

SCHEDULES

SCHEDULE 6

DEVOLUTION ISSUES

PART II

PROCEEDINGS IN SCOTLAND

Application of Part II

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

Institution of proceedings

- 4 (1) Proceedings for the determination of a devolution issue may be instituted by the Advocate General or the Lord Advocate.
- (2) The Lord Advocate may defend any such proceedings instituted by the Advocate General.
- (3) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

Intimation of devolution issue

- 5 Intimation of any devolution issue which arises in any proceedings before a court or tribunal shall be given to the Advocate General and the Lord Advocate (unless the person to whom the intimation would be given is a party to the proceedings).
- 6 A person to whom intimation is given in pursuance of paragraph 5 may take part as a party in the proceedings, so far as they relate to a devolution issue.

Reference of devolution issue to higher court

- 7 A court, other than the House of Lords or any court consisting of three or more judges of the Court of Session, may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the Inner House of the Court of Session.
- 8 A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Inner House of the Court of Session; and any other tribunal may make such a reference.
- 9 A court, other than any court consisting of two or more judges of the High Court of Justiciary, may refer any devolution issue which arises in criminal proceedings before it to the High Court of Justiciary.

Status: This is the original version (as it was originally enacted).

References from superior courts to Judicial Committee

- 10 Any court consisting of three or more judges of the Court of Session may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 7 or 8) to the Judicial Committee.
- 11 Any court consisting of two or more judges of the High Court of Justiciary may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 9) to the Judicial Committee.

Appeals from superior courts to Judicial Committee

- 12 An appeal against a determination of a devolution issue by the Inner House of the Court of Session on a reference under paragraph 7 or 8 shall lie to the Judicial Committee.
- 13 An appeal against a determination of a devolution issue by—
- (a) a court of two or more judges of the High Court of Justiciary (whether in the ordinary course of proceedings or on a reference under paragraph 9), or
 - (b) a court of three or more judges of the Court of Session from which there is no appeal to the House of Lords,
- shall lie to the Judicial Committee, but only with leave of the court concerned or, failing such leave, with special leave of the Judicial Committee.