



# Scotland Act 1998

## CHAPTER 46

### SCOTLAND ACT 1998

#### PART I

##### THE SCOTTISH PARLIAMENT

###### *The Scottish Parliament*

- 1 The Scottish Parliament.

###### *General elections*

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- 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.

###### *Franchise and conduct of elections*

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

###### *Duration of membership*

- 13 Term of office of members.

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14 Resignation of members.

*Disqualification*

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

*Presiding Officer and administration*

- 19 Presiding Officer.
- 20 Clerk of the Parliament.
- 21 Scottish Parliamentary Corporate Body.

*Proceedings etc.*

- 22 Standing orders.
- 23 Power to call for witnesses and documents.
- 24 Witnesses and documents: notice.
- 25 Witnesses and documents: offences.
- 26 Witnesses and documents: general.
- 27 Participation of the Scottish Law Officers.

*Legislation*

- 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.
- 36 Stages of Bills.

*Other provisions*

- 37 Acts of Union.
- 38 Letters Patent and proclamations.
- 39 Members' interests.

*Legal issues*

- 40 Proceedings by or against the Parliament etc.
- 41 Defamatory statements.
- 42 Contempt of court.
- 43 Corrupt practices.

**PART II**

THE SCOTTISH ADMINISTRATION

*Ministers and their staff*

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- 45 The First Minister.

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- 46 Choice of the First Minister.
- 47 Ministers.
- 48 The Scottish Law Officers.
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- 50 Validity of acts of Scottish Ministers etc.
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#### *Ministerial functions*

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- 53 General transfer of functions.
- 54 Devolved competence.
- 55 Functions exercisable with agreement.
- 56 Shared powers.
- 57 Community law and Convention rights.
- 58 Power to prevent or require action.

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- 59 Property and liabilities of the Scottish Ministers.
- 60 Transfers to the Scottish Ministers.
- 61 Property and liabilities of the Lord Advocate and the First Minister.
- 62 Transfers to the Lord Advocate.

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- 63 Power to transfer functions.

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- 67 Lending by the Secretary of State.
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- 69 The Auditor General for Scotland.
- 70 Financial control, accounts and audit.
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- 74 Supplemental provision with respect to resolutions.
- 75 Scottish taxpayers.
- 76 Changes to income tax structure.
- 77 Accounting for additional Scottish tax.
- 78 Effect of tax reduction for Scottish taxpayers.
- 79 Supplemental powers to modify enactments.
- 80 Reimbursement of expenses.

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- 83 Remuneration: supplementary.

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- 85 Exemption from jury service.

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- 86 Scottish representation at Westminster.
- 87 The Advocate General for Scotland.

#### *Cross-border public authorities*

- 88 Cross-border public authorities: initial status.
- 89 Power to adapt etc. cross-border public authorities.
- 90 Power to transfer property of cross-border public authorities.

#### *Miscellaneous*

- 91 Maladministration.
- 92 Queen's Printer for Scotland.
- 93 Agency arrangements.
- 94 Private legislation.
- 95 Appointment and removal of judges.
- 96 Provision of information to the Treasury.
- 97 Assistance for opposition parties.

#### *Juridical*

- 98 Devolution issues.
- 99 Rights and liabilities of the Crown in different capacities.
- 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.

#### *Supplementary powers*

- 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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## PART VI

### SUPPLEMENTARY

#### *Subordinate legislation*

- 112 Subordinate legislation: general.
- 113 Subordinate legislation: scope of powers.
- 114 Subordinate legislation: particular provisions.
- 115 Subordinate legislation: procedure.
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#### *General modification of enactments*

- 117 Ministers of the Crown.
- 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.

#### *Amendments and repeals*

- 125 Amendments and repeals.

#### *Final provisions*

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

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## 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. Posts
- 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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