

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

SCOTLAND ACT 1998

EXPLANATORY NOTES

POWERS TO MAKE SUBORDINATE LEGISLATION

SECTION 114: Subordinate legislation: particular provisions

General

See note to section 112

Details of provisions

Subsection (1) permits subordinate legislation made under certain provisions of the Act to modify the Scotland Act (except Schedules 4 and 5) and subordinate legislation made under the Act. The relevant provisions are:

section 89	adaptation of cross-border public authorities;
section 104	power to make provision consequential on Acts of the Scottish Parliament etc.;
section 107	power to remedy <i>ultra vires</i> acts;
section 108	agreed re-distribution of transferred functions;
section 129(1)	power to make transitory and transitional provision.

Section 30(2) and (4) permit Orders in Council under section 30 to make modifications of Schedules 4 and 5 of the Act, and of other provisions in or under the Act.

Subsection (2) provides that the reference in subsection (1) to a power to make subordinate legislation modifying the Scotland Act and subordinate legislation under that Act includes that power as extended by section 113. For example, section 113(4) extends powers so that they include power to make supplementary, consequential provision or transitional provisions, and it may be that modifications to the Scotland Act are necessitated by such supplementary etc. provisions rather than by the main power itself.

Subsection (3) permits subordinate legislation made under certain provisions of the Act to have retrospective effect. The relevant provisions are:

section 30	power to modify Schedule 5 (reserved matters);
section 58(4)	power to revoke certain subordinate legislation;
section 104	power to make provision consequential on Acts of the Scottish Parliament etc.;

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section 107	power to remedy <i>ultra vires</i> acts.
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