

*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 H3: Job Search and Support

Purpose and Effect

This Section reserves the provision of advice and support to assist people to select, obtain and retain employment or to assist people to obtain suitable employees, including such assistance for disabled persons. Excepted from the reservation is legislative competence in respect of training for employment. Matters relating to careers services are also excepted from the reservation.

General

The intention behind this reservation is to reserve the matters for which the Employment Service is currently responsible under the Disabled Persons (Employment) Act 1944 and the Employment and Training Act 1973.

Section 56(1)(g) provides for certain devolved functions under the 1973 Act to be shared powers so that the UK Ministers can continue after 1 July 1999 to provide, through the Employment Service, the kind of programmes of employment training assistance being provided by the Employment Service in Scotland prior to 1 July 1999.

Scottish Enterprise (SE) and Highlands and Islands Enterprise (HIE) also have duties to assist people seeking work to obtain training for work which to some extent run parallel with the activities of the Employment Service. In order to allow the Scottish Parliament to have legislative competence over these activities of SE and HIE, and to accord with the general devolution of matters relating to economic development and training, training for employment is excepted from the reservation of the Employment and Training Act 1973.

The Scottish Parliament is able to legislate about careers guidance services. Provision for these services is made in sections 8-10A of the Employment and Training Act 1973, as inserted by sections 45 and 46 of the Trade Union Reform and Employment Rights Act 1993. These sections confer a duty on the Secretary of State to secure the provision of careers services for school and certain college students and a power to arrange provision of such services for other persons. The duty also extends to assisting such persons ceasing to undergo education to obtain appropriate employment, training or additional education. That duty, so far as extends to Scotland, has transferred to the Scottish Ministers by virtue of section 53 of the Act.

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
CC	31-Mar-98	1082
LR	3-Nov-98	201

Details of Provisions

This Section reserves the subject matter of:

- (a) *the Disabled Persons (Employment) Act 1944*. Under this Act the Secretary of State for Education and Employment through the Employment Service makes arrangements to facilitate disabled people to obtain employment or work on their own account and to train for such employment or work; and
- (b) *the Employment and Training Act 1973*, except so far as relating to training for employment. The main provisions of this Act enable the Secretary of State to make arrangements for the purpose of assisting persons to select, obtain training for, obtain and retain employment or for the purposes of assisting persons to obtain suitable employees. The subject-matter of the Act so far as relating to training for employment is not reserved.

Exceptions

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

- (a) *sections 8 to 10A of the Employment and Training Act 1973*. These sections concern the provision of careers guidance services, as indicated above; and
- (b) *sections 2(3)(c) and 12 of Enterprise and New Towns (Scotland) Act 1990*. They deal with the provision of assistance by the provision of Scottish Enterprise and Highlands and Islands Enterprise to persons seeking to establish themselves as self-employed persons. The net result of this part of the exception is that it ensures that matters relating to the activities of Scottish Enterprise and Highlands and Islands Enterprise to assist people to obtain training for employment and also assist people to establish their own businesses, are within the competence of the Scottish Parliament.

Executive Devolution

The following functions have been made exercisable by a Minister of the Crown subject to a requirement for agreement of or consultation with the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).

The Employment and Training Act 1973 (c.50) , section 2(3A).	The function of the Secretary of State to authorise or direct Scottish Enterprise or Highlands and Islands Enterprise to act on his behalf in making arrangements under section 2.
The Enterprise and New Towns (Scotland) Act 1990 (c.35) , section 14A.	The functions of a Minister of the Crown to confer powers or impose duties on Scottish Enterprise and Highlands and Islands Enterprise to do anything in connection with unemployment, training for employment or unemployment.
The Welfare Reform and Pensions Act 1999 (c.30)	Section 60 of the Welfare Reform and Pensions Act 1999 contains provisions for

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implementing Employment Zones. Prototype Employment Zones have been operating under earlier legislation. The new powers in the Act enable schemes to be set up in designated areas where special benefit rules can apply. In order to help participants back to work, the schemes allow them to anticipate funding for up to 6 months' worth of spending on training and jobsearch, combined with money equivalent to the payments they would normally receive from the jobseeker's allowance. The powers in the Act also enable the Secretary of State to provide a wider range of support for activities within the Zones which help people to get and keep work, including support for unemployed people who are seeking to become self-employed. Section 60(5)(c)(i) enables the Secretary of State to make payments to persons providing facilities which are designed to assist claimants for jobseeker's allowance to obtain sustainable employment. [S.I. 2000/1563](#) enables the Scottish Ministers to make payments under section 60(5)(c)(i), if they wish to do so, in so far as they consider that the facilities are capable of supporting training of persons for employment. If that criterion is satisfied, the Scottish Ministers will be able to fund any eligible activity within an employment zone in Scotland. This function is to be exercisable by the Scottish Ministers concurrently with the Secretary of State for Education and Employment.