

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

# SCOTLAND ACT 1998

## EXPLANATORY NOTES

### SCHEDULES

#### Schedule 5

### Part II: Preliminary paragraphs

### SECTIONS

#### *Section G2: Health Professions*

#### **Purpose and Effect**

This Section reserves the regulation of the health professions.

#### **Parliamentary Consideration**

<i>Stage</i>	<i>Date</i>	<i>Column</i>
LR	2-Nov-98	11
CC	31-Mar-98	1080

#### **Details of Provisions**

##### Reservation

This reserves the regulation of the health professions. This includes professional qualifications, eligibility to practice and control over standards of professional competence and conduct. This does not reserve matters such as the pay and conditions of service of the health professions within the National Health Service in Scotland or their deployment and management.

Health professions are defined for the purposes of this reservation in the *interpretation* paragraph as meaning the professions regulated by various enactments. The professions regulated by the specified enactments include doctors, dentists, dental auxiliaries, opticians, pharmacists, nurses, midwives, health visitors, chiropodists, dieticians, physiotherapists, medical laboratory scientific officers, orthoptists, prosthetists and orthotists, arts therapists, occupational therapists, radiographers, osteopaths, chiropractors and veterinary surgeons.

##### Exceptions

There is excepted from the reservation, the subject matter of:

- (a) *section 21 of the National Health Service (Scotland) Act 1978*. This enables the Scottish Parliament to legislate about the matter of what vocational training and experience is required to be possessed by doctors before they can provide general medical services in the NHS. This is a matter which is regulated by section 21 This exception is in line with the overall devolution of Health Service matters; and

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- (b) *section 25 of that Act.* Similarly, this section gives the Scottish Parliament legislative competence to regulate the provision of general dental services for the NHS so far as that relates to vocational training and disciplinary proceedings. This is part of the subject-matter of section 25.

### **Executive Devolution**

The following functions have been included in the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 ([S.I. 1999/1750](#)).

<p><a href="#">The Medical Act 1983 (c.54)</a>, Schedule 4, paragraph 7.</p>	<p>The function of the Secretary of State of making rules as to the functions of assessors appointed to advise the Professional Conduct Committee, the Health Committee and the Preliminary Proceedings Committee.</p>
<p><a href="#">The Nurses, Midwives and Health Visitors Act 1997 (c.24)</a>:</p>	
<p>(a) section 19(5); and</p>	<p>The function of the Secretary of State* and the Lord Chancellor to approve, by order, rules under section 10 which apply to proceedings in Scotland.</p>
<p>(b) Schedule 2, paragraph 4.</p>	<p>The function of the Secretary of State and the Lord Chancellor to make, by order, provision with regard to the functions of assessors relative to proceedings in Scotland.</p>

The following functions have been included in the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2000 ([S.I. 2000/1563](#)).

<p><a href="#">The Nurses, Midwives and Health Visitors Act 1997 (c.24)</a>. Sections 5(2), (3), (5), (6), (7), (8) and (9), 6(1)(e), 17(1) and (3), 18(1) and (6) and 24(4).</p>	<p>All Ministerial functions under the Nurses, Midwives and Health Visitors Act 1997 in relation to the National Board for Nursing, Midwifery and Health Visiting for Scotland are transferred. The functions concerned are:-</p> <p>Section 5(2) and (3) - appointment of Chairman and members; specification of number of members of Board; forming an opinion of which qualifications/ experience will be of value to the Board in relation to the appointment of members.</p> <p>Section 5(5) and (6) - Payment of remuneration to members; providing for pensions, allowances etc.; Determining travelling and other allowances for chairman, members and persons appointed to committees.</p> <p>Section 5(7), (8) and (9) - Specifying officers to be appointed by the Board; making “further provision with respect to the constitution and administration of the Board”, including provision for payments etc. to employees and for</p>
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	<p>issuing directions to the Board in respect of its powers to appoint staff.</p> <p>Section 6(1)(e) - Prescribing other functions relating to nurses, midwives or health visitors which are to be performed by the Board.</p> <p>Section 17(1) and (3) - Approval for the Board to charge fees in respect of certain matters including training, qualification, examination and certification of nurses, midwives and health visitors; making grants to the Boards towards approved expenses.</p> <p>Section 18(1) and (6) - Directing the Board to keep accounts and records in relation to the accounts; determining form of annual report, and time limit for Board to submit annual report on the performance of their functions; (see also article 8 of the Order)</p> <p>Section 24(4) - Appointing a day for section 5(6) (Board to pay travelling and other allowances to chairman, members etc.) to cease to have effect.</p> <p>Audit arrangements were also amended by article 8 of <a href="#">S.I. 2000/1563</a></p>
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### **Advice to The Queen**

Special arrangements for giving advice to The Queen were described in a Prime Ministerial answer on 30 June 1999 (WA col 215) and an associated paper deposited in the House of Commons Library.

Under the Professions Supplementary to Medicine Act 1960, the Privy Council makes a determination approving courses and qualifications for state registration purposes in the fields of professions supplementary to medicine. By convention the Secretary of State for Scotland was one of the three Privy Counsellors required by the Act to approve courses run by Scottish institutions. The role of the Secretary of State for Scotland in relation to such courses has passed to the First Minister.

The Secretary of State for Scotland also had a role in relation to nominating Privy Council appointments of Scottish representatives to various statutory bodies relating to the health professions, such as the General Medical Council, the General Dental Council and the General Optical Council. The First Minister has taken over the Secretary of State for Scotland's role in nominating Privy Council appointments of Scottish representatives to these bodies. Advice and nominations for the other Privy Council appointments to these bodies comes from the Secretary of State for Health. Administrative arrangements have been put in place to provide for consultation between the Scottish Ministers and the Secretary of State for Health before either party puts forward nominations to the Privy Council.