



# Scotland Act 1998

## 1998 CHAPTER 46

### PART VI

#### SUPPLEMENTARY

##### *Final provisions*

#### **126 Interpretation.**

(1) In this Act—

“body” includes unincorporated association,

“constituencies” and “regions”, in relation to the Parliament, mean the constituencies and regions provided for by Schedule 1,

“constituency member” means a member of the Parliament for a constituency,

“the Convention rights” has the same meaning as in the <sup>M1</sup>Human Rights Act 1998,

“document” means anything in which information is recorded in any form (and references to producing a document are to be read accordingly),

“enactment” includes an Act of the Scottish Parliament, Northern Ireland legislation (within the meaning of the <sup>M2</sup>Northern Ireland Act 1998) and an enactment comprised in subordinate legislation, and includes an enactment comprised in, or in subordinate legislation under, an Act of Parliament, whenever passed or made,

“financial year” means a year ending with 31st March,

“functions” includes powers and duties, and “confer”, in relation to functions, includes impose,

“government department” means any department of the Government of the United Kingdom,

“the Human Rights Convention” means—

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- (a) the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950, and
- (b) the Protocols to the Convention,
- as they have effect for the time being in relation to the United Kingdom,
- “Minister of the Crown” includes the Treasury,
- “modify” includes amend or repeal,
- “occupational pension scheme”, “personal pension scheme” and “public service pension scheme” have the meanings given by section 1 of the <sup>M3</sup>Pension Schemes Act 1993, <sup>F1</sup>. . .
- “the Parliament” means the Scottish Parliament,
- “parliamentary”, in relation to constituencies, elections and electors, is to be taken to refer to the Parliament of the United Kingdom,
- “prerogative instrument” means an Order in Council, warrant, charter or other instrument made under the prerogative,
- “the principal appointed day” means the day appointed by an order under section 130 which is designated by the order as the principal appointed day,
- “proceedings”, in relation to the Parliament, includes proceedings of any committee or sub-committee,
- “property” includes rights and interests of any description,
- “regional member” means a member of the Parliament for a region,
- “Scotland” includes so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland,
- “Scottish public authority” means any public body (except the Parliamentary corporation), public office or holder of such an office whose functions (in each case) are exercisable only in or as regards Scotland,
- “the Scottish zone” means the sea within British fishery limits (that is, the limits set by or under section 1 of the <sup>M4</sup>Fishery Limits Act 1976) which is adjacent to Scotland,
- “standing orders” means standing orders of the Parliament,
- “subordinate legislation” has the same meaning as in the <sup>M5</sup>Interpretation Act 1978 and also includes an instrument made under an Act of the Scottish Parliament,
- “tribunal” means any tribunal in which legal proceedings may be brought.
- (2) Her Majesty may by Order in Council determine, or make provision for determining, for the purposes of this Act any boundary between waters which are to be treated as internal waters or territorial sea of the United Kingdom, or sea within British fishery limits, adjacent to Scotland and those which are not.
- (3) For the purposes of this Act—
- (a) the question whether any function of a body, government department, office or office-holder relates to reserved matters is to be determined by reference to the purpose for which the function is exercisable, having regard (among other things) to the likely effects in all the circumstances of any exercise of the function, but
- (b) bodies to which paragraph 3 of Part III of Schedule 5 applies are to be treated as if all their functions were functions which relate to reserved matters.

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- (4) References in this Act to Scots private law are to the following areas of the civil law of Scotland—
- (a) the general principles of private law (including private international law),
  - (b) the law of persons (including natural persons, legal persons and unincorporated bodies),
  - (c) the law of obligations (including obligations arising from contract, unilateral promise, delict, unjustified enrichment and negotiorum gestio),
  - (d) the law of property (including heritable and moveable property, trusts and succession), and
  - (e) the law of actions (including jurisdiction, remedies, evidence, procedure, diligence, recognition and enforcement of court orders, limitation of actions and arbitration),
- and include references to judicial review of administrative action.
- (5) References in this Act to Scots criminal law include criminal offences, jurisdiction, evidence, procedure and penalties and the treatment of offenders.
- (6) References in this Act and in any other enactment to the Scottish Administration are to the office-holders in the Scottish Administration and the members of the staff of the Scottish Administration.
- (7) For the purposes of this Act—
- (a) references to office-holders in the Scottish Administration are to—
    - (i) members of the [<sup>F2</sup>Scottish Government] and junior Scottish Ministers, and
    - (ii) the holders of offices in the Scottish Administration which are not ministerial offices, and
  - (b) references to members of the staff of the Scottish Administration are to the staff of the persons referred to in paragraph (a).
- (8) For the purposes of this Act, the offices in the Scottish Administration which are not ministerial offices are—
- (a) the Registrar General of Births, Deaths and Marriages for Scotland, the Keeper of the Registers of Scotland and the Keeper of the Records of Scotland, and
  - (b) any other office of a description specified in an Order in Council made by Her Majesty under this subsection.
- (9) In this Act—
- (a) all those rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the [<sup>F3</sup>EU] Treaties, and
  - (b) all those remedies and procedures from time to time provided for by or under the [<sup>F3</sup>EU] Treaties,
- are referred to as “[<sup>F4</sup>EU] law”.
- (10) In this Act, “international obligations” means any international obligations of the United Kingdom other than obligations to observe and implement [<sup>F4</sup>EU] law or the Convention rights.
- (11) In this Act, “by virtue of” includes “by” and “under”.

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### Subordinate Legislation Made

- P1** S. 126(1) power fully exercised (16.12.1998): different dates appointed for specified provisions by [S.I. 1998/3178](#)

### Textual Amendments

- F1** Words in s. 126(1) repealed (25.4.2000) by [1999 c. 30, s. 88, Sch. 13 Pt. I](#); [S.I. 2000/1047, art. 2\(2\)\(b\), Sch. Pt. II](#)
- F2** Words in Act substituted (3.7.2012) by [Scotland Act 2012 \(c. 11\), ss. 12\(2\)\(a\), 44\(5\)](#) (with s. 12(3)); [S.I. 2012/1710, art. 2\(f\)](#)
- F3** Words in s. 126(9)(a)(b) substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\), arts. 3, 6](#)
- F4** Words in s. 126(9)(10) substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\), arts. 3, 6](#)

### Modifications etc. (not altering text)

- C1** [S. 126\(7\)\(b\)](#) applied by [2015 c. 26, s. 153B\(2\)\(b\)](#) (as inserted (1.2.2017) by [Enterprise Act 2016 \(c. 12\), ss. 41, 44\(4\)\(b\)](#); [S.I. 2017/70, reg. 2\(b\)](#))
- C2** [S. 126\(8\)](#) applied (S.) (18.4.2016) by [The Public Contracts \(Scotland\) Regulations 2015 \(S.S.I. 2015/446\), regs. 1\(2\), 95\(5\)](#) (with [regs. 3-18, 99-101](#))
- C3** [S. 126\(8\)](#) applied by [2015 c. 26, s. 153B\(2\)\(a\)](#) (as inserted (1.2.2017) by [Enterprise Act 2016 \(c. 12\), ss. 41, 44\(4\)\(b\)](#); [S.I. 2017/70, reg. 2\(b\)](#))

### Marginal Citations

- M1** [1998 c. 42.](#)
- M2** [1998 c. 47.](#)
- M3** [1993 c. 48.](#)
- M4** [1976 c. 86.](#)
- M5** [1978 c. 30.](#)

## 127 Index of defined expressions.

In this Act, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

<i>Expression</i>	<i>Provision of this Act</i>
Act of the Scottish Parliament	Section 28(1)
Advocate General	Section 32(4)
Auditor General for Scotland	Section 69
Body	Section 126(1)
By virtue of	Section 126(11)
Clerk, and Assistant Clerk	Section 20 and paragraph 3 of Schedule 2
[ <sup>F5</sup> EU] law	Section 126(9)
Constituencies and constituency member	Section 126(1)
The Convention rights	Section 126(1)

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*Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: Final provisions. (See end of Document for details)*

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Cross-border public authority	Section 88(5)
Devolved competence (in relation to the exercise of functions)	Section 54
[ <sup>F6</sup> Devolved tax	Section 80A(4)]
Document	Section 126(1)
Enactment	Sections 113(6) and 126(1)
Financial year	Section 126(1)
Functions	Section 126(1)
Government department	Section 126(1)
The Human Rights Convention	Section 126(1)
International obligations	Section 126(10)
<sup>F7</sup>	<sup>F7</sup>
.....	.....
Legislative competence	Section 29
Member of the [ <sup>F2</sup> Scottish Government]	Section 44(1)
Members of the staff of the Scottish Administration	Section 126(7)
Minister of the Crown	Section 126(1)
Modify	Section 126(1)
Occupational pension scheme, personal pension scheme and public service pension scheme	Section 126(1)
Office-holders in the Scottish Administration	Section 126(7)
Offices in the Scottish Administration which are not ministerial offices	Section 126(8)
Open power	Section 112(3)
The Parliament	Section 126(1)
“parliamentary” (in relation to constituencies, elections and electors)	Section 126(1)
The Parliamentary corporation	Section 21(1)
Pre-commencement enactment	Section 53(3)
Prerogative instrument	Section 126(1)
Presiding Officer	Section 19
Principal appointed day	Section 126(1)
Proceedings	Section 126(1)
Property	Section 126(1)
Regional list (in relation to a party)	Section 5(4)

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Regional returning officer	Section 12(6)
Regional vote	Section 6(2)
Regions and regional member	Section 126(1)
Registered political party	Section 5(9)
Reserved matters	Schedule 5
Retained functions (in relation to the Lord Advocate)	Section 52(6)
Scotland	Section 126(1) and (2)
Scots criminal law	Section 126(5)
Scots private law	Section 126(4)
Scottish Administration	Section 126(6)
Scottish Ministers	Section 44(2)
Scottish public authority	Section 126(1)
Scottish public authority with mixed functions or no reserved functions	Paragraphs 1 and 2 of Part III of Schedule 5
Scottish Seal	Section 2(6)
The Scottish zone	Section 126(1)
Staff of the Parliament	Paragraph 3 of Schedule 2
Standing orders	Section 126(1)
Subordinate legislation	Section 126(1)
Tribunal	Section 126(1)

#### Textual Amendments

- F2** Words in Act substituted (3.7.2012) by [Scotland Act 2012 \(c. 11\)](#), **ss. 12(2)(a)**, 44(5) (with s. 12(3)); [S.I. 2012/1710](#), **art. 2(f)**
- F5** Words in s. 127 substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), **arts. 3, 6**
- F6** Words in s. 127 inserted (1.7.2012) by [Scotland Act 2012 \(c. 11\)](#), **ss. 23(4)**, 44(2)(b)
- F7** S. 127: entry for "Judicial Committee" repealed (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 40(4)**, 146, 148(1), **Sch. 9 para. 101**, **Sch. 18 Pt. 5**; [S.I. 2009/1604](#), **art. 2**

#### Modifications etc. (not altering text)

- C4** S. 127 extended (1.7.1999) by [S.I. 1999/1379](#), **arts. 1, 6(3)**; [S.I. 1999/3178](#), **art. 3**

## 128 Expenses.

- (1) There shall be paid out of money provided by Parliament—
- any expenditure incurred by a Minister of the Crown by virtue of this Act, and
  - any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

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- (2) There shall be paid into the Consolidated Fund any sums received by a Minister of the Crown by virtue of this Act which are not payable into the National Loans Fund.

### **129 Transitional provisions etc.**

- (1) Subordinate legislation may make such provision as the person making the legislation considers necessary or expedient for transitory or transitional purposes in connection with the coming into force of any provision of this Act.
- (2) If any of the following provisions come into force before the <sup>M6</sup>Human Rights Act 1998 has come into force (or come fully into force), the provision shall have effect until the time when that Act is fully in force as it will have effect after that time: sections 29(2)(d), 57(2) and (3), 100 and 126(1) and Schedule 6.

#### **Marginal Citations**

**M6** [1998 c. 42.](#)

### **130 Commencement.**

- (1) Sections 19 to 43, Parts II to V, sections 117 to 124 and section 125 (except so far as relating to paragraphs 10, 11, 19 and 23(1) and (6) of Schedule 8) shall come into force on such day as the Secretary of State may by order appoint.
- (2) Different days may be appointed under this section for different purposes.

#### **Subordinate Legislation Made**

**P2** [S. 130 power fully exercised \(16.12.1998\): different dates appointed for specified provisions by S.I. 1998/3178](#)

### **131 Extent.**

Section 25 extends only to Scotland.

### **132 Short title.**

This Act may be cited as the Scotland Act 1998.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading:  
Final provisions.