

- 9 In *Barrington's Case* (1830) 85 Commons Journals 196 (18 March 1830), evidence on oath having been taken and fully considered previously, the House refused a trial at the bar of the House, although it was questioned whether an address ought to be voted without a full public inquiry (see *Mirror of Parliament* (1830) 1702, 1863, 1897). On the subsequent proceedings in the House of Lords a petition for trial at the bar of the House was granted (see 62 Lords Journals 599 at 602 (4 June 1830)).
- 10 *Barrington's Case* (1830) 85 Commons Journals 196 (18 March 1830). For the terms of the reply see 62 Lords Journals 915, and 85 Commons Journals 653 (22 July 1830). This appears to be the only case in which the proceedings were carried to a final conclusion.

(2) PUBLIC DOCUMENTS

906. Public documents. The monarch's wishes or commands in executive matters are made known to the nation, or to the individuals particularly concerned, by means of various documents, of which the most formal are (1) Orders in Council¹; (2) warrants, commissions or orders under the sign manual²; or (3) proclamations, writs, letters patent, letters close, charters, grants, and other documents under the Great Seal³.

Apart from the prerogative power of the monarch executive authority is often expressly conferred on the Crown and its ministers by statute, and by virtue of the statutes conferring the powers is exercised by means of various written instruments, of which the most important are (a) Orders in Council; and (b) orders, schemes, warrants, regulations or rules⁴.

- 1 As to Orders in Council see para 907 post.
- 2 As to the sign manual see para 908 post.
- 3 As to use of the Great Seal see para 909 post. An Order in Council or a royal warrant issued under prerogative powers may place a duty on a minister to carry out its provisions, but this duty is owed only to the Crown and a subject cannot enforce the performance by legal proceedings: *Griffin v Lord Advocate* 1950 SC 448; *R v Secretary of State for War* [1891] 2 QB 326, CA. In *Griffin v Lord Advocate* supra, it was left undecided how far these principles apply in relation to an Order in Council made under statutory powers.
- 4 This statement of types of instruments is not intended to be exhaustive; eg regulations may empower a minister to give directions to particular persons. As to what instruments are statutory instruments and subject to the provisions of the Statutory Instruments Act 1946 see STATUTES.

907. Orders in Council. Orders in Council are the general medium by which the manifold statutory powers conferred upon the Crown are exercised¹, although they may also be employed in expressing the wishes of the Crown with regard to matters falling within its discretionary authority by virtue of the prerogative². They are formulated by the various ministers or departments concerned with the particular matter to which the orders relate, and their general policy is determined by the Cabinet³; they are expressed to be made by the monarch by and with the advice of the Privy Council at meetings of the Privy Council, which are held at such times as the exigencies of public business require, and are signed by the Clerk of the Council⁴. Orders in Council may, but need not, be statutory instruments⁵.

- 1 For the various matters to which such orders relate see the current Index to Government Orders.
- 2 Eg legislation for Crown colonies, regulations with regard to trade and commerce in time of war etc. For the relation of such prerogative Orders in Council to international law, as administered by prize courts see FOREIGN RELATIONS LAW; WAR. As to the enforcement of Orders in Council see para 906 note 3 ante.
- 3 As to the Cabinet see paras 402–413 ante.
- 4 As to the Privy Council generally see paras 521–526 ante.
- 5 See further para 525 note 9 ante. As to statutory instruments generally see STATUTES.

908. Sign manual. Orders, warrants and commissions under the sign manual are used under the powers conferred by the common or statute law, and relate to a variety of matters, such as the appointment of executive officers¹, circuit judges and recorders², and the authorisation of the performance of executive acts³.

In some cases the sign manual, warrant or order requires the addition of one of the secretarial seals⁴. Where such confirmation is not necessary, sign manual documents are usually required to be countersigned by a Secretary of State or other responsible minister or ministers⁵.

- 1 Eg governors of overseas territories; first commissions in land forces: see para 901 ante.
- 2 For examples of appointments of circuit judges and recorders under the royal sign manual see eg the London Gazette, 20 May 1996.
- 3 Eg warrants for affixing the Great Seal to executive documents, countersigned by the necessary minister (see para 912 post); pardons, countersigned by the Secretary of State (Criminal Law Act 1967 s 9: see para 824 ante); orders for the issue of public money by the Treasury, counter-signed by two or more of the Treasury Commissioners (see the Exchequer and Audit Departments Act 1866 s 14; Treasury Instruments (Signature) Act 1849 s 1 (as amended)). As to the Treasury Commissioners see para 513 ante. As to the Treasury generally see paras 512–517 ante.
- 4 As to secretarial seals and authority for sealing see paras 357 ante, 912 post. As to grants by the Admiralty and Treasury see para 852 ante.
- 5 See note 2 supra. As to the office of Secretary of State see para 355 et seq ante.

909. Use of Great Seal of the United Kingdom. Since the date of the Union with Scotland on 1 May 1707 it is expressly provided that the Great Seal of the United Kingdom is to be used for sealing writs to elect and summon the Parliament of Great Britain, and for sealing all treaties with foreign princes and states, and all public acts, instruments and orders of state which concern the whole of the United Kingdom, which includes Great Britain and Northern Ireland¹, and in all other matters relating to England as the Great Seal of England was used prior to that date².

- 1 As to the Union of Great Britain and Ireland into one kingdom see the Union with Ireland Act 1800 art 1. For the construction of references to the United Kingdom in enactments passed before the establishment of the Irish Free State (now the Republic of Ireland) see the Irish Free State (Consequential Adaptation of Enactments) Order 1923, SR & O 1923/405, art 2. In every public document issued after the passing of the Royal and Parliamentary Titles Act 1927 the expression 'United Kingdom' means, unless the context otherwise requires, Great Britain and Northern Ireland: Royal and Parliamentary Titles Act 1927 s 2(2) (amended by the Interpretation Act 1978 s 25(1), Sch 3). As to Irish seals see para 911 post.
- 2 Union with Scotland Act 1706 art 24. As to the Union between England and Scotland see paras 51, 53 ante.

910. Scottish seals. As from the date of the Union with Scotland on 1 May 1707 the privy seal, signet, casket (casket) signet of the Justiciary Court, quarter seal, and seals of courts then used in Scotland were directed to be continued, but were to be altered and adapted to the state of the Union as the monarch should think fit¹. The seals and the keepers of them are subject to regulations made by Parliament¹.

As from that date a seal is directed always to be kept in Scotland and made use of in all things relating to private rights or grants which usually passed the Great Seal of Scotland prior to the Union, and which only concern offices, grants, commissions and private rights within that kingdom².

- 1 Union with Scotland Act 1706 art 24. As to the Union between England and Scotland see paras 51, 53 ante.
- 2 Ibid art 24. Until such seal should be appointed by the monarch, the Great Seal of Scotland then existing was directed to be used for such purposes: art 24.

911. Irish seals. Following the establishment of the Irish Free State, provision was made for a Great Seal of Northern Ireland¹ which was to be kept in the custody of the governor and to be used for all matters in Northern Ireland for which the Great Seal of Ireland was formerly used². Upon the abolition of the office of governor³ the custody of the seal passed to the Secretary of State⁴.

1 As to Northern Ireland see paras 67–86 ante.

2 See the Irish Free State (Consequential Provisions) Act 1922 (Session 2) s 1 (as amended), Sch 1 para 2(4).

3 Is by the Northern Ireland Constitution Act 1972 s 22(4).