

*These notes refer to the Scotland Act 1998 (c.46)  
which received Royal Assent on 19th November 1998*

## **SCOTLAND ACT 1998**

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### **EXPLANATORY NOTES**

#### **COMMENTARY**

SECTION 38: Letters Patent and proclamations

#### **Purpose and Effect**

This section makes further provision in relation to Letters Patent signifying Royal Assent to Bills of the Scottish Parliament and in relation to royal proclamations dissolving the Parliament and providing for elections to be held. It also makes provision for a Wafer Scottish Seal and for it to be used instead of the Scottish Seal itself.

#### **General**

Section 28 provides for Bills of the Scottish Parliament to become Acts when they have received Royal Assent. Royal Assent is given by recording in the Register of the Great Seal Letters Patent under the Scottish Seal signed with Her Majesty's own hand signifying Her Assent to the Bill. Sections 2(5) and 3(2) provide for dissolution of the Scottish Parliament and the fixing of dates for election by royal proclamation under the Scottish Seal.

Letters Patent and proclamations for similar purposes in relation to the UK Parliament and the elections to that Parliament pass under the Great Seal of the United Kingdom. However, in relation to the Scottish Parliament and elections to that Parliament it was considered more appropriate that they should pass under the Scottish Seal. All documents passed under the Scottish Seal are recorded in the Register of the Great Seal.

Section 45(7) provides that the First Minister is to be the Keeper of the Scottish Seal and, by virtue of paragraph 5 of Part I of Schedule 5, it is within the competence of the Scottish Parliament to make provision as to the use of the Scottish Seal.

Section 38 also makes provision for a Wafer Scottish Seal to be used in place of the Scottish Seal. This is because the Scottish Seal would have to be affixed as wax pendant attached by a ribbon, which is a cumbersome and expensive process, for every Letters Patent signifying Her Majesty's Assent to a Bill or every Royal proclamation. In terms of the Wafer Scottish Seal Directions 1999 (*S.S.I. 1999/130*), made under this section, the Wafer Scottish Seal takes the form of an embossment on a die. The provision made by this section and these directions is similar to that made for a Wafer Great Seal (of the United Kingdom) by the Great Seal Act 1884.

#### **Parliamentary Consideration**

<i>Stage</i>	<i>Date</i>	<i>Column</i>
L3	9-Nov-98	538

## **Details of Provisions**

Subsection (1) requires the Keeper of the Registers of Scotland to record in the Register of the Great Seal all Letters Patent signed by Her Majesty signifying Royal Assent to Bills passed by the Parliament and all royal proclamations providing for the dissolution of the Parliament and the holding of elections which have passed under the Scottish Seal.

Subsection (2) requires the Keeper to intimate to the Clerk of the Scottish Parliament the date of the recording of Letters Patent. Section 28(3) provides that the date of recording in the Register is the date of Royal Assent and section 28(4) requires the Clerk to endorse this date on the Act of the Scottish Parliament in question.

Subsection (3) provides for more detailed provision as to the preparation and publication of such Letters Patent and proclamations to be set out in an Order in Council. The Scottish Parliament (Letters Patent and Proclamations) Order makes this provision ([S.I. 1999/737](#)).

Subsection (4) allows for impressions of the Scottish Seal to be made, the exact details of size and material being specified in a direction made by the First Minister. The Wafer Scottish Seal Directions 1999 ([S.S.I. 1999/130](#)) were made by the First Minister on 19 October 1999.

Subsection (5) states that each impression provided for in subsection (4) is to be known as a Wafer Scottish Seal and shall be kept in accordance with directions made by the First Minister.

Subsection (6) states that if a Wafer Scottish Seal is used on any Letters Patent signifying Royal Assent to Bills of the Scottish Parliament or any royal proclamation dissolving the Parliament and providing for elections then that document has the same validity as if it had passed under the Scottish Seal.