

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

# SCOTLAND ACT 1998

## EXPLANATORY NOTES

### SCHEDULES

SCHEDULE 1: Constituencies, Regions and Regional Members

#### Purpose and Effect

This Schedule is given effect by section 1. It sets out the constituencies and regions for the purposes of elections to the Parliament, provides for the involvement of the Parliamentary Boundary Commission for Scotland in altering the regions and number of members to be returned from each region according to set rules, and provides for local inquiries to be held as a result of objections raised in relation to any proposed changes.

#### General

The section is linked to the set of sections on elections (sections 1-12) and to section 86 which removes the guaranteed minimum level of Scottish representation in the UK Parliament and prevents the amalgamation of Orkney and Shetland with another UK Parliamentary constituency.

The Parliamentary Boundary Commission for Scotland is established under section 2 of the Parliamentary Constituencies Act 1986. Its function is to keep under review the distribution of seats at elections to the UK Parliament. The Commission reports to the Secretary of State under section 3(1) and (3) of the 1986 Act and its recommendations may be given effect to by Order in Council.

These functions of the Boundary Commission were transferred to the Electoral Commission established under section 1 of the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#) by virtue of section 16 and the amendments made by Schedule 3 to that Act. As a consequence the function of carrying out reviews of the seats in Scotland will be carried out by the Boundary Committee for Scotland established by the Electoral Commission under section 14 of that Act. In consequence, the provisions of paragraphs 3 to 8 of this Schedule were amended by paragraphs 17 to 24 of Schedule 3 to that Act. These notes therefore describe the position as it exists as at September 2001 under Schedule 1 to the Scotland Act, as originally enacted prior to the amendments to it come into force.

#### Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
CC	28-Jan-98	412
CC	28-Jan-98	451
CC	28-Jan-98	452
<b>Stage</b>	<b>Date</b>	<b>Column</b>
CR	12-May-98	215

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<i>Stage</i>	<i>Date</i>	<i>Column</i>
CR	12-May-98	216
LC	8-Jul-98	1323
LC	8-Jul-98	1331
LC	8-Jul-98	1340
LR	22-Oct-98	1590
LR	22-Oct-98	1591
LR	22-Oct-98	1593
LR	22-Oct-98	1599
LR	22-Oct-98	1600
LR	22-Oct-98	1608
LR	22-Oct-98	1612
LR	22-Oct-98	1613
L3	9-Nov-98	602
L3	9-Nov-98	603
LCCLA	17-Nov-98	1180
LCCLA	17-Nov-98	1198
LCCLA	17-Nov-98	1199

### **Details of Provisions**

Paragraph 1 provides that the constituencies of the Scottish Parliament are to be the same as the UK Parliamentary constituencies in Scotland, except that Orkney and Shetland will each have their own constituency. Thus, at the first election to the Scottish Parliament, the constituencies were Orkney, Shetland and the remaining 71 UK Parliamentary constituencies in Scotland. Each constituency returned a single member in accordance with section 1(2) and there were therefore 73 constituency members. However, any reduction in the number of UK Parliamentary constituencies as a result of the amendments made by section 86 will, by virtue of this provision, lead to a corresponding reduction in the number of constituencies for the Scottish Parliament.

Paragraph 2 provides what are the regions for the purpose of the return of regional members and what are the number of regional members to be returned. There are eight regions and seven members returned for each region (sub-paragraphs (1) and (3)). The eight regions are the same as the eight European Parliamentary constituencies which were provided for by sub-paragraph (2) of the European Parliamentary Constituencies (Scotland) Order 1996 ([S.I. 1996/1926](#)) even although those European parliamentary constituencies were superseded by the [European Parliamentary Elections Act 1999 \(c.1\)](#). The regions and number of members for each region may be altered by an Order in Council under the Parliamentary Constituencies Act 1986, as extended by paragraph 2(4) of this Schedule 1.

### **Reports of the Boundary Commission**

Paragraph 3 applies where the Boundary Commission for Scotland submits a report to the Secretary of State under section 3(1) or (3) of the Parliamentary Constituencies Act 1986 making recommendations for the alteration of UK Parliamentary constituencies (sub-paragraph (1)). It effectively provides that, in such a case, the Commission must also consider whether or not changes are also required to be made to the boundaries of

regions and the number of seats for those regions in order to give effect to the rules in paragraph 7 (sub-paragraph (2)).

Sub-paragraph (4) requires any report by the Boundary Commission recommending alterations to any region to state the name by which the region should be known and the number of regional members to be returned for it. Sub-paragraph (5) requires the Boundary Commission to lay before the Parliament any report recommending changes in parliamentary constituencies. This is in addition to the existing requirement of the Boundary Commission to lay its reports before the UK Parliament.

Paragraph 4(1) provides that an Order in Council under section 4 of the 1986 Act which alters any constituency or region may come into force for the purposes of elections to the Scottish Parliament on a different date from that on which it comes into force for the purposes of elections to the UK Parliament.

Paragraph 4(2) provides that the coming into force of such an Order in Council will have no effect on the return of any member, or on the constitution, of the Parliament until the Parliament is dissolved.

### **Notices**

Paragraph 5(1)(a) and (b) requires the Boundary Commission to publish in at least one newspaper circulating in the region a notice stating the effect of any recommendations it proposes to make affecting that region, and that a copy of the proposed recommendations is open to inspection in a specified place or places within the region and that any representations concerning the proposed recommendations may be made to the Boundary Commission within one month after the notice is published. The Boundary Commission is required to take account of any such representations.

Paragraph 5(2) requires the Boundary Commission to re-publish a notice in the same way as in paragraph 5(1) where its original proposals have been revised in the light of representations received.

### **Local Inquiries**

Paragraph 6(1) provides for the Boundary Commission to hold a local inquiry in respect of any region whenever they think fit. This inquiry can be combined with an inquiry in respect of any UK Parliamentary constituency in the region.

Paragraph 6(2) provides that the Boundary Commission must hold a local inquiry before deciding on a recommendation if, in response to a notice published under paragraph 5(1) proposing an alteration to a region or its members, objections to that proposal are received from an interested authority or from 500 electors or more.

Paragraph 6(3) relates to local inquiries held under paragraph 6(1) before the publication of a notice under paragraph 5(1). In such circumstances the Boundary Commission can decide to disregard paragraph 6(2) if, in its opinion, the matters raised at the local inquiry, the nature of the representations received in response to the published notice and other relevant factors, would not justify holding another local inquiry.

Paragraph 6(4) provides, for the purposes of paragraph 6, that an “interested authority” means the council for an area which is wholly or partly included in the region affected by the recommendations; and that an “elector” means a person who, may vote in any constituency in the region.

Paragraph 6(5) applies the provisions regarding the attendance of witnesses at inquiries in sections 210(4) and (5) of the Local Government (Scotland) Act 1973 to any local inquiry held under paragraph 6.

## **The Rules**

Paragraph 7 sets out the rules which the Commission are required by paragraph 3(2)(b) to give effect to when considering whether or not to recommend any alteration in any region or in the number of seats for a region. These rules are intended to ensure that:

no constituency falls within more than one region;

the regional electorate of a region is more or less the same as that in each of the other regions (allowing for differences in geography);

so far as reasonably practicable, the ratio of regional seats to constituency seats remains constant at 56 to 73, which was the ratio at the first election to the Parliament. Thus, if there was a reduction in the number of constituency seats in the Parliament (as a result of a reduction in the number of UK Parliamentary constituencies in Scotland), this should lead to a reduction in the number of regional seats so as to ensure, so far as reasonably practicable, that the same balance is maintained between constituency and regional members;

a region will have approximately the same number of regional seats as each of the other regions. If the number of regional seats cannot be divided exactly by eight, paragraphs 7 and 8 provide for the distribution of the residual seats among the regions with the larger regional electorates.

Paragraph 8 defines “the regional electorate” for the purposes of any report prepared by the Boundary Commission in relation to an electoral region. It is the number of persons whose names appear, on the enumeration date, on the registers of local government electors and who are registered for that purpose at an address within any Parliament constituency within a region. The enumeration date is the date on which the Boundary Commission published a notice of intention to make a report under section 5(1) of the Parliamentary Constituencies Act 1986.