

**2001 No. 954**

**CONSTITUTIONAL LAW**

**DEVOLUTION, SCOTLAND**

**The Scotland Act 1998 (Transfer of Functions to the Scottish  
Ministers etc.) Order 2001**

*Made*

*14th March 2001*

*Coming into force in accordance with Article 1(1)*

At the Court at Buckingham Palace, the 14th day of March 2001

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been—

- (a) laid before and approved by a resolution of each House of Parliament; and
- (b) laid before and approved by a resolution of the Scottish Parliament;

Now therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 63(1)(b), 113 and 124(2) of the Scotland Act 1998<sup>(a)</sup> and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2001 and shall come into force on the day after the day on which it is made.

- (2) In this Order—
  - “franchise agreement” has the same meaning as in Part IV of the Transport Act 2000<sup>(b)</sup>;
  - and
  - “the 1998 Act” means the Scotland Act 1998.

- (3) In this Order, any word or expression used in referring to any enactment and which is also used in the enactment has the same meaning as it has in the enactment.

**Function shared by the Scottish Ministers and a Minister of the Crown**

**2.** The function which is conferred on a Minister of the Crown by the enactment specified in column 1 of the Schedule to this Order shall—

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<sup>(a)</sup> 1998 c.46.

<sup>(b)</sup> 2000 c.38. Section 254 of that Act provides that expressions used in Part IV of that Act and in the Railways Act 1993 (c. 43) and are given a meaning for the purposes of the Railways Act 1993, or Part I of the Railways Act 1993, are to have the same meaning in Part IV of the Transport Act 2000. The Railways Act 1993 provides a definition of “franchise agreement” at section 23(3).

- (a) so far as it is exercisable by that Minister in or as regards Scotland; and
  - (b) subject to the restrictions in column 2 of the Schedule,
- be exercisable by the Scottish Ministers concurrently with the Minister of the Crown.

**General modifications of enactments etc.**

3.—(1) Section 117 of the 1998 Act shall apply in relation to the exercise of the function by the Scottish Ministers by virtue of article 2 of this Order as it applies in relation to the exercise of functions by the Scottish Ministers within devolved competence.

(2) Section 119 of the 1998 Act shall apply in relation to the function exercisable by the Scottish Ministers by virtue of that article as it applies in relation to functions of the Scottish Ministers exercisable within devolved competence.

(3) In the application of those sections by virtue of this article, any reference in them to a pre-commencement enactment is to be read as if it were a reference to any enactment.

*A K GALLOWAY*  
Clerk of the Privy Council

## SCHEDULE

ENACTMENT CONFERRING FUNCTION EXERCISABLE CONCURRENTLY BY  
THE SCOTTISH MINISTERS AND A MINISTER OF THE CROWN

<i>Column 1 Enactment</i>	<i>Column 2 Restrictions</i>
The Transport Act 2000 (c.38), Schedule 14, paragraph 7	<p>Only in so far as the function is exercisable in relation to the provision of funding for services for the carriage of passengers by rail which—</p> <ul style="list-style-type: none"> <li>(a) start and end in Scotland and are provided under a franchise agreement;</li> <li>(b) start or end in Scotland and are provided under a franchise agreement by a person who also provides services of the type mentioned in paragraph (a) above; or</li> <li>(c) are provided or secured by the Strategic Rail Authority under section 30 of the Railways Act 1993 (c. 43)(a) and were, before the Authority began to provide them or to secure their provision under that section, services of the type mentioned in paragraphs (a) or (b) above.</li> </ul>

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(a) Section 30 of the Railways Act 1993 was substituted by section 212(5) of the Transport Act 2000.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, made under the Scotland Act 1998 (c.46) (“the 1998 Act”), provides for the function of a Minister of the Crown described below, so far as it is exercisable by that Minister in or as regards Scotland, to be exercisable by the Scottish Ministers concurrently with the Minister of the Crown.

Article 2 of the Order provides that in relation to the funding of rail services provided under franchise agreements the function of making grants to the Strategic Rail Authority conferred on a Minister of the Crown by the Transport Act 2000 (c.38) shall be exercisable in or as regards Scotland by the Scottish Ministers concurrently with a Minister of the Crown. The exercise of the function is subject to the restrictions specified in the Schedule to the Order.

Article 3 provides for certain general modifications of enactments in connection with provision made by the Order.

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