

*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 HI: Employment and Industrial Relations*

#### **Purpose and Effect**

This Section reserves employment rights and duties and industrial relations, except for the setting of wages for agricultural workers insofar as this is dealt with by the Agricultural Wages (Scotland) Act 1949.

#### **Parliamentary Consideration**

| <i>Stage</i> | <i>Date</i> | <i>Column</i> |
|--------------|-------------|---------------|
| CC           | 31-Mar-98   | 1082          |
| LC           | 23-Jul-98   | 1070          |
| LC           | 27-Jul-98   | 1277          |

#### **Details of Provisions**

##### Reservation

What are reserved are employment rights and duties and industrial relations, including the subject-matter of the following:

- (a) *the Employers' Liability (Compulsory Insurance) Act 1969* which requires employers to insure against liability for injury or disease sustained by employees and arising out of and in the course of their employment;
- (b) *the Employment Agencies Act 1973* which regulates employment agencies and employment businesses;
- (c) *the Pneumoconiosis etc. (Workers' Compensation) Act 1979* which makes provision for lump sum payments to be paid by the State to or in respect of persons disabled by industrial lung diseases caused by various kinds of noxious dust at work;
- (d) *the Transfer of Undertaking (Protection of Employment) Regulations 1981* which provide for the protection of employees' rights on the transfer of an undertaking, such as the sale or disposal of a business;
- (e) *the Trade Union and Labour Relations (Consolidation) Act 1992*. This Act covers a wide range of matters to do with trade unions and labour relations including such matters

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as employers' associations, collective bargaining, procedures for handling redundancies, industrial action, and the role of ACAS, the Certification Officer, the Central Arbitration Committee and the Commissioner of Rights of Trade Union members;

- (f) *the Industrial Tribunals Act 1996*<sup>1</sup> which is about industrial tribunals and the Employment Appeal Tribunal;
- (g) *the Employment Rights Act 1996*. This Act consolidates enactments about employment rights and covers matters such as protection of wages, suspension from work, rights to time off work and to notice, maternity rights, unfair dismissal, redundancy, and employees' rights on the insolvency of an employer; and
- (h) *the National Minimum Wage Act 1998*. This Act provides for the setting of minimum wages in almost all sectors of employment.

**Exception**

The subject-matter of the Agricultural Wages (Scotland) Act 1949 is excepted from the reservation. This Act establishes the Scottish Agricultural Wages Board which has the power to fix minimum wages, holiday entitlements and other terms and conditions of employment for agricultural workers. Apart from this exception about the wages of agricultural workers, matters relating to wages will fall within the reservation. So, for example, the Scottish Parliament is not able to legislate to set a national minimum wage.

**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](#)).

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| <p><a href="#">The Criminal Justice and Public Order Act 1994 (c.33)</a>, section 128.</p> | <p>The function of the Secretary of State of making regulations for the establishment, maintenance and operation of procedures for the determination of rates of pay and allowances to prison officers in Scotland and such other terms and conditions of employment as the Secretary of State considers fall to be determined in association with the determination of rates of pay and allowances.</p> |
| <p><a href="#">The Employment Tribunals Act 1996 (c.17)</a>, section 3.</p>                | <p>The function of the Secretary of State* to provide, by order, that certain proceedings may be brought before an employment tribunal.</p>  |
| <p><a href="#">The Employment Rights Act 1996 (c.18)</a>, section 63A(1)(c) and (2)</p>    | <p>The functions of the Secretary of State to prescribe a standard of achievement and specify qualification awarding bodies for the purpose of an employee's who ordinarily work in Scotland.</p>  |

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<sup>1</sup> This Act was renamed the Employment Tribunals Act 1996 by section 1 of the Employment Rights (Dispute Resolution) Act 1998.