

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

SCOTLAND ACT 1998

EXPLANATORY NOTES

COMMENTARY

Part II: the Scottish Administration

SECTION 60: Transfers to the Scottish Ministers

Details of Provisions

Subsection (1) confers power, by subordinate legislation, to provide (a) for the transfer to the Scottish Ministers of any property belonging to a Minister of the Crown or government department or (b) for the Scottish Ministers to have rights or interests in relation to any such property (whether in connection with its transfer or otherwise). This power has to be read subject to subsection (3) which limits its scope.

Subsection (2) confers power, by subordinate legislation, to provide for the transfer to the Scottish Ministers of any liabilities to which a Minister of the Crown or government department is subject. This power has also to be read subject to subsection (3) which limits its scope.

Subsection (3) limits the scope of the order which may be made under this section by providing that it can only be made “in connection with” any transfer or sharing of functions of a Minister of the Crown by virtue of section 53, 63 or 89 or in any other circumstances in which the person making the legislation considers it appropriate to do so for the purposes of this Act.

Section 53 provides for the automatic transfer of Ministerial functions to the Scottish Ministers so far as they are exercisable within devolved competence; section 63 provides for the transfer of specific Ministerial functions to the Scottish Ministers relating to reserved matters etc and section 89 provides for an Order in Council to be made in connection with the functions relating to a cross border public authority.

Under the Transfer of Property (Scottish Ministers) Order 1999 ([S.I. 1999/1104](#)), general provision is made for the transfer of rights and interests in land and corporeal moveable property (other than excepted property) used wholly or mainly for or in connection with a transferred function i.e. a function which is transferred to the Scottish Ministers by virtue of sections 53, 63 or 89. Special provision is made for special cases.