

*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 8, Paragraph 2: Crown Suits (Scotland) Act 1857*

##### **General**

The Crown Suits (Scotland) Act 1857 regulates the institution of suits at the instance of, and against, the Crown and public Departments in the Scottish courts. In particular it provides that every action, suit, or proceeding to be instituted in Scotland on the behalf of or against Her Majesty, or in the interest of the Crown, or on behalf of or against any public department, may be lawfully raised in the name and at the instance of or directed against Her Majesty's Advocate for the time being as acting under the 1857 Act, provided always, that before instituting or defending any such action, suit, or proceeding, Her Majesty's Advocate shall have the authority of Her Majesty or of the public department respectively on whose behalf or against whom such action, suit, or proceeding shall be instituted, to the institution or defence thereof.

The modifications listed in paragraph 2 of Schedule 8 add the Scottish Administration to the references to the Crown and public departments as appropriate, to extend the application of the 1857 Act to every action, suit or proceeding to be instituted in Scotland on behalf of or against the Scottish Administration. They further amend references to "Her Majesty's Advocate" to refer instead to "the appropriate Law Officer" and insert a definition of "appropriate Law Officer" to mean:

- (a) the Lord Advocate, where the action, suit or proceeding is on behalf of or against any part of the Scottish Administration; and
- (b) the Advocate General for Scotland, in any other case.