



# Scotland Act 1998

## 1998 CHAPTER 46

### PART II

#### THE SCOTTISH ADMINISTRATION

##### *Ministerial functions*

#### **53 General transfer of functions.**

- (1) The functions mentioned in subsection (2) shall, so far as they are exercisable within devolved competence, be exercisable by the Scottish Ministers instead of by a Minister of the Crown.
- (2) Those functions are—
  - (a) those of Her Majesty's prerogative and other executive functions which are exercisable on behalf of Her Majesty by a Minister of the Crown,
  - (b) other functions conferred on a Minister of the Crown by a prerogative instrument, and
  - (c) functions conferred on a Minister of the Crown by any pre-commencement enactment,but do not include any retained functions of the Lord Advocate.
- (3) In this Act, "pre-commencement enactment" means—
  - (a) an Act passed before or in the same session as this Act and any other enactment made before the passing of this Act,
  - (b) an enactment made, before the commencement of this section, under such an Act or such other enactment,
  - (c) subordinate legislation under section 106, to the extent that the legislation states that it is to be treated as a pre-commencement enactment.

[<sup>F1</sup>(3A) But see sections 9, 32 and 51 of the Scotland Act 2016 (which give "pre-commencement enactment" a different meaning for functions exercisable within devolved competence by virtue of certain provisions of that Act).]

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*Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Section 53. (See end of Document for details)*

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(4) This section and section 54 are modified by Part III of Schedule 4.

**Textual Amendments**

**F1** S. 53(3A) inserted (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), **ss. 32(3)**, 72(4)(b); S.I. 2016/759, reg. 3(i)

**Modifications etc. (not altering text)**

**C1** S. 53 restricted (1.7.1999) by [S.I. 1999/1592](#), arts. 1, 3, **Sch. 1**; S.I. 1998/3178, **art. 3**

S. 53 excluded (30.6.1999) by [S.I. 1999/1746](#), **arts. 1, 3**; S.I. 1998/3178, **art. 3**

**C2** S. 53 explained (6.5.1999) (*temp.* until 1.7.1999) by [S.I. 1999/1042](#), **art. 2**

**C3** S. 53 extended (6.5.1999) (*temp.*) by [S.I. 1999/901](#), **art. 3(3)**

**C4** S. 53 extended (30.6.1999) by [S.I. 1999/1748](#), **arts. 4-8**

**C5** S. 53 excluded (15.11.2004) by [Children Act 2004 \(c. 31\)](#), **ss. 6(9)**, 67(1)

**C6** S. 53 excluded (5.9.2016) by [Scotland Act 2016 \(c. 11\)](#), **ss. 33(1)**, 72(4)(b); S.I. 2016/759, reg. 3(j)

**C7** S. 53(2)(a) modified (1.7.1999) by [S.I. 1999/1756](#), **arts. 5-7**

**Changes to legislation:**

There are currently no known outstanding effects for the Scotland Act 1998, Section 53.