



Scotland Act 1998

1998 CHAPTER 46

PART I

THE SCOTTISH PARLIAMENT

Proceedings etc.

23 Power to call for witnesses and documents.

- (1) The Parliament may require any person—
 - (a) to attend its proceedings for the purpose of giving evidence, or
 - (b) to produce documents in his custody or under his control,concerning any subject for which any member of the [^{F1}Scottish Government] has general responsibility.
- (2) Subject to subsection (3), the Parliament may impose such a requirement on a person outside Scotland only in connection with the discharge by him of—
 - (a) functions of the Scottish Administration, or
 - (b) functions of a Scottish public authority or cross-border public authority, or Border rivers functions (within the meaning of section 111(4)), which concern a subject for which any member of the [^{F1}Scottish Government] has general responsibility.
- (3) In relation to the exercise of functions of a Minister of the Crown, the Parliament may not impose such a requirement on—
 - (a) him (whether or not he continues to be a Minister of the Crown), or
 - (b) a person who is or has been in Crown employment, within the meaning of section 191(3) of the ^{M1}Employment Rights Act 1996,unless the exercise concerns a subject for which any member of the [^{F1}Scottish Government] has general responsibility.
- (4) But the Parliament may not impose such a requirement in pursuance of subsection (3) in connection with the exercise of functions which are exercisable—

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Section 23. (See end of Document for details)

- (a) by the Scottish Ministers as well as by a Minister of the Crown, or
 - (b) by a Minister of the Crown only with the agreement of, or after consultation with, the Scottish Ministers.
- (5) Subsection (4)(b) does not prevent the Parliament imposing such a requirement in connection with the exercise of functions which do not relate to reserved matters.
- (6) Where all the functions of a body relate to reserved matters, the Parliament may not impose such a requirement on any person in connection with the discharge by him of those functions.
- (7) The Parliament may not impose such a requirement on—
- (a) a judge of any court, or
 - (b) a member of any tribunal in connection with the discharge by him of his functions as such.
- (8) Such a requirement may be imposed by a committee or sub-committee of the Parliament only if the committee or sub-committee is expressly authorised to do so (whether by standing orders or otherwise).
- (9) A person is not obliged under this section to answer any question or produce any document which he would be entitled to refuse to answer or produce in proceedings in a court in Scotland.
- (10) A procurator fiscal is not obliged under this section to answer any question or produce any document concerning the operation of the system of criminal prosecution in any particular case if the Lord Advocate—
- (a) considers that answering the question or producing the document might prejudice criminal proceedings in that case or would otherwise be contrary to the public interest, and
 - (b) has authorised the procurator fiscal to decline to answer the question or produce the document on that ground.

Textual Amendments

- F1** 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)**

Modifications etc. (not altering text)

- C1** S. 23(2)(b) extended (1.4.2000) by [1999 c. 28](#), **s. 35(1)(a)** (with s. 38); [S.I. 2000/1066](#), **art. 2**
- C2** S. 23(2)(b) modified (1.12.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), s. 25(4), **Sch. 7 para. 2**; [S.I. 2002/2202](#), **art. 2(2)**
- C3** S. 23(2)(b) modified (27.7.2004) by [Energy Act 2004 \(c. 20\)](#), ss. 2(10), 198(2), **Sch. 1 para. 17(a)**; [S.I. 2004/1973](#), **art. 2**
- C4** S. 23(2)(b) modified by [Private Security Industry Act 2001 \(c. 12\)](#), s. 2A (as inserted (E.W.S) (30.6.2006 for S. and 6.7.2006 for E.W.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 171(1), 178(6), **Sch. 15 para. 3**; [S.S.I. 2006/381](#), **art. 2**)
- C5** S. 23(2)(b) extended (26.11.2008) by [Climate Change Act 2008 \(c. 27\)](#), ss. 32(2), 100(1), **Sch. 1 para. 27(2)(a)**

Commencement Information

- II** S. 23 wholly in force; s. 23 not in force at Royal Assent see s. 130; s. 23 in force for certain purposes at 6.5.1999 and for all remaining purposes at 1.7.1999 by [S.I. 1998/3178](#), **arts. 2(2), 3**

Changes to legislation: *There are currently no known outstanding effects for the Scotland Act 1998, Section 23. (See end of Document for details)*

Marginal Citations

M1 1996 c. 18.

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There are currently no known outstanding effects for the Scotland Act 1998, Section 23.