

*These notes refer to the Scotland Act 1998 (c.46)
which received Royal Assent on 19th November 1998*

SCOTLAND ACT 1998

EXPLANATORY NOTES

COMMENTARY

SECTION 2: Ordinary general elections

Purpose and Effect

This section provides for the holding of ordinary general elections of members of the Scottish Parliament. In particular, it provides for elections on the first Thursday in May every 4 years; variation of the date of the election within prescribed limits; dissolution of the Parliament prior to an election; and the meeting of the Parliament following an election.

Provision is also made for appointing the day on which the poll at the first ordinary general election should be held, and the day, time and place for the meeting of the Parliament following that poll.

General

This section forms part of the set dealing with the election of members of the Scottish Parliament. Section 1 requires members to be elected for each constituency and region, with Schedule 1 defining the constituencies and regions and setting the number of members to be elected for each region.

Sections 2 and 3 deal with the holding of general elections of members. Section 2 covers ordinary general elections, which are to be held every 4 years, whilst section 3 covers extraordinary general elections, which are held if the Parliament resolves that it should be dissolved or fails to nominate a First Minister within a set period.

Vacancies in individual constituency or regional seats are dealt with by sections 9 and 10.

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
CC	28-Jan-98	460
LC	8-Jul-98	1342
LC	8-Jul-98	1349
LR	22-Oct-98	1618

Details of Provisions

Subsection (1) provides for the poll at the first ordinary general election to be held on a day to be appointed by the Secretary of State. The subsection also makes provision for the Secretary of State to fix the date, time and place for the meeting of the Parliament

following the first election. Accordingly, the Scottish Parliament (First Ordinary General Election and First Meeting) Order 1999 (

[S.I. 1999/788](#)

) was made fixing the date of the first ordinary general election as 6 May 1999 and of the first meeting of the Parliament as 12 May 1999.

Subsection (2) provides that subsequent ordinary general elections are to be held on the first Thursday in May four calendar years after the previous such election, unless an alternative date is set under subsection (5).

Subsections (3) and (4) ensure that the Parliament will be dissolved automatically on a date before the election timetable begins running. They provide that if the poll is to be held on the first Thursday in May, the Parliament is dissolved at the beginning of the “minimum period” which ends with that day. The minimum period means the period determined in accordance with an order made by the Secretary of State under section 12(1) (which enables provision to be made in particular as to the conduct of the election). The “minimum period” is defined by article 89 of the Scottish Parliament (Elections etc.) Order 1999 (

[S.I. 1999/787](#)

) as being 25 days (excluding Saturday, Sunday, bank holidays etc. as set out in rule 2 of Schedule 2 to that Order).

Subsection (3) also requires the Parliament to meet within 7 days following the poll - see section 4 for the calculation of the 7 day period. The intention is to avoid any significant hiatus between the election and the first meeting. Section 46 requires that, within 28 days of the poll, the Parliament must nominate one of its members for appointment as First Minister.

Subsection (5) provides for an alternative date to be set for an ordinary general election. In some circumstances the first Thursday in May may be inappropriate for the holding of a poll. This provision provides some limited flexibility to vary the date. The Presiding Officer may propose an alternative day for the election to Her Majesty. This date may not be more than one month earlier or one month later than the first Thursday in May. Her Majesty may then, by proclamation under the Scottish Seal, dissolve the Parliament, require the poll to be held on the proposed day, and require the Parliament to meet within seven days. Section 4 provides for the calculation of the seven day period. The Standing Orders of the Parliament provide that the date and time of the first meeting of Parliament after all general elections, subsequent to the first, is to be determined by the Presiding Officer and notified to members. Provisions about the form, recording and publication of royal proclamations under this subsection are contained in section 38 and the Scottish Parliament (Letters Patent and Proclamations) Order 1999 ([S.I. 1999/737](#)).

Subsection (6) makes provision about the use of the term “the Scottish Seal” in the Act. It provides that that expression means Her Majesty’s Seal appointed by the Treaty of Union to be kept and used in Scotland in place of the Great Seal of Scotland. See also section 38 (letters patent and proclamations) and section 45(7), which provides for the First Minister to be the Keeper of the Scottish Seal.