



Scotland Act 2012

2012 CHAPTER 11

PART 1

THE PARLIAMENT AND ITS POWERS

The Scottish Parliament

^{F1} Administration of elections

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Textual Amendments

F1 S. 1 omitted (18.5.2017) by virtue of Scotland Act 2016 (c. 11), ss. 10(6), 72(4)(a); S.I. 2017/608, reg. 2(1)(h)

PROSPECTIVE

^{F2} Combination of polls at Scottish Parliamentary and other reserved elections

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Textual Amendments

F2 S. 2 omitted (18.5.2017) by virtue of Scotland Act 2016 (c. 11), ss. 10(6), 72(4)(a); S.I. 2017/608, reg. 2(1)(h)

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects
for the Scotland Act 2012, Part 1. (See end of Document for details)

3 Supplementary and transitional provision about elections

- (1) In section 113 of the 1998 Act (subordinate legislation: scope of powers) after subsection (1) insert—

“(1A) Subsections (2) to (11), except subsection (9), apply also to the power of the Scottish Ministers to make an order under section 12.”

- (2) Schedule 7 to the 1998 Act (procedure for subordinate legislation) is amended as follows.

- (3) In paragraph 1—

- (a) in the entry for section 12(1) for “Type C” substitute “Type L”;
 (b) after that entry insert—

“Section 12A	Type C”.
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- (4) In paragraph 2 at the end insert— “**Type L:** The legislation shall be subject to the affirmative procedure. ”

- (5) In section 7 of the Political Parties, Elections and Referendums Act 2000 (Electoral Commission to be consulted on changes to electoral law), in subsection (2)(g) after “12(1) or (6)” insert “or regulations under section 12A(1) ”.

- (6) In section 8 of that Act (powers with respect to elections exercisable only on Commission recommendation) in subsection (2) for “the Secretary of State” substitute “the person on whom the function is conferred ”.

- (7) An order made before the commencement of section 1 under section 12(1) of the 1998 Act has effect after that commencement as if made by the Scottish Ministers, to the extent that they would have power to do so.

- (8) To the extent that subsection (7) does not apply, any provision of such an order—

- (a) continues to have effect, but
 (b) may be revoked by regulations under section 12A(1).

- (9) A reference to the Secretary of State in such an order is to be read as a reference to the Scottish Ministers.

- (10) Without prejudice to subsections (7) to (9), section 1 does not affect the validity of anything done by or in relation to a Minister of the Crown before that section comes into force.

- (11) Anything (including legal proceedings) which, at the time when that section comes into force, is in the process of being done by or in relation to a Minister of the Crown under an order under section 12(1) may be continued by or in relation to the Scottish Ministers.

- (12) Anything done by or in relation to a Minister of the Crown for the purposes of or in connection with a function under such an order, if in force at the time when section 1 comes into force, has effect as if done by or in relation to the Scottish Ministers in so far as that is required for continuing its effect after that time.

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Scotland Act 2012, Part 1. (See end of Document for details)

Commencement Information

II S. 3 in force at 1.7.2015 by S.I. 2015/682, art. 2(b)

4 Presiding Officer and deputies

- (1) Section 19 of the 1998 Act (Presiding Officer) is amended as follows.
- (2) In subsection (1) omit “at its first meeting”.
- (3) After subsection (1) insert—
 - “(1A) The Parliament must do so—
 - (a) before it conducts any other proceedings, except the taking by its members of the oath of allegiance (see section 84), and
 - (b) in any event, within the period of 14 days beginning immediately after the day of the poll at the election.
 - (1B) The Parliament may, at any time, elect from among its members one or more additional deputies.”
- (4) After subsection (2) insert—
 - “(2A) But standing orders may make provision for additional deputies to hold office for a shorter time than provided by subsection (2).”
- (5) In subsection (3), after “deputy” insert “ elected under subsection (1) ”.
- (6) In Schedule 3 to that Act (standing orders), for paragraph 5 substitute—
 - “5 (1) The standing orders shall include provision for ensuring that the available officers do not all represent the same political party.
 - (2) The available officers are—
 - (a) the Presiding Officer and the deputies appointed under section 19(1), except in the case where one or more of them is unable to act and there is at least one additional deputy;
 - (b) in that case, such of the Presiding Officer and deputies as are for the time being able to act.”

Commencement Information

I2 S. 4 in force at 3.7.2012 by S.I. 2012/1710, art. 2(a)

5 Scottish Parliamentary Corporate Body

In section 21 of the 1998 Act (Scottish Parliamentary Corporate Body) in subsection (2)(b) before “four” insert “ at least ”.

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Scotland Act 2012, Part 1. (See end of Document for details)

Commencement Information

I3 S. 5 in force at 3.7.2012 by S.I. 2012/1710, art. 2(b)

6 Bills: statements as to legislative competence

In section 31(1) of the 1998 Act (statement by member of the Parliament in charge of a Bill), for “A member of the Scottish Executive” substitute “ A person ”.

Commencement Information

I4 S. 6 in force at 15.10.2012 by S.I. 2012/1710, art. 3

7 Members' interests

(1) Section 39 of the 1998 Act (members' interests) is amended as follows.

(2) For subsections (5) to (7) substitute—

“(4A) Any requirement or prohibition (however expressed) imposed by provision made in pursuance of subsections (2) to (4) may be subject to such exceptions as are specified in the provision.

(5) Provision may be made for—

- (a) excluding a member from the proceedings of the Parliament,
- (b) imposing on a member such other sanctions as the Parliament considers appropriate,

if the member fails to comply with, or contravenes, any provision made in pursuance of subsections (2) to (4) or this subsection.

(5A) Provision made under subsection (5) may include provision that a sanction is not to be imposed in such circumstances as are specified in the provision.

(6) Provision made under subsection (5) may include provision that the member is guilty of an offence.

(7) A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

(3) After the commencement of subsection (2), subsections (5) to (7) as originally enacted continue to have effect until the coming into force of the first provision made in pursuance of those subsections as substituted by subsection (2).

Commencement Information

I5 S. 7 in force at 3.7.2012 by S.I. 2012/1710, art. 2(e)

8 Constituencies, regions and regional members

(1) In the Scottish Parliament (Constituencies) Act 2004, omit section 1(2) and (3) and Schedule 2 (modification of Schedule 1 to the 1998 Act).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 2012, Part 1. (See end of Document for details)

(2) Schedule 1 contains—

- (a) amendments reproducing the effect of the modifications contained in Schedule 2 to the Scottish Parliament (Constituencies) Act 2004, and
- (b) other minor amendments of Schedule 1 to the 1998 Act.

Commencement Information

I6 S. 8 in force at 31.10.2012 by S.I. 2012/2516, art. 2(a)

Legislative competence

9 Continued effect of provisions ceasing to be within legislative competence

(1) In section 30 of the 1998 Act (legislative competence: supplementary) after subsection (4) insert—

“(5) Subsection (6) applies where any alteration is made—

- (a) to the matters which are reserved matters, or
- (b) to Schedule 4,

(whether by virtue of the making, revocation or expiry of an Order in Council under this section or otherwise).

(6) Where the effect of the alteration is that a provision of an Act of the Scottish Parliament ceases to be within the legislative competence of the Parliament, the provision does not for that reason cease to have effect (unless an enactment provides otherwise).”

(2) After section 29(4) of that Act (legislative competence) insert—

“(5) Subsection (1) is subject to section 30(6).”

(3) In section 92 of that Act (Queen's Printer for Scotland), after subsection (4A) (inserted by section 13) insert—

“(4B) If, following an alteration such as is mentioned in section 30(5)—

- (a) subordinate legislation is made, confirmed or approved under a provision which continues to have effect by virtue of section 30(6), and
- (b) the making, confirmation or approval would be within devolved competence but for the alteration,

the subordinate legislation is to be regarded for the purposes of this section as being made, confirmed or approved within devolved competence.”

Commencement Information

I7 S. 9 in force at 3.7.2012 by S.I. 2012/1710, art. 2(d)

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 2012, Part 1. (See end of Document for details)

10 Air weapons

In Part 2 of Schedule 5 to the 1998 Act, in Section B4 (specific reservations: firearms) at the end insert—

“Exception

The regulation of air weapons within the meaning given by section 1(3)(b) of the Firearms Act 1968 (which is subject to the following which remain powers of the Secretary of State—

- (a) the power to make rules under section 53 of that Act for the purposes of that provision (specially dangerous weapons requiring firearms certificate), and
- (b) the power to make an order under section 1(4) of the Firearms (Amendment) Act 1988 (specially dangerous weapons to be prohibited).”

Commencement Information

I8 S. 10 in force at 3.7.2012 by S.I. 2012/1710, art. 2(e)

11 Antarctica

- (1) In Part 2 of Schedule 5 to the 1998 Act, under Head L (miscellaneous) at the end insert—

“L7. Antarctica Regulation of activities in Antarctica.

Interpretation“Antarctica” has the meaning given by section 1 of the Antarctic Act 1994.”

- (2) The provision inserted by subsection (1) is to be regarded as having been included in Schedule 5 to the 1998 Act since the day on which that Schedule came into force.

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Scotland Act 2012, Part 1.