

*These notes refer to the Scotland Act 1998 (c.46)
which received Royal Assent on 19th November 1998*

SCOTLAND ACT 1998

EXPLANATORY NOTES

COMMENTARY

Part V: Miscellaneous and General

SECTION 86: Scottish representation at Westminster

Purpose and Effect

This section removes the provision in the rules for the redistribution of seats by the Boundary Commission which requires a minimum number of Scottish seats in the House of Commons. This will take effect at the next general review by the Boundary Commission for Scotland and will require that Commission then to adopt an electoral quota for Scotland in line with that for England at the time of that review. This will reduce the number of MPs for Scottish constituencies at Westminster. The section also prohibits the Commission from combining the Orkney Islands or the Shetland Islands in a constituency which includes another part of Scotland.

General

The Parliamentary Constituencies Act 1986 provides that the constituencies of the UK Parliament into which each part of the United Kingdom is to be divided should be arrived at by means of a review undertaken by the Boundary Commission for that part of the United Kingdom. The 1986 Act provides for Boundary Commissions for England, Scotland, Wales and Northern Ireland and sets out the rules that the Commissions must follow when conducting a review of Parliamentary constituencies.

These functions of the Boundary Commission are due to be transferred to the Electoral Commission established under section 1 of the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#) by virtue of section 16 and the amendments made by Schedule 3 to that Act. The function of carrying out reviews of the seats in Scotland will be carried out by the Boundary Committee for Scotland established by the Electoral Commission under section 14 of that Act. A date has not yet been appointed as to when these provisions of the 2000 Act will be brought into force. These notes therefore describe the position as it exists at present under section 86, as originally enacted.

Rule 1(1) of those rules provides that the number of constituencies in Great Britain shall not be substantially greater or less than 613. Sub-paragraphs (2) to (4) provide minimum numbers of constituencies for Scotland, Wales and Northern Ireland respectively. A maximum is also provided for Northern Ireland only. In particular, sub-paragraph (2) provides that the number of constituencies in Scotland shall not be less than 71. Since 1983 there have been 72 Scottish seats.

Rule 5 stipulates that, subject to certain other rules, the electorate of each constituency shall be as near the electoral quota as is practicable. The other rules the Commission may take into account include any special geographical considerations, in particular size, shape and accessibility. These considerations are also taken account of by the other Boundary Commissions.

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Rule 8 of the 1986 Act defines electoral quota as “a number obtained by dividing the electorate for that part of the United Kingdom by the number of constituencies in it existing on the enumeration date”. The rules also provide that the “enumeration date” is the date on which the notice informing the Secretary of State of an intended report is published (in Scotland in the Edinburgh Gazette).

Section 3 of the 1986 Act provides that the Commission is required to submit a report to the Secretary of State showing the constituencies into which it recommends Scotland should be divided, not less than 8 or more than 12 years from the date of the submission of its last report. The Commission submitted its last report in December 1994. Its next mandatory report, therefore, is due to be submitted between December 2002 and December 2006.

The result of applying the current rules has been that the average number of electors per constituency in Scotland is lower than that for the rest of the United Kingdom. In 1997 Scotland had an average of 55,339 electors per constituency; Wales 55,563; Northern Ireland 66,122; and England 69,578. The average electorate per constituency in the United Kingdom as a whole was 67,077. The effect of this section will be to reduce the number of MPs at Westminster from Scottish constituencies and to bring Scotland’s average electorate substantially into line with that for England.

The White Paper set out the intention that the constituencies of the Scottish Parliament would be the same as those for elections to Westminster except in the case of Orkney and Shetland. Orkney and Shetland form one Westminster constituency but would be 2 constituencies, matching the local government areas, for the Scottish Parliament. Any changes made to the Westminster constituencies would subsequently be reflected in the constituencies for the Scottish Parliament. In order to maintain Orkney Islands and Shetland Islands as separate constituencies for elections to the Scottish Parliament, it is necessary to prevent the Boundary Commission from combining either of those local government areas with any other local government area in Scotland to create a constituency.

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
CC	10-Feb-98	160
CC	4-Mar-98	1079
LC	6-Oct-98	352
LC	6-Oct-98	360
LR	28-Oct-98	2065
LR	28-Oct-98	2068
L3	9-Nov-98	548
L3	9-Nov-98	557
L3	9-Nov-98	562
L3	9-Nov-98	569

Details of Provisions

Subsection (1) introduces the amendments made by the section to the Parliamentary Constituencies Act 1986.

Subsection (2) removes the requirement in the rules for a minimum number of Scottish constituencies.

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Subsection (3) provides a new rule 3A to the effect that when undertaking a review of Westminster constituencies, the Parliamentary Boundary Commission for Scotland cannot, in any constituency containing the Orkney islands or Shetland Islands, include the whole or any other part of a local government area other than those 2 areas.

Subsection (4) provides that, for the Scottish Commission's next mandatory review only, the electoral quota to be used is the electoral quota for England on the enumeration date for the Scottish review. After the Commission's next mandatory review it would revert to using the Scottish quota as defined in rule 5.

Subsection (5) makes provision consequential on subsection (3), in particular making it clear that the Commission have to comply with the new rule 3A inserted by that subsection.