Draft Order in Council laid before Parliament and the Scottish Parliament under section 115 of, and paragraphs 1 and 2 of Schedule 7 to, the Scotland Act 1998, for approval by resolution of each House of Parliament and of the Scottish Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND

The Scotland Act 1998 (Modification of Schedule 5) (No. 2) Order 2013

Made - - - -	*2013*
Coming into force - -	*1st April 2013*

At the Court at Buckingham Palace, the [ ] day of [ ] 2013

Present,

The Queen's Most Excellent Majesty in Council

This Order is made by Her Majesty in Council in exercise of the powers conferred upon Her by section 30(2) and (4) of the Scotland Act 1998(**1**).

In accordance with section 115 of, and paragraphs 1 and 2 of Schedule 7 to, that Act(**2**), 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.

Accordingly, Her Majesty, by and with the advice of Her Privy Council, makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Scotland Act 1998 (Modification of Schedule 5) (No. 2) Order 2013.

(2) This Order comes into force on 1st April 2013.

(3) Article 3 extends to Scotland only.

(**1**) 1998 c.46.

(**2**) Paragraphs 1 and 2 of Schedule 7 have been modified by paragraph 3(2) of schedule 4 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

Social security: assistance for short term need and community care

2.—(1) In Part 2 of Schedule 5 to the Scotland Act 1998, Section F1 is amended as follows.

(2) In the Exceptions, at the end insert—

"Providing occasional financial or other assistance to or in respect of individuals for the purposes of—

(a) meeting, or helping to meet, an immediate short term need—

(i) arising out of an exceptional event or exceptional circumstances, and

(ii) that requires to be met to avoid a risk to the well-being of an individual, or

(b) enabling qualifying individuals to establish or maintain a settled home, and "qualifying individuals" means individuals who have been or, without the assistance, might otherwise be—

(i) in prison, hospital, a residential care establishment or other institution, or

(ii) homeless or otherwise living an unsettled way of life.

But the following are not excepted—

(a) providing financial assistance for the purposes of meeting maternity expenses, funeral expenses or expenses for heating incurred due to cold weather,

(b) the subject-matter of—

(i) section 138 of the Social Security Contributions and Benefits Act 1992 (payments out of the social fund)(**3**),

(ii) section 69 of the Child Support, Pensions and Social Security Act 2000 (discretionary housing payments)(**4**).".

(3) In the Interpretation provision, at the end insert—

"Paragraph 5(1) of Part 3 of this Schedule does not apply to the subject-matter of—

(a) section 138 of the Social Security Contributions and Benefits Act 1992, or

(b) section 69 of the Child Support, Pensions and Social Security Act 2000.

The reference to the subject-matter of section 138 of the 1992 Act is to be construed as a reference to it as at 8th May 2012 and the reference to the subject-matter of section 69 of the 2000 Act is to be construed as a reference to it as at the date on which the Scotland Act (Modification of Schedule 5) (No. 2) Order 2013 (S.I. 2013/) came into force; and if any amendment of section 69 of the 2000 Act made by the Welfare Reform Act 2012(**5**) is not in force on that date, it is to be treated as if it were.".

Modification of enactments

3.—(1) After this Order comes into force, a pre-commencement devolved enactment has effect as if article 2 of this Order had been in force at the time when the enactment was passed or made.

(2) Paragraph (1) applies to such an enactment only in so far as it confers a function on—

(a) the Scottish Ministers, or

(b) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**6**).

(3) Paragraph (1) does not affect anything done before this Order comes into force by or under any pre-commencement devolved enactment.

(**3**) 1992 c.4. Section 138 was relevantly amended by the Social Security Act 1998 (c.14), section 70(1) and (2) and by the Welfare Reform Act 2012 (c.5), section 71.
(**4**) 2000 c.19.
(**5**) 2012 c.5.
(**6**) 1994 c.39. There is an amendment to section 2 not relevant to this Order.