

*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 8, Paragraph 25: Copyright, Designs and Patents Act 1988

Purpose and Effect

Part I of the Copyright, Designs and Patents Act 1988 sets out the law relating to copyright. Amendments to the 1988 Act are required to make provision about copyright in Bills and Acts of the Scottish Parliament and about copying for the purposes of proceedings of the Parliament.

General

Her Majesty is entitled to copyright in every Act of the Scottish Parliament and copyright in every Bill introduced into the Scottish Parliament belongs to the Scottish Parliamentary Corporate Body.

The provisions of section 45 of the 1988 Act which provides that copyright is not infringed by anything done for the purposes of parliamentary proceedings apply to the Scottish Parliament.

In regard to Scottish parliamentary copyright, which for Westminster is dealt with in section 165 of the 1988 Act which applies to work made by or under the direction or control of the House of Commons or the House of Lords, provision was made under section 165(7) of the 1988 Act which permits an Order in Council to apply that section, with exceptions or modifications, to works of any other legislative body of a country to which the Act extends. This was done in making the Parliamentary Copyright (Scottish Parliament) Order 1999 ([S.I. 1999/676](#)).

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
LR	3-Nov-98	260

Details of Provisions

Paragraph 25(1) states that the Copyright, Designs and Patents Act 1988 shall be amended.

Paragraph 25(2) provides for a reference to 'section 166A' in place of a reference to section 166 in section 12(9) of the Act. Section 12 of the 1988 Act deals with the duration of copyright. A new section 12 was inserted by the Duration of Copyright and Rights in Performances Regulations 1995 ([S.I. 1995/3297](#)) which came into force on 1 January 1996. Subsection (9) of section 12 provides that the section does not apply

to Crown copyright or Parliamentary copyright and refers to sections 163 to 166. By virtue of this amendment, the reference will instead be to sections 163 to 166A.

Paragraph 25(3) provides for a reference to “section 166A” in place of a reference to section 166 in section 153(2) of the Act. Section 153 of the 1988 Act deals with qualification for copyright protection but subsection (2) provides that subsection (1) does not apply in relation to Crown copyright or Parliamentary copyright. Again there is a reference to sections 163 to 166 which by virtue of this amendment will instead be to sections 163 to 166A.

Paragraph 25(4) provides for a reference to “to 166A” in place of a reference to “and 166” in section 163(6) of the Act. Section 163 of the 1988 Act deals with Crown copyright and subsection (6) provides that the section does not apply to a work if, or to the extent that, Parliamentary copyright subsists in the work. Again there is a reference to sections 165 and 166 which by virtue of this amendment will instead be to sections 165 to 166A.

Paragraph 25(5) provides for the insertion of a reference to Acts of the Scottish Parliament in relation to Crown copyright in section 164(1) of the Act. This means that Her Majesty is entitled to copyright in every Act of the Scottish Parliament as well as every Act of Parliament.

Paragraph 25(6) provides for the insertion after section 166 of a new section 166A which makes provision about copyright in Bills of the Scottish Parliament. Subsections (1) and (2) of subsection 166A provide that copyright in every Bill introduced to the Scottish Parliament belongs to the Scottish Parliamentary Corporate Body. That copyright subsists from the time when the text of the Bill is handed into the Parliament for introduction until the Bill receives Royal Assent or, if the Bill does not receive Royal Assent, until it is withdrawn or rejected or no further Parliamentary proceedings may be taken in respect of it. Subsection (3) of section 166A provides that references in Part I (copyright) of the 1988 Act to Parliamentary copyright include copyright under section 166A (except in section 165 which makes provision about work made by or under the direction or control of the House of Commons or the House of Lords). Subsection (4) of section 166A provides that no other copyright or right in the nature of copyright subsists in a Bill after copyright has subsisted under section 166A but without prejudice to the subsequent operation of that section in relation to a Bill which, not having received Royal Assent, is later re-introduced into the Parliament.

Paragraph 25(7) provides for the insertion of a reference to “the Scottish Parliament” in the definition of “Parliamentary proceedings” in section 178. This will mean that “parliamentary proceedings” in the 1988 Act includes proceedings of the Scottish Parliament. So for example the provisions of section 45 of the 1988 Act (parliamentary and judicial proceedings) apply to proceedings of the Scottish Parliament. That section provides that copyright is not infringed by anything done for the purposes of parliamentary or judicial proceedings nor by anything done for the purposes of reporting such proceedings. The paragraph also amends the definition of “the Crown” in section 178 so that it includes the Crown in right of the Scottish Administration.

Paragraph 21(8) provides for the insertion of a reference to “section 166(6) and 166A(3)” in place of the reference to “section 166(6)” in section 179 of the Act (Index of defined expressions). This is to indicate that the meaning of “Parliamentary copyright” is to be found in 166A(3) as well as in the other sections of the Act already mentioned in that entry.