

*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

#### **Part II: the Scottish Administration**

##### SECTION 54: Devolved competence

#### **General**

This section forms part of the set dealing with the establishment of the Scottish Administration and its functions. Section 53 makes provision for the transfer to the Scottish Ministers of Ministerial functions “so far as they are exercisable within devolved competence”.

Sections 117-119 modify pre-commencement enactments in connection with the exercise of a function by a member of the Scottish Executive within devolved competence.

The expression “within devolved competence” is also used in other contexts. Section 118(4) refers to the exercise of a function within devolved competence to make, confirm or approve subordinate legislation conferred by a pre-commencement enactment upon a person other than a member of the Scottish Executive etc so as to apply, for example, to a function conferred upon Her Majesty to make an Order in Council where that is exercisable within devolved competence.

The question whether a function is exercisable within devolved competence is made a devolution issue by paragraph 1(f) of Schedule 6.