

*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 I: General Reservations

Paragraphs 1 to 5: The Constitution

Detail of Provisions

Paragraph 3: Crown Property

Paragraph 3(1) provides that paragraph 1 does not have the effect of reserving Crown property. Crown property is:

- (a) property belonging to Her Majesty in right of the Crown. This includes property which the Crown can sell and alienate, such as the foreshore, and rights and obligations over such property which are vested in the Crown as trustee for certain public rights and which cannot be alienated, such as the right to recreational use of the foreshore or the right of public navigation in the waters over the seabed. This property forms part of the Crown Estate which is managed by the Crown Estate Commissioners; and
- (b) property belonging to any person acting on behalf of the Crown or held in trust for Her Majesty for the purposes of any person acting on behalf of the Crown.

This will enable the Scottish Parliament, for example, to apply its planning legislation to Crown property, subject of course to any provisions in other reservations. It will also enable the Scottish Parliament, when legislating to create a new harbour or port, to extinguish any public rights over the foreshore or seabed which might be affected.

Paragraph 3(2) provides that paragraph 1 does not reserve the position of the Crown as ultimate superior of all feudal land in Scotland or the superiorities owned by the Prince and Steward of Scotland. This provision is required because it is not clear whether such property can be said to belong to the Crown “in right of the Crown”. It enables the Scottish Parliament to abolish the feudal system of land tenure, as in the Abolition of Feudal Tenure etc. (Scotland) Act 2000.

Paragraph 3(3) qualifies paragraph 3(1) by providing that it does not affect the reservation by paragraph 1 of:

- (a) the hereditary revenues of the Crown, other than revenues from *bona vacantia*, *ultimus haeres* and treasure trove. Hereditary revenues are derived from property vested in the Crown in right of the Crown and various other prerogative rights and privileges which are customarily surrendered by the Crown to the nation in exchange for a fixed annual income, known as the Civil List. *Bona vacantia*, *ultimus haeres* and treasure trove, are however devolved;
- (b) the royal arms and standard. This is required because otherwise it could be regarded as part of the property belonging to Her Majesty in right of the Crown; and

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- (c) the compulsory acquisition of property held or used by a Minister of the Crown or government department.

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
CC	30-Mar-98	904
CR	19-May-98	806
LC	14-Jul-98	242