

*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 99: Rights and liabilities of the Crown in different capacities

General

Section 99 ensures that the two manifestations of the Crown, as the UK Government and as the Scottish Administration, are placed in the same relationship to each other as they would be if they were not the Crown but two subjects. Legal relationships can be created between them and they are able to enforce any rights or obligations created. Without this provision, the doctrine of Crown indivisibility would have meant that it would not be possible to create legally enforceable obligations, as the two would have been regarded as parts of the same body.

The Crown Suits (Scotland) Act 1857, as amended by paragraph 2 of Schedule 8, provides for the Lord Advocate to represent the Scottish Administration (or any part of it) and for the Advocate General for Scotland to represent the UK Government in Scottish legal proceedings. Amendments are also made to the Crown Proceedings Act 1947 by paragraph 7 of Schedule 8 to differentiate between Crown proceedings where the proceedings are by or against any part of the Scottish Administration and where they are by or against the UK Government.