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

SCOTLAND ACT 1998

EXPLANATORY NOTES

COMMENTARY

Part IV: the Tax Varying Power
SECTION 74: Supplemental provision with respect to resolutions

Purpose and Effect

This section is entirely supplementary to the provisions of section 73 and sets out certain conditions attaching to tax-varying resolutions. In particular it provides that a resolution shall relate only to a single tax year commencing on or after the year 2000-01, and sets out by when the resolution must be passed to have effect.

General

The section forms part of the set dealing with the tax-varying power of the Scottish Parliament.

Section 73 allows the Scottish Parliament to pass a resolution varying the basic rate of income tax for Scottish taxpayers by no more than 3 per cent. Section 74 makes further provisions with respect to tax-varying resolutions, and section 75 defines the term “Scottish taxpayer”.

Section 76 makes provision to take account of future changes to the structure of UK income tax. Sections 77 and 78 describe the accounting arrangements where income tax is increased or decreased for Scottish taxpayers. Section 79 permits the Treasury to make consequential subordinate legislation.

Parliamentary Consideration

Stage	*Date*	*Column*
CC	23-Feb-98	40
CC	23-Feb-98	41
CC	23-Feb-98	82
LR	28-Oct-98	2053

Details of Provisions

Subsection (1) is introductory.

Subsection (2) provides that a tax-varying resolution must relate only to a single tax year, and generally must be passed before the start of the tax year to which it will apply. But it cannot be passed more than 12 months in advance of that tax year. The subsection also provides that a resolution of the Scottish Parliament will have effect in relation to any determination of the UK basic rate by Westminster irrespective of whether the determination had been made at the time of the passing of the resolution. Thus the resolution of the Scottish Parliament may be passed in advance of the determination by Westminster. The intention here is to cater for a situation where the Scottish Parliament is dissolved or is in recess at the time the basic rate is determined.

Subsection (3) gives an exception to the rule that a tax-varying resolution must be passed before the start of the relevant tax year. Where the UK Parliament itself has not determined the basic rate for that tax year before 6 March in the preceding tax year, then the Scottish Parliament will have one month to pass a tax-varying resolution from the date the basic rate is determined.

Subsection (4) provides that, in a case where a tax varying resolution is passed after the beginning of the tax year to which it relates by virtue of subsection (3) that resolution will have effect from the start of that tax year.

Subsection (5) provides that only a member of the Scottish Executive may propose a tax-varying resolution. This accords with the precedent of the UK Parliament in relation to tax proposals.

Subsection (6) provides that the first tax year in which a tax-varying resolution may have effect is the year commencing on 6 April 2000. That is the first full tax year in which the Scottish Parliament will be in existence.

Subsection (7) provides that this section will also have effect where the basic rate is determined by means of a resolution of the House of Commons under the Provisional Collection of Taxes Act 1968.