

*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**

#### **COMMENTARY**

**SECTION 25: Witnesses and documents: offences**

#### **Details of Provisions**

Subsection (1) provides that it is a criminal offence for a person to whom a notice under section 24(1) has been given to:

- (a) refuse, or fail, to attend proceedings as required by the notice;
- (b) refuse or fail to answer any question concerning the subjects specified in such a notice;
- (c) deliberately alter, suppress, conceal or destroy any document which is required by such a notice to be produced; or
- (d) refuse or fail to produce such a document.

Subsection (2) provides that subsection (1) is subject to:

section 23(9), which provides that a person is not obliged to answer any question or produce any document which he would be entitled to refuse to answer or produce in court proceedings in Scotland;

section 23(10), which provides that a procurator fiscal is not obliged to answer any question or produce any document relating to the operation of the criminal prosecution system in a particular case, on the Lord Advocate's authorisation; and

section 27(3), which provides that the Lord Advocate or Solicitor General for Scotland may in any proceedings of the Parliament, decline to answer any question or produce any document relating to the operation of the criminal prosecution system in any particular case if he considers that answering the question or producing the document might prejudice criminal proceedings in that case or would otherwise be contrary to the public interest.

Subsection (3) provides that it is a defence for a person charged with an offence under subsection (1)(a), (b) or (d) above to prove that he had a reasonable excuse for the refusal or failure.

Subsection (4) sets the penalty in the case of a person found guilty of an offence under subsection (1) as a fine not exceeding level 5 on the standard scale or imprisonment for not more than three months.

Subsection (5) makes provision for the case where an offence under the section is committed by a body corporate. Where the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a director, manager, secretary or similar officer of the body corporate or any person purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence, and liable to be proceeded against accordingly.