



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 ^{M1}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 ^{M2}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 ^{M3}Pension Schemes Act 1993, ^{F1}. . .
 - “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 ^{M4}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 ^{M5}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 [^{F2}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.
- ^{F3}(9)
- (10) In this Act, “international obligations” means any international obligations of the United Kingdom other than obligations to observe and implement ^{F4}... the Convention rights.
- (11) In this Act, “by virtue of” includes “by” and “under”.

Subordinate Legislation Made

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

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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** S. 126(9) omitted (31.12.2020) by virtue of European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 19(2)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)
- F4** Words in s. 126(10) omitted (31.12.2020) by virtue of European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 19(3)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)

Modifications etc. (not altering text)

- C1** S. 126(7) applied by 2003 c. 21, Sch. 3A para. 104(10) (as inserted (28.12.2017) by Digital Economy Act 2017 (c. 30), s. 118(6), **Sch. 1** (with Sch. 2); S.I. 2017/1286, reg. 2(b))
- C2** 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))
- C3** 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)
- C4** 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.

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