

*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 5

Part II: Preliminary paragraphs

Head B - Home Affairs

Section B3: Elections

Purpose and Effect

This Section reserves matters regarding Parliamentary and European Parliamentary elections. It also reserves the franchise at local government elections but other matters concerning local government elections are not caught by the reservation.

General

The reservation covers all matters concerning elections for membership of the House of Commons, the European Parliament, and the Scottish Parliament. The law concerning elections covers, in particular, who may stand or vote in any elections, procedures under which votes are counted and candidates returned, and what the constituencies and timing of elections should be.

Provision is made under sections 1-14 and Schedule 1 of the Act for elections to the Scottish Parliament. These provisions will also be outwith the legislative competence of the Scottish Parliament by virtue of section 29(2)(c) and Schedule 4.

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
LC	23-Jul-98	1075
LC	23-Jul-98	1077

Details of Provisions

Elections for membership of the House of Commons, the European Parliament and the Scottish Parliament are reserved, including the subject-matter of:

- (a) *the European Parliamentary Elections Act 1978*. This Act provides for the election of representatives to the European Parliament including the determination of the United Kingdom's European Parliamentary constituencies;
- (b) *the Representation of the People Act 1983 and the Representation of the People Act 1985*. These Acts contain the current provisions concerning Parliamentary elections in

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the United Kingdom including, in particular, provision as to who may vote how they may vote, the conduct of elections and the return of members; and

- (c) *the Parliamentary Constituencies Act 1986*. This Act effectively provides for the distribution of seats in the House of Commons amongst constituencies. In particular, it provides for Boundary Commissions for the constituent parts of the United Kingdom to review the distribution of seats and determines the rules under which the Commission must conduct these reviews,

so far as they apply, or may be applied, in respect of such membership.

The franchise at local government elections is also a reserved matter but other matters concerning local government elections are not caught by the reservation. The Scottish Parliament is thus able to legislate on:

the frequency of elections;

the terms of office of councillors;

the division of local government areas into electoral wards and the number of councillors elected for each ward;

the procedures under which votes cast in such an election should count e.g. proportional representation or first past the post;

the separate election of specific persons to specific council offices e.g. the direct election of convenors or leaders of local authorities;

the qualifications and disqualifications for holding office as a member of such a council; and

what should happen on any vacation of office of a member of a council.

Agency Arrangements

The Scotland Act 1998 (Agency Arrangements) Order 1999 ([S.I 1999/1512](#)) specified certain functions of a Minister of the Crown in relation to UK Parliamentary, Scottish Parliamentary and European Parliamentary elections for the purpose of section 93 of the Scotland Act.