



# Scotland Act 1998

## 1998 CHAPTER 46

### PART VI

#### SUPPLEMENTARY

##### *General modification of enactments*

#### **118 Subordinate instruments**

- (1) Subsection (2) applies in relation to the exercise by a member of the Scottish Executive within devolved competence of a function to make, confirm or approve subordinate legislation.
- (2) If a pre-commencement enactment makes provision—
- for any instrument or the draft of any instrument made in the exercise of such a function to be laid before Parliament or either House of Parliament,
  - for the annulment or approval of any such instrument or draft by or in pursuance of a resolution of either or both Houses of Parliament, or
  - prohibiting the making of such an instrument without that approval,
- the provision shall have effect, so far as it relates to the exercise of the function by a member of the Scottish Executive within devolved competence, as if any reference in it to Parliament or either House of Parliament were a reference to the Scottish Parliament.
- (3) Where—
- a function of making, confirming or approving subordinate legislation conferred by a pre-commencement enactment is exercisable by a Scottish public authority with mixed functions or no reserved functions, and
  - a pre-commencement enactment makes such provision in relation to the exercise of the function as is mentioned in subsection (2),
- the provision shall have effect, so far as it relates to the exercise of the function by that authority, as if any reference in it to Parliament or either House of Parliament were a reference to the Scottish Parliament.

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*Status: This is the original version (as it was originally enacted).*

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(4) Where—

- (a) a function of making, confirming or approving subordinate legislation conferred by a pre-commencement enactment is exercisable within devolved competence by a person other than a Minister of the Crown, a member of the Scottish Executive or a Scottish public authority with mixed functions or no reserved functions, and
- (b) a pre-commencement enactment makes such provision in relation to the exercise of the function as is mentioned in subsection (2),

the provision shall have effect, so far as it relates to the exercise of the function by that person within devolved competence, as if any reference in it to Parliament or either House of Parliament were a reference to the Scottish Parliament.

- (5) If a pre-commencement enactment applies the Statutory Instruments Act 1946 as if a function of the kind mentioned in subsection (3) or (4) were exercisable by a Minister of the Crown, that Act shall apply, so far as the function is exercisable as mentioned in paragraph (a) of subsection (3) or (as the case may be) (4), as if the function were exercisable by the Scottish Ministers.