



# Scotland Act 1998

## 1998 CHAPTER 46

### PART V

#### MISCELLANEOUS AND GENERAL

##### *Supplementary powers*

#### **106 Power to adapt functions.**

- (1) Subordinate legislation may make such provision (including, in particular, provision modifying a function exercisable by a Minister of the Crown) as the person making the legislation considers appropriate for the purpose of enabling or otherwise facilitating the transfer of a function to the Scottish Ministers by virtue of section 53 or 63.
- (2) Subordinate legislation under subsection (1) may, in particular, provide for any function which—
  - (a) is not exercisable separately in or as regards Scotland to be so exercisable, or
  - (b) is not otherwise exercisable separately within devolved competence to be so exercisable.
- (3) The reference in subsection (1) to the transfer of a function to the Scottish Ministers shall be read as including the sharing of a function with the Scottish Ministers or its other adaptation.
- (4) No recommendation shall be made to Her Majesty in Council to make, and no Minister of the Crown shall make, subordinate legislation under this section which modifies a function of observing or implementing an obligation mentioned in subsection (5) unless the Scottish Ministers have been consulted about the modification.
- (5) The obligation is an international obligation, or [<sup>F1</sup>[<sup>F2</sup>an assimilated] obligation], to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise), where the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which includes the whole or part of Scotland).

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*Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Section 106. (See end of Document for details)*

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- (6) If subordinate legislation under this section modifies a function of observing or implementing such an international obligation so that the function to be transferred to the Scottish Ministers relates only to achieving so much of the result to be achieved under the obligation as is specified in the legislation, references in section 58 to the international obligation are to be read as references to the requirement to achieve that much of the result.

<sup>F3</sup>(7) .....

#### Textual Amendments

- F1** Words in s. 106(5) substituted (31.12.2020) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 17(2)** (with s. 19, Sch. 8 paras. 37, 45); S.I. 2020/1622, reg. 3(l) (with reg. 10)
- F2** Words in s. 106(5) substituted (1.1.2024) by Retained EU Law (Revocation and Reform) Act 2023 (c. 28), s. 22(3), **Sch. 2 para. 3** (with s. 22(6)); S.I. 2023/1363, reg. 3(e)
- F3** S. 106(7) omitted (31.12.2020) by virtue of European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 17(3)** (with s. 19, Sch. 8 paras. 37, 45); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)

**Changes to legislation:**

There are currently no known outstanding effects for the Scotland Act 1998, Section 106.