

*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 V: Miscellaneous and General

SECTION 94: Private legislation

Purpose and Effect

The purpose of this section is to modify pre-commencement enactments, which require any provisional order to be subject to an Act of Parliament or any special procedure order to special parliamentary procedure, where the power to make, confirm or approve that order is exercisable by the Scottish Ministers by virtue of section 53. These are special kinds of private legislation. The modifications require such orders to be confirmed by an Act of the Scottish Parliament or, as the case may be, to be subject to special procedures in the Scottish Parliament rather than the UK Parliament.

General

This section should be read with:

- (a) section 36(3) which provides that the standing orders may, in relation to different types of Bill (including Private bills), modify the provisions made by the standing orders in pursuance of section 36(1) as to the stages of Bill procedure. Private Bill procedure is now provided for in of the Standing Orders of the Parliament;
- (b) section 53 which deals with the general transfer of functions to the Scottish Ministers and which defines “pre-commencement enactment”;
- (c) section 118 in relation to the exercise by a member of the Scottish Executive of a function to make, confirm or approve subordinate legislation;
- (d) Schedule 4, paragraph 1(2)(b) which provides that an Act of the Scottish Parliament cannot modify (or confer power to modify) the Private Legislation Procedure (Scotland) Act 1936; and
- (e) Schedule 8, paragraph 5, which amends the Private Legislation Procedure (Scotland) Act 1936, so that it does not apply where the conferral of the parliamentary powers sought is wholly within the legislative competence of the Scottish Parliament. Further amendments to the Private Legislation Procedure (Scotland) General Orders 1946 were made by paragraph 135 of Schedule 2 to [S.I. 1999/1820](#).

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
LC	21-Jul-98	818

Details of Provisions

Subsection (1) specifies the provisions to which the modifications in subsection (2) apply. These are provisional orders (which require to be confirmed by Act of Parliament) and special procedure orders (within the meaning of the Statutory Orders (Special Procedure) Act 1945 and which require to be subject to special parliamentary procedure) under any pre-commencement enactment where the power to make, confirm or approve such an order is exercisable by the Scottish Ministers by virtue of section 53.

Subsection (2) makes modifications to ensure that such provisional orders become subject to confirmation by an Act of the Scottish Parliament rather than an Act of the UK Parliament and for such special procedure orders to be subject to such special procedure as may be provided for by the Scottish Parliament rather than the special parliamentary procedure provided by the UK Parliament in the 1945 Act.

Transitional arrangements for special procedure orders were provided by the Scotland Act 1998 (Orders subject to Special Parliamentary Procedure) Order 1999 ([S.I. 1999/1593](#)) prior to the Scottish Parliament making its own provisions.