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STATUTORY INSTRUMENTS

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**1999 No. 1351**

**The Scotland Act 1998 (Transitory and Transitional Provisions) (Complaints of Maladministration) Order 1999**

**Evidence**

**12.**—(1) For the purposes of an investigation, the Scottish Commissioner may require any of the following persons to supply information or produce documents relevant to the investigation—

- (a) any member, or officer or member of the staff, of the authority subject to investigation, including, in particular, where that authority is an authority mentioned in article 8(a) or (b), any office-holder in the Scottish Administration or member of the staff of the part of the Scottish Administration concerned; or
- (b) any other person,

who in his opinion is able to supply such information or produce such documents.

(2) For the purposes of any investigation the Scottish Commissioner shall have the same powers as the Court of Session in respect of—

- (a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad); and
- (b) the production of documents.

(3) No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied to persons in Her Majesty's service, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information for the purposes of an investigation by the Scottish Commissioner.

(4) The Crown (whether in right of Her Majesty's Government in the United Kingdom or in right of the Scottish Administration) shall not be entitled in relation to any investigation by the Scottish Commissioner to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

(5) No person shall be required or authorised by virtue of this Order to supply any information or answer any question relating to proceedings of the Cabinet or of any committee of the Cabinet, or to produce so much of any document as relates to such proceedings; and for the purposes of this paragraph a certificate issued by the Secretary of the Cabinet with the approval of the Prime Minister and certifying that any information, question, document or part of a document so relates shall be conclusive.

(6) Subject to paragraphs (3) to (5), no person shall be compelled for the purposes of an investigation by the Scottish Commissioner to give any evidence or produce any document which he could not be compelled to give or to produce in civil proceedings before the Court of Session.