1(1) , **4(a)**
- F9** Sch. 5 Pt. II Section E2: paragraph inserted (27.6.2002) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2002 \(S.I. 2002/1629\)](#) , **art. 2(a)**
- F10** Words in Sch. 5 Pt. II Section E2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 45(2)** , 72(7)

Interpretation

[^{F11}“railway” has the meaning given by section 67(1) of the Transport and Works Act 1992.]

[^{F12}“Railway property” has the meaning given by section 75(3) of the Railways and Transport Safety Act 2003.]

“ Railway services ” has the meaning given by section 82 of the Railways Act 1993 (excluding the wider meaning of “ railway ” given by section 81(2) of that Act).

[^{F13} “ relevant authority ” means–

- (a) the Scottish Ministers; or
- (b) any Scottish public authority (not being a cross-border public authority or an authority exercising functions solely in relation to a reserved matter) which is set up wholly or mainly to exercise functions relating to transport.]

Textual Amendments

- F11** Sch. 5 Pt. II Section E2: definition of "railway" inserted (27.6.2002) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2002 \(S.I. 2002/1629\)](#) , **art. 2(b)**
- F12** Words in Sch. 5 Pt. II Section E2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 45(3)** , 72(7)
- F13** Sch. 5 Pt. II Section E2: definition of "relevant authority" added (18.12.2004) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2004 \(S.I. 2004/3329\)](#) , arts. 1(1) , **4(b)**

Textual Amendments

- F6** Sch. 5 Pt. II Section E2: paragraph inserted (14.12.2000) by [S.I. 2000/3252](#) , **art. 3(1)**
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- F8** Sch. 5 Pt. II Section E2: words in third exception substituted (17.12.2004) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2004 \(S.I. 2004/3329\)](#) , arts. 1(1) , **4(a)**
- F9** Sch. 5 Pt. II Section E2: paragraph inserted (27.6.2002) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2002 \(S.I. 2002/1629\)](#) , **art. 2(a)**
- F10** Words in Sch. 5 Pt. II Section E2 inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#) , **ss. 45(2)** , 72(7)
- F11** Sch. 5 Pt. II Section E2: definition of "railway" inserted (27.6.2002) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2002 \(S.I. 2002/1629\)](#) , **art. 2(b)**
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- F13** Sch. 5 Pt. II Section E2: definition of "relevant authority" added (18.12.2004) by [The Scotland Act 1998 \(Modifications of Schedule 5\) Order 2004 \(S.I. 2004/3329\)](#) , arts. 1(1) , **4(b)**

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E3. Marine transport

Section E3.

The subject-matter of—

- (a) the Coastguard Act 1925,
- (b) the Hovercraft Act 1968, except so far as relating to the regulation of noise and vibration caused by hovercraft,
- (c) the Carriage of Goods by Sea Act 1971,
- (d) section 2 of the Protection of Wrecks Act 1973 (prohibition on approaching dangerous wrecks),
- (e) the Merchant Shipping (Liner Conferences) Act 1982,
- (f) the Dangerous Vessels Act 1985,
- (g) the Aviation and Maritime Security Act 1990, other than Part I (aviation security),
- (h) the Carriage of Goods by Sea Act 1992,
- (i) the Merchant Shipping Act 1995,
- (j) the Shipping and Trading Interests (Protection) Act 1995, and
- (k) sections 24 (implementation of international agreements relating to protection of wrecks), 26 (piracy) and 27 and 28 (international bodies concerned with maritime matters) of the Merchant Shipping and Maritime Security Act 1997.

Navigational rights and freedoms.

Financial assistance for shipping services which start or finish or both outside Scotland.

Exceptions

Ports, harbours, piers and boatslips, except in relation to the matters reserved by virtue of paragraph (d), (f), (g) or (i).

Regulation of works which may obstruct or endanger navigation.

The subject-matter of the Highlands and Islands Shipping Services Act 1960 in relation to financial assistance for bulk freight services.

E4. Air transport

Section E4.

Regulation of aviation and air transport, including the subject-matter of—

- (a) the Carriage by Air Act 1961,
- (b) the Carriage by Air (Supplementary Provisions) Act 1962,
- (c) the Carriage by Air and Road Act 1979 so far as relating to carriage by air,
- (d) the Civil Aviation Act 1982,
- (e) the Aviation Security Act 1982,
- (f) the Airports Act 1986, and
- (g) sections 1 (endangering safety at aerodromes) and 48 (powers in relation to certain aircraft) of the Aviation and Maritime Security Act 1990,

and arrangements to compensate or repatriate passengers in the event of an air transport operator's insolvency.

Exceptions

The subject-matter of the following sections of the Civil Aviation Act 1982—

- (a) section 25 (Secretary of State's power to provide aerodromes),
- (b) section 30 (provision of aerodromes and facilities at aerodromes by local authorities),

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- (c) section 31 (power to carry on ancillary business in connection with local authority aerodromes),
- (d) section 34 (financial assistance for certain aerodromes),
- (e) section 35 (facilities for consultation at certain aerodromes),
- (f) section 36 (health control at Secretary of State’s aerodromes and aerodromes of Civil Aviation Authority), and
- (g) sections 41 to 43 and 50 (powers in relation to land exercisable in connection with civil aviation) where land is to be or was acquired for the purpose of airport development or expansion.

The subject-matter of Part II (transfer of airport undertakings of local authorities), sections 63 and 64 (airport byelaws) and 66 (functions of operators of designated airports as respects abandoned vehicles) of the Airports Act 1986.

The subject-matter of sections 59 (acquisition of land and rights over land) and 60 (disposal of compulsorily acquired land) of the Airports Act 1986 where land is to be or was acquired for the purpose of airport development or expansion.

[^{F14}Imposing requirements about the preparation and submission of strategies relating to the provision of air services on Scottish public authorities with mixed functions relating to such services.]

Textual Amendments

F14 Paragraph in Sch. 5 Pt. II Section E4 inserted (14.12.2000) by [S.I. 2000/3252](#) , [art. 3\(3\)](#)

Textual Amendments

F14 Paragraph in Sch. 5 Pt. II Section E4 inserted (14.12.2000) by [S.I. 2000/3252](#) , [art. 3\(3\)](#)

E5. Other matters

Section E5.

Transport of radioactive material.

Technical specifications for public passenger transport for disabled persons, including the subject-matter of—

- (a) section 125(7) and (8) of the Transport Act 1985 (Secretary of State’s guidance and consultation with the Disabled Persons Transport Advisory Committee), and
- (b) Part V of the Disability Discrimination Act 1995 (public transport).

Regulation of the carriage of dangerous goods.

Interpretation

“ Radioactive material ” has the same meaning as in section 1(1) of the Radioactive Material (Road Transport) Act 1991.

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