

SCOTLAND ACT 2012

EXPLANATORY NOTES

SCHEDULES

Schedule 1: Amendments of Schedule 1 to the 1998 Act

222. Section 1(1) of and Schedule 1 to the Scottish Parliament (Constituencies) Act 2004 ('the 2004 Act') replaced Schedule 1 to the 1998 Act which makes provision for constituencies, regions and regional members in relation to the Scottish Parliament. The 2004 Act removed the link between the constituencies for the Scottish Parliament and those for the House of Commons. It also made provision in the substituted Schedule 1 to the 1998 Act to reflect a planned transfer, from the Boundary Commission to the Electoral Commission, of the function of reviewing the boundaries of the constituencies and regions. Schedule 2 to the 2004 Act then made transitional modifications to Schedule 1 to the 1998 Act until such time as that transfer of functions to the Electoral Commission took place.
223. The transfer of functions from the Boundary Commission for Scotland to the Electoral Commission did not and, it is now clear, will not take place. So *paragraphs 2 to 7* of Schedule 1 reproduce permanently the effect of the transitional modifications contained in Schedule 2 to the 2004 Act. Thus Schedule 1 to the 1998 Act will reflect the fact that the functions of reviewing boundaries will remain with the Boundary Commission for Scotland.
224. *Paragraph 8* of Schedule 1 substitutes paragraph 1(2)(c) of Schedule 1 to the 1998 Act to provide that, in addition to the Orkney Islands and the Shetland Islands, the constituencies are provided for by an Order in Council under paragraph 6 of Schedule 1 to the 1998 Act. Similarly, *paragraph 9* of Schedule 1 substitutes paragraph 2(2) of Schedule 1 to the 1998 Act to provide that the regions are the regions provided for by an Order in Council under paragraph 6 Schedule 1 to the 1998 Act. Currently, these paragraphs of Schedule 1 to the 1998 Act contain a specific reference to the Scottish Parliament (Constituencies and Regions) Order 2010 (the reference having been inserted by that Order itself). The new wording of these paragraphs ensure that the paragraphs do not have to be textually amended each time new Orders in Council under paragraph 6 are brought forward.
225. *Paragraph 10* corrects an error made in Schedule 1 to the 2004 Act and replaces the definition of local areas with the correct term as defined under the Local Government etc (Scotland) Act 1994.

Schedule 2: Scottish rate of income tax: consequential amendments

226. This Schedule makes consequential amendments relating to the Scottish rate of income tax.
227. *Paragraph 1(2)* amends section 110 of the 1998 Act. That section provides that the Secretary of State may, by order, provide that individuals are, or are not, to be treated as if they were Scottish taxpayers (as defined for the purposes of the Scottish variable rate) for social security purposes. *Paragraph 1(2)* makes consequential amendments to

*These notes refer to the Scotland Act 2012 (c.11)
which received Royal Assent on 1st May 2012*

that section as a result of the repeal of the Scottish variable rate and the introduction of the new Scottish rate.

228. *Paragraph 1(4)* amends Schedule 7 to the 1998 Act and sets out the relevant parliamentary procedure that is to apply to orders made under the new section 80G of the 1998 Act (as inserted by section 25 of this Act). Such orders, other than those made under section 80G(3), are subject to the draft affirmative procedure and in accordance with the normal conventions relating to tax legislation are to be laid before the House of Commons only. Orders under section 80G(3) are subject to the negative procedure and are also to be laid before the House of Commons only.

Schedule 3: Scottish tax on land transactions: consequential amendments

229. This Schedule contains, in *Part 1*, amendments relating to the disapplication of SDLT in Scotland and provides, in *Part 2*, for the continuing supply of information about land transactions in Scotland to HMRC after SDLT is disapplied.
230. *Paragraph 1* amends section 28 Finance Act 1931 to prevent a requirement to produce an instrument transferring land to the Commissioners for Revenue & Customs from applying to Scottish transactions, once SDLT is disapplied in Scotland.
231. *Paragraphs 2-30* make consequential amendments to SDLT provisions in Part 4 of the Finance Act 2003, Finance Act 2004, Finance (No.2) Act 2005 and Finance Act 2006.
232. *Paragraph 31* amends the SDLT and Capital Gains Tax provisions of Schedule 61 to the Finance Act 2009 in relation to alternative finance investment bonds (“sukuk”). The effect of these changes is that SDLT relief will no longer apply to sukuk in relation to land in Scotland but the provisions for capital gains and capital allowances will continue to apply.
233. *Paragraph 32* omits words in the Public Finance and Accountability (Scotland) Act 2000 which relate to functions of the Keeper of the Registers of Scotland in respect of land transaction returns and payments of tax submitted through the Automated Registration of Title to Land (ARTL) system operated by Registers of Scotland.
234. In *Part 2* of the Schedule, *paragraphs 33 and 34* provide for the supply by an office-holder of the Scottish Government or Administration of information about Scottish land transactions to HMRC. The information to be provided corresponds with the particulars formerly required by section 28 of the Finance Act 1931 but is limited to information in the possession of, or under the control of, the office-holder. It is to be supplied as required by, and in such a form as, HMRC may reasonably specify.
235. *Paragraph 35* provides that information acquired by HMRC under it is to be treated as acquired in connection with a function of HMRC, for the purposes of the Commissioners of Revenue & Customs Act 2005.

Schedule 4: Scottish tax on landfill: consequential amendments

236. This Schedule contains amendments to the Finance Act 1996 relating to the disapplication of landfill tax in Scotland.