

*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 III: Financial Provisions

SECTION 65: Payments out of the Fund

Purpose and Effect

The purpose of this section is to set out the circumstances in which sums may be paid out of the Scottish Consolidated Fund.

In addition, the section provides that sums paid out of the Scottish Consolidated Fund must not be applied for any purpose other than that for which they were charged or paid out.

General

This section is one of three dealing with the Scottish Consolidated Fund. Section 64 establishes the Fund, provides for sums to be paid into it by the Secretary of State and, subject to provision made by the Scottish Parliament for disposal of or accounting for such sums, for receipts of the Scottish Administration to be paid into it. It also states that the Fund is to be held with the Paymaster General and makes arrangements for certain receipts, designated by the Treasury, to be paid by the Scottish Ministers to the Secretary of State.

Section 119 makes general modifications of enactments including modifications for the purpose of ensuring that sums are, where appropriate, paid into and out of the SCF instead of the UK Consolidated Fund or the National Loans Fund.

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
CC	12-Feb-98	612
CC	12-Feb-98	613
CC	12-Feb-98	614
LC	30-Jul-98	1703
LR	28-Oct-98	2049

Details of Provisions

Subsection (1) provides that a sum may only be paid out of the Scottish Consolidated Fund if:

- (a) it has been charged on the Fund by any enactment;

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- (b) it is payable out of the Fund without further approval by virtue of this Act;
- (c) it is paid out for or in connection with any of the purposes mentioned in subsection (2) in accordance with rules made by or under an Act of the Scottish Parliament. These rules will provide the procedure by which the Scottish Parliament will approve expenditure from the Fund.

The first of the above categories covers cases where it is provided that sums may be charged on the Scottish Consolidated Fund such that they can be paid out without the need for specific appropriation by the Parliament for that purpose (i.e. where they have been charged on that Fund by or under an Act of the UK Parliament including this Act and any existing Act modified by section 119 or by, or under, a later Act of the Scottish Parliament). This procedure is used for such expenditure as judicial salaries as well as payments to the Secretary of State in respect of loans (see sections 66 and 71).

The second category covers provisions in existing Acts of the UK Parliament which, by virtue of section 119, have effect as if they provided for the sums to be paid out of the Scottish Consolidated Fund without further approval of the Scottish Parliament. This is similar to a charge on the Fund.

The third category covers all other cases and is expected to cover the largest part of the expenditure met out of the SCF. As from 1 April 2001, the rules in accordance with which sums can be paid out of the SCF under section 65(1)(c) are provided for in sections 4-6 of the [Public Finance and Accountability \(Scotland\) Act 2000 \(asp 1\)](#) - see [S.S.I. 2000/10](#). Under that Act, in general, sums can only be paid out of the SCF in any financial year if they have been authorised by a Budget Act (apart from special provision for emergencies and contingencies) and in accordance with a credit granted on the SCF by the Auditor General for Scotland (see sections 69 and 70).

The position for the financial year 1999-2000 was governed by transitional orders under the Scotland Act - see [S.I. 1999/674](#), as amended by [S.S.I. 2000/69](#) and [175](#). The position for the financial year 2000-2001 was governed by the [Budget \(Scotland\) Act 2000 \(asp 2\)](#) and a transitional order under the Public Finance and Accountability (Scotland) Act 2000 - see [S.S.I. 2000/46](#).

Subsection (2) defines the purposes for which sums may be paid out of the Fund under subsection (1)(c), namely:

- (a) meeting expenditure of the Scottish Administration; or
- (b) meeting expenditure payable out of the Fund under any enactment.

Subsection (3) makes provision that a sum paid out of the Scottish Consolidated Fund must not be applied for any other purpose than that for which it was charged, or paid out.