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Scotland Act 1998

CHAPTER 46

SCOTLAND ACT 1998

PART I

THE SCOTTISH PARLIAMENT

The Scottish Parliament

- 1 The Scottish Parliament.

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- 2 Ordinary general elections.
- 3 Extraordinary general elections.
- 4 Calculating time for meeting of the Parliament.
- 5 Candidates.
- 6 Poll for regional members.
- 7 Calculation of regional figures.
- 8 Allocation of seats to regional members.

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- 9 Constituency vacancies.
- 10 Regional vacancies.

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- 11 Electors.
- 12 Power to make provision about elections.

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- 13 Term of office of members.

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14 Resignation of members.

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- 15 Disqualification from membership of the Parliament.
- 16 Exceptions and relief from disqualification.
- 17 Effect of disqualification.
- 18 Judicial proceedings as to disqualification.

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- 19 Presiding Officer.
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- 23 Power to call for witnesses and documents.
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- 25 Witnesses and documents: offences.
- 26 Witnesses and documents: general.
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- 28 Acts of the Scottish Parliament.
- 29 Legislative competence.
- 30 Legislative competence: supplementary.
- 31 Scrutiny of Bills before introduction.
- 32 Submission of Bills for Royal Assent.
- 33 Scrutiny of Bills by the Judicial Committee.
- 34 ECJ references.
- 35 Power to intervene in certain cases.
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- 37 Acts of Union.
- 38 Letters Patent and proclamations.
- 39 Members' interests.

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- 41 Defamatory statements.
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- 46 Choice of the First Minister.
- 47 Ministers.
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- 49 Junior Scottish Ministers.
- 50 Validity of acts of Scottish Ministers etc.
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- 52 Exercise of functions.
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- 54 Devolved competence.
- 55 Functions exercisable with agreement.
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- 71 Existing debt.
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- 80 Reimbursement of expenses.

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- 86 Scottish representation at Westminster.
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- 88 Cross-border public authorities: initial status.
- 89 Power to adapt etc. cross-border public authorities.
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- 92 Queen's Printer for Scotland.
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- 95 Appointment and removal of judges.
- 96 Provision of information to the Treasury.
- 97 Assistance for opposition parties.

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- 98 Devolution issues.
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- 100 Human rights.
- 101 Interpretation of Acts of the Scottish Parliament etc.
- 102 Powers of courts or tribunals to vary retrospective decisions.
- 103 The Judicial Committee.

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- 104 Power to make provision consequential on legislation of, or scrutinised by, the Parliament.
- 105 Power to make provision consequential on this Act.
- 106 Power to adapt functions.
- 107 Legislative power to remedy ultra vires acts.
- 108 Agreed redistribution of functions exercisable by the Scottish Ministers etc.
- 109 Agreed redistribution of property and liabilities.
- 110 Scottish taxpayers for social security purposes.
- 111 Regulation of Tweed and Esk fisheries.

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- 113 Subordinate legislation: scope of powers.
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- 118 Subordinate instruments.
- 119 Consolidated Fund etc.
- 120 Accounts and audit.
- 121 Requirements to lay reports etc. before Parliament.
- 122 Crown land.
- 123 Stamp duty.
- 124 Modification of sections 94 and 117 to 122.

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- 125 Amendments and repeals.

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- 126 Interpretation.
- 127 Index of defined expressions.
- 128 Expenses.
- 129 Transitional provisions etc.
- 130 Commencement.
- 131 Extent.
- 132 Short title.

SCHEDULES

SCHEDULE 1 — Constituencies, regions and regional members

General

- 1 The constituencies for the purposes of this Act are—
- 2 (1) There shall be eight regions for the purposes of...

Reports of Boundary Commission

Proposed recommendations by Boundary Committee for Scotland

- 4A (1) When the Boundary Committee for Scotland provisionally determine (in...

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Notices

- 5 (1) Where the Commission have provisionally determined to make recommendations...

Local inquiries

- 6 (1) The Commission may, if they think fit, cause a...

The rules

- 7 (1) The rules referred to in paragraph 3 are: 1....
8 (1) For the purposes of any report of the Commission...

Interpretation

- 9 In this Schedule— “the 1986 Act” means the Parliamentary Constituencies...

SCHEDULE 2 — Scottish Parliamentary Corporate Body

Membership

- 1 A person appointed under section 21(2)(b) shall hold office until...

Property

- 2 (1) The corporation may hold property. (2) Subordinate legislation may...

Staff

- 3 (1) The corporation shall appoint Assistant Clerks and may appoint...

Powers

- 4 (1) Subject to sub-paragraph (4), the corporation may do anything...

Delegation

- 5 The corporation may delegate any of its functions to the...

Proceedings and business

- 6 (1) The validity of any act of the corporation shall...

Crown status

- 7 (1) Her Majesty may by Order in Council provide for...

SCHEDULE 3 — Standing orders – further provision

Preservation of order

- 1 (1) The standing orders shall include provision for preserving order...

Withdrawal of rights and privileges

- 2 The standing orders may include provision for withdrawing from a...

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Proceedings to be in public

- 3 (1) The standing orders shall include provision requiring the proceedings...

Reporting and publishing proceedings

- 4 The standing orders shall include provision for reporting the proceedings...

The Presiding Officer and deputies

- 5 The standing orders shall include provision for ensuring that the...

Committees

- 6 (1) Standing orders which provide for the appointment of committees...

Crown interests

- 7 The standing orders shall include provision for ensuring that a...

SCHEDULE 4 — Enactments etc. protected from modification

Part I — THE PROTECTED PROVISIONS

Particular enactments

- 1 (1) An Act of the Scottish Parliament cannot modify, or...

The law on reserved matters

- 2 (1) An Act of the Scottish Parliament cannot modify, or...
3 (1) Paragraph 2 does not apply to modifications which—

This Act

- 4 (1) An Act of the Scottish Parliament cannot modify, or...
4A (1) Paragraph 4 does not apply to prevent an Act...

Enactments modified by this Act

- 5 An Act of the Scottish Parliament cannot modify, or confer...

Shared powers

- 6 An Act of the Scottish Parliament cannot modify, or confer...

Part II — GENERAL EXCEPTIONS

Restatement, etc.

- 7 (1) Part I of this Schedule does not prevent an...

Effect of Interpretation Act 1978

- 8 Part I of this Schedule does not prevent the operation...

Change of title etc.

- 9 (1) Part I of this Schedule does not prevent an...

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Accounts and audit and maladministration

- 10 Part I of this Schedule does not prevent an Act...

Subordinate legislation

- 11 (1) Part I of this Schedule does not prevent an...
Part III — CONSEQUENTIAL MODIFICATION OF SECTIONS 53 AND 54
- 12 (1) This paragraph applies to a function which (apart from...
13 (1) Paragraph 12 does not apply to any function conferred...
14 If any pre-commencement enactment or prerogative instrument is modified by...

SCHEDULE 5 — Reserved matters

Part I — GENERAL RESERVATIONS

The Constitution

- 1 The following aspects of the constitution are reserved matters, that...
2 (1) Paragraph 1 does not reserve— (a) Her Majesty’s prerogative...
3 (1) Paragraph 1 does not reserve property belonging to Her...
4 (1) Paragraph 1 does not reserve property held by Her...
5 Paragraph 1 does not reserve the use of the Scottish...

Political parties

- 6 The registration and funding of political parties is a reserved...

Foreign affairs etc.

- 7 (1) International relations, including relations with territories outside the United...

Public service

- 8 (1) The Civil Service of the State is a reserved...

Defence

- 9 (1) The following are reserved matters— (a) the defence of...

Treason

- 10 Treason (including constructive treason), treason felony and misprision of treason...

Part II — SPECIFIC RESERVATIONS

Preliminary

- 1 The matters to which any of the Sections in this...
2 A Section applies to any matter described or referred to...
3 Any illustrations, exceptions or interpretation provisions in a Section relate...

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Reservations

Head A – Financial and Economic Matters

- A1. Fiscal, economic and monetary policy
- A2. The currency
- A3. Financial services
- A4. Financial markets
- A5. Money laundering

Head B – Home Affairs

- B1. Misuse of drugs
- B2. Data protection
- B3. Elections
- B4. Firearms
- B5. Entertainment
- B6. Immigration and nationality
- B7. Scientific procedures on live animals
- B8. National security, interception of communications, official secrets and terrorism
- B9. Betting, gaming and lotteries
- B10. Emergency powers
- B11. Extradition
- B12. Lieutenancies
- B13. Access to information

Head C – Trade and Industry

- C1. Business associations
- C2. Insolvency
- C3. Competition
- C4. Intellectual property
- C5. Import and export control
- C6. Sea fishing
- C7. Consumer protection
- C8. Product standards, safety and liability
- C9. Weights and measures
- C10. Telecommunications and wireless telegraphy
- C11. Post Office, posts and postal services
- C12. Research Councils
- C13. Designation of assisted areas
- C14. Industrial Development Advisory Board
- C15. Protection of trading and economic interests

Head D – Energy

- D1. Electricity
- D2. Oil and gas
- D3. Coal
- D4. Nuclear energy
- D5. Energy conservation

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Head E – Transport

- E1. Road transport
- E2. Rail transport
- E3. Marine transport
- E4. Air transport
- E5. Other matters

Head F – Social Security

- F1. Social security schemes
- F2. Child support
- F3. Occupational and personal pensions
- F4. War pensions

Head G – Regulation of the Professions

- G1. Architects
- G2. Health professions
- G3. Auditors

Head H – Employment

- H1. Employment and industrial relations
- H2. Health and safety
- H3. Job search and support

Head J – Health and Medicines

- J1. Abortion
- J2. Xenotransplantation
- J3. Embryology, surrogacy and genetics
- J4. Medicines, medical supplies and poisons
- J5. Welfare foods

Head K – Media and Culture

- K1. Broadcasting
- K2. Public lending right
- K3. Government Indemnity Scheme
- K4. Property accepted in satisfaction of tax

Head L – Miscellaneous

- L1. Judicial remuneration
- L2. Equal opportunities
- L3. Control of weapons
- L4. Ordnance survey
- L5. Time
- L6. Outer space

Part III — GENERAL PROVISIONS

Scottish public authorities

- 1 (1) This Schedule does not reserve any Scottish public authority...
- 2 Paragraph 1 of Part I of this Schedule does not...

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Reserved bodies

- 3 (1) The reservation of any body to which this paragraph...

Financial assistance to industry

- 4 (1) This Schedule does not reserve giving financial assistance to...

Interpretation

- 5 (1) References in this Schedule to the subject-matter of any...

SCHEDULE 6 — Devolution issues

Part I — PRELIMINARY

- 1 In this Schedule “devolution issue” means— (a) a question whether...
2 A devolution issue shall not be taken to arise in...

Part II — PROCEEDINGS IN SCOTLAND

Application of Part II

- 3 This Part of this Schedule applies in relation to devolution...

Institution of proceedings

- 4 (1) Proceedings for the determination of a devolution issue may...

Intimation of devolution issue

- 5 Intimation of any devolution issue which arises in any proceedings...
6 A person to whom intimation is given in pursuance of...

Reference of devolution issue to higher court

- 7 A court, other than the House of Lords or any...
8 A tribunal from which there is no appeal shall refer...
9 A court, other than any court consisting of two or...

References from superior courts to Judicial Committee

- 10 Any court consisting of three or more judges of the...
11 Any court consisting of two or more judges of the...

Appeals from superior courts to Judicial Committee

- 12 An appeal against a determination of a devolution issue by...
13 An appeal against a determination of a devolution issue by—...
Part III — PROCEEDINGS IN ENGLAND AND WALES

Application of Part III

- 14 This Part of this Schedule applies in relation to devolution...

Institution of proceedings

- 15 (1) Proceedings for the determination of a devolution issue may...

Notice of devolution issue

- 16 A court or tribunal shall order notice of any devolution...

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17 A person to whom notice is given in pursuance of...

Reference of devolution issue to High Court or Court of Appeal

18 A magistrates' court may refer any devolution issue which arises...

19 (1) A court may refer any devolution issue which arises...

20 A tribunal from which there is no appeal shall refer...

21 A court, other than the House of Lords or the...

References from Court of Appeal to Judicial Committee

22 The Court of Appeal may refer any devolution issue which...

Appeals from superior courts to Judicial Committee

23 An appeal against a determination of a devolution issue by...

Part IV — PROCEEDINGS IN NORTHERN IRELAND

Application of Part IV

24 This Part of this Schedule applies in relation to devolution...

Institution of proceedings

25 (1) Proceedings for the determination of a devolution issue may...

Notice of devolution issue

26 A court or tribunal shall order notice of any devolution...

27 A person to whom notice is given in pursuance of...

Reference of devolution issue to Court of Appeal

28 A court, other than the House of Lords or the...

29 A tribunal from which there is no appeal shall refer...

References from Court of Appeal to Judicial Committee

30 The Court of Appeal in Northern Ireland may refer any...

Appeals from Court of Appeal to Judicial Committee

31 An appeal against a determination of a devolution issue by...

Part V — GENERAL

Proceedings in the House of Lords

32 Any devolution issue which arises in judicial proceedings in the...

Direct references to Judicial Committee

33 The Lord Advocate, the Advocate General, the Attorney General or...

34 The Lord Advocate, the Attorney General, the Advocate General or...

35 (1) This paragraph applies where a reference is made under...

Expenses

36 (1) A court or tribunal before which any proceedings take...

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Procedure of courts and tribunals

37 Any power to make provision for regulating the procedure before...

Interpretation

38 Any duty or power conferred by this Schedule to refer...

SCHEDULE 7 — Procedure for subordinate legislation

General provision

1 (1) Subordinate legislation (or a statutory instrument containing it) under...

Types of procedure

2 The types of procedure referred to in this Schedule are—...

Special cases

3 (1) This paragraph applies if— (a) the instrument containing the...
4 If legislation under section 129(1) makes provision as mentioned in...
5 (1) An instrument containing an Order in Council or order...

SCHEDULE 8 — Modifications of enactments

Public Revenue (Scotland) Act 1833 (c.13)

1 In section 2 of the Public Revenue (Scotland) Act 1833...

Crown Suits (Scotland) Act 1857 (c.44)

2 (1) The Crown Suits (Scotland) Act 1857 is amended as...

Sheriff Courts and Legal Officers (Scotland) Act 1927 (c.35)

3 (1) The Sheriff Courts and Legal Officers (Scotland) Act 1927...

Administration of Justice (Scotland) Act 1933 (c.41)

4 In the Administration of Justice (Scotland) Act 1933, in sections...

Private Legislation Procedure (Scotland) Act 1936 (c.52)

5 In section 1 of the Private Legislation Procedure (Scotland) Act...

United Nations Act 1946 (c.45)

6 In section 1 of the United Nations Act 1946 (measures...

Crown Proceedings Act 1947 (c.44)

7 (1) The Crown Proceedings Act 1947 is amended as follows....

Public Registers and Records (Scotland) Act 1948 (c.57)

8 In section 1(1) of the Public Registers and Records (Scotland)...

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Lands Tribunal Act 1949 (c.42)

- 9 In section 2 of the Lands Tribunal Act 1949 (members...

Defamation Act 1952 (c.66)

- 10 In section 10 of the Defamation Act 1952 (limitation on...

Defamation Act (Northern Ireland) 1955 (c.11 (N.I.))

- 11 In section 10(2) of the Defamation Act (Northern Ireland) 1955...

Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c.49)

- 12 In section 1(1) of the Registration of Births, Deaths and...

Pensions (Increase) Act 1971 (c.56)

- 13 In Part II of Schedule 2 to the Pensions (Increase)...

Superannuation Act 1972 (c.11)

- 14 In section 1(6) of the Superannuation Act 1972 (superannuation as...

European Communities Act 1972 (c.68)

- 15 (1) The European Communities Act 1972 is amended as follows....

Interpretation Act 1978 (c.30)

- 16 (1) The Interpretation Act 1978 is amended as follows.

Education (Scotland) Act 1980 (c.44)

- 17 In section 135(1) of the Education (Scotland) Act 1980 (interpretation),...

Civil Jurisdiction and Judgments Act 1982 (c.27)

- 18 (1) Section 46 of the Civil Jurisdiction and Judgments Act...

Mental Health Act 1983 (c.20)

- 19 In section 141 of the Mental Health Act 1983 (members...

National Audit Act 1983 (c.44)

- 20 Sections 6 and 7 of the National Audit Act 1983...

Tourism (Overseas Promotion) (Scotland) Act 1984 (c.4)

- 21 In section 1 of the Tourism (Overseas Promotion) (Scotland) Act...

Bankruptcy (Scotland) Act 1985 (c.66)

- 22 For section 1 of the Bankruptcy (Scotland) Act 1985 there...

Insolvency Act 1986 (c.45)

- 23 (1) The Insolvency Act 1986 is amended as follows.

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Public Order Act 1986 (c.64)

24 In section 26(1) of the Public Order Act 1986 (savings...

Copyright, Designs and Patents Act 1988 (c.48)

25 (1) The Copyright, Designs and Patents Act 1988 is amended...

Official Secrets Act 1989 (c.6)

26 (1) Section 12 of the Official Secrets Act 1989 (meaning...

Prisons (Scotland) Act 1989 (c.45)

27 (1) The Prisons (Scotland) Act 1989 is amended as follows....

European Communities (Amendment) Act 1993 (c.32)

28 In section 6 of the European Communities (Amendment) Act 1993...

Scottish Land Court Act 1993 (c.45)

29 In section 1 of the Scottish Land Court Act 1993...

Value Added Tax Act 1994 (c.23)

30 In section 41 of the Value Added Tax Act 1994...

Requirements of Writing (Scotland) Act 1995 (c.7)

31 In section 12(1) of the Requirements of Writing (Scotland) Act...

Criminal Procedure (Scotland) Act 1995 (c.46)

32 (1) The Criminal Procedure (Scotland) Act 1995 is amended as...

Defamation Act 1996 (c.31)

33 (1) The Defamation Act 1996 is amended as follows.

Damages Act 1996 (c.48)

34 In section 6 of the Damages Act 1996 (guarantees for...

SCHEDULE 9 — Repeals

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