

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

# SCOTLAND ACT 1998

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## EXPLANATORY NOTES

### SCHEDULES

#### Schedule 5

### Part II: Preliminary paragraphs

#### Head A: Financial and Economic Matters

#### *Section A3: Financial Services*

#### **Purpose and Effect**

This Section reserves financial services.

#### **General**

This reservation contributes to the preservation of common markets for financial services, and depositor, investor and policyholder protection, across the UK. Fixing the dates of bank holidays is excepted from the reservation.

#### **Details of Provisions**

##### Reservation

What is reserved are financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance.

All matters relating to financial services are reserved, not just those dealt with in the Financial Services Act 1986. The reservation expressly includes:

- (a) investment business, e.g. managing investments or providing investment advice and the authorisation and regulation of those who undertake such activities, as in the 1986 Act;
- (b) banking and deposit-taking e.g. the authorisation and regulation of those carrying on banking or deposit-taking business, as in the Banking Act 1987;
- (c) collective investment schemes e.g. unit trusts and open-ended investment companies and their regulation and authorisation, as in the 1986 Act; and
- (d) insurance.

The expression “financial services” also includes financial services, other than those expressly mentioned, such as the services provided by building societies or friendly societies.

##### Exception

The subject-matter of section 1 of the Banking and Financial Dealings Act 1971 is excepted from the reservation.

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Section 1 of the 1971 Act deals with the fixing of bank holidays. The Scottish Parliament is able to legislate to fix what are bank holidays in Scotland. A further exception in this regard is made from section 1.5.

### **Executive Devolution**

The following functions have been included in the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 ([S.I. 1999/1750](#)).

<a href="#">The Insurance Brokers (Registration) Act 1977 (c.46)</a> , section 20.	The function of the Secretary of State to make rules as to the functions of assessors appointed under section 20.
<a href="#">The Building Societies Act 1986 (c.53)</a> , section 47(2)(a).	The function of the Secretary of State of appointing a chairman of a tribunal to determine an appeal by a building society under section 46.
<a href="#">The Financial Services Act 1986 (c.60)</a> , section 96(2)(a).	The function of the Secretary of State of being consulted by the Lord Chancellor on the appointment of legally qualified members to the Financial Services Tribunal.
<a href="#">The Banking Act 1987 (c.22)</a> :	
(a) section 28(2)(a); and	Section 28(2)(a) - The function of the Secretary of State of being consulted by the Lord Chancellor as to the appointment of a chairman of a tribunal to consider an appeal under section 27.
(b) section 30(4).	Section 30(4) - The function of the Secretary of State to make regulations in respect of the conduct of appeals under Part 1 of the Act where the appeal concerns a Scottish institution.
<a href="#">The Friendly Societies Act 1992 (c.40)</a> :	
(a) section 59(2)(a); and	Section 59(2)(a) - The function of the Secretary of State of being consulted by the Lord Chancellor on appointment of a chairman of a tribunal to hear an appeal brought by a Scottish society.
(b) section 60(4).	Section 60(4) - The function of the Secretary of State to make regulations in respect of conduct of appeals under the Act brought by any society with a registered office in Scotland.

### **Advice to The Queen**

Special arrangements for giving advice to The Queen were described in a Prime Ministerial answer on 30 June 1999 (WA col 215) and an associated paper deposited in the House of Commons Library. The Secretary of State for Scotland's role in providing advice to the Privy Council on Proclamations by Her Majesty in Council under section 1 of the Banking and Financial Dealings Act 1971 altering statutory bank holidays in Scotland etc. has passed to the First Minister.