

*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

### SCHEDULES

#### Schedule 5

### Part II: Preliminary paragraphs

### SECTIONS

#### *Section L1: Judicial Remuneration*

#### **Purpose and Effect**

This Section reserves the determination of the salaries of certain senior judicial posts in Scotland. The payment of judicial salaries, however, is a matter for the Scottish Ministers as are recommendations on judicial appointments.

#### **General**

This Section reserves only the determination of the level of the salaries of the holders of certain specified judicial posts in Scotland. The responsibility for determining their level rests with the UK Government. Payment of salaries is not covered by the reservation. The Scottish Ministers are therefore responsible for paying the salaries, which are charged on the Scottish Consolidated Fund. The determination of judicial pensions is a reserved matter as a consequence of the reservation of occupational and personal pensions at Section F3 and the UK Ministers will therefore retain their current statutory responsibilities for pensions in respect of the specified posts as well as others.

The reservation should be read with section 95 of the Act which provides for the appointment and dismissal of judges of the Court of Session.

#### **Parliamentary Consideration**

<i>Stage</i>	<i>Date</i>	<i>Column</i>
CC	31-Mar-98	1113
CC	31-Mar-98	1114
LC	27-Jul-98	1318

#### **Details of Provisions**

##### Reservation

This Section reserves the determination of the salaries of the following:

- (a) Judges of the Court of Session. This covers all the judges of the Court of Session including the Lord President of the Court of Session and the Lord Justice Clerk. The salaries of judges of the Court of Session are currently determined by the Secretary of State with the consent of the Treasury under section 9(1) of the Administration of Justice Act 1973. The

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salaries were formerly charged on the UK Consolidated Fund. This was modified by virtue of section 119(3) of the Scotland Act so that these salaries are charged on the Scottish Consolidated Fund, thus allowing them to be paid without requiring the prior annual approval of the Scottish Parliament. This maintains the previous position whereby they were paid without requiring Parliamentary approval;

- (b) Sheriffs Principal and Sheriffs. Again these salaries are determined by the Treasury under the Sheriff Courts (Scotland) Act 1907. They are now charged on the Scottish Consolidated Fund by virtue of section 119(3);
- (c) Members of the Lands Tribunal for Scotland. These are determined by the Secretary of State with the approval of the Treasury under the Lands Tribunal Act 1949, sections 2(6) and (9). Paragraph 9 of Schedule 8 to the Act provides for the remuneration of members of the Lands Tribunal to be charged on the Scottish Consolidated Fund (prior to devolution they were paid out of monies provided by Parliament). Travel and subsistence allowances for members of the Lands Tribunals for Scotland, which are also determined under section 2(6) of the 1949 Act, are not a reserved matter and are now determined by the Scottish Ministers; and
- (d) The Chairman of the Scottish Land Court. Paragraph 3 of Schedule 1 to the Scottish Land Court Act 1993 provides for the determination of the salary payable to the Chairman and members of the Land Court by the Treasury and for the salary to be paid out of the Consolidated Fund. Only the salary of the Chairman of the Land Court is to be a reserved matter. Accordingly, his salary continues to be determined by the Treasury while the salary payable to the other members is a devolved matter determined by the Scottish Ministers. The salaries of both the Chairman and the other members are charged on and paid out of the Scottish Consolidated Fund by virtue of section 119(3).

Paragraph 5(a) of Schedule 4 to the Act prevents the Scottish Parliament from modifying the effect of section 119(3) in relation to any provision of an Act of Parliament relating to judicial salaries, namely the effect of section 119(3) upon those provisions mentioned above which provide for the judicial salaries to be charged on the Scottish Consolidated Fund.