



# Scotland Act 1998

## 1998 CHAPTER 46

### PART V

#### MISCELLANEOUS AND GENERAL

##### *Cross-border public authorities*

#### **88 Cross-border public authorities: initial status.**

- (1) Sections 53 and 118 to 121 shall not apply in relation to any function which is specifically exercisable in relation to a cross-border public authority; and section 118 shall not apply in relation to any function of such an authority.
- (2) A Minister of the Crown shall consult the Scottish Ministers before he exercises, in relation to a cross-border public authority, any specific function—
  - (a) which relates to any appointment or removal of the cross-border public authority concerned or of any members or office-holders of the cross-border public authority concerned, or
  - (b) whose exercise might affect Scotland otherwise than wholly in relation to reserved matters.
- (3) Any cross-border public authority or other person which is required by a pre-commencement enactment or a prerogative instrument to lay any report relating to a cross-border public authority before Parliament or either House of Parliament shall also lay the report before the Scottish Parliament.
- (4) Subsections (1) to (3) are subject to any Order in Council made under section 89.
- (5) In this Act “cross-border public authority” means any body, government department, office or office-holder specified in an Order in Council made by Her Majesty under this section.
- (6) Such an Order may only specify a body, government department, office or office-holder which (at the time when the Order is made) has, in addition to other functions,

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functions which are exercisable in or as regards Scotland and do not relate to reserved matters.

(7) In this section—

“office-holder” includes employee or other post-holder,

“report” includes accounts and any statement.

#### Modifications etc. (not altering text)

- C1** S. 88(1) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 23 Pt. II para. 2(1)**; S.I. 1998/3178, **art. 3**
- C2** S. 88(2) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 4 Pt. II para. 3(3)**; S.I. 1998/3178, **art. 3**
- S. 88(2) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 2 Pt. II para. 3(3)**; S.I. 1998/3178, **art. 3**
- S. 88(2) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 5 Pt. II para. 3(3)**; S.I. 1998/3178, **art. 3**
- S. 88(2) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 7 Pt. II para. 3(3)**; S.I. 1998/3178, **art. 3**
- S. 88(2) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, Sch. 8 Pt. II paras. 3(3), **4(2)**; S.I. 1998/3178, **art. 3**
- S. 88(2) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 11 Pt. II para. 4(3)**; S.I. 1998/3178, **art. 3**
- S. 88(2) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 13 Pt. II para. 3(3)**; S.I. 1998/3178, **art. 3**
- S. 88(2) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 14 Pt. II para. 3(3)**; S.I. 1998/3178, **art. 3**
- S. 88(2) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 16 Pt. II para. 3(3)**; S.I. 1998/3178, **art. 3**
- S. 88(2) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 17 Pt. II para. 3(3)**; S.I. 1998/3178, **art. 3**
- S. 88(2)(a)(b) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 23 Pt. II para. 2(2)(3)**; S.I. 1998/3178, **art. 3**
- C3** S. 88(2)(a) excluded (20.4.2000) by S.I. 2000/1102, **art. 5** (with art. 6(1))
- C4** S. 88(3) restricted (1.7.1999) by S.I. 1999/1747, arts. 1, 3, **Sch. 23 Pt. II para. 2(4)**; S.I. 1998/3178, **art. 3**
- C5** S. 88(3) modified (23.5.2016) by **Scotland Act 2016 (c. 11), ss. 46(2), 72(7)**

#### Commencement Information

- II** S. 88 in force for certain purposes at 25.1.1999 and for all remaining purposes at 1.7.1999 by S.I. 1998/3178, **art. 2(2), 3**

## 89 Power to adapt etc. cross-border public authorities.

- (1) Her Majesty may by Order in Council make such provision in relation to a cross-border public authority as She considers necessary or expedient in consequence of this Act.
- (2) Such provision may, in particular, include provision—
- modifying any function of a cross-border public authority or of a Minister of the Crown in relation to such an authority,
  - conferring any function on a cross-border public authority or on a Minister of the Crown or the Scottish Ministers in relation to such an authority,

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- (c) modifying the constitution of a cross-border public authority,
  - (d) modifying the application of section 56(4) or 88(1), (2) or (3),
  - (e) for any function to be exercisable by the Scottish Ministers instead of by a Minister of the Crown, or by the one concurrently with the other, or by both jointly or by either with the agreement of or after consultation with the other,
  - (f) apportioning any assets or liabilities,
  - (g) imposing, or enabling the imposition of, any limits or other restrictions in addition to or in substitution for existing limits or restrictions,
  - (h) providing for sums to be charged on or payable out of, or paid into, the Scottish Consolidated Fund (instead of or in addition to payments into or out of the Consolidated Fund or the National Loans Fund or out of money provided by Parliament),
  - (i) requiring payments, with or without interest, to a Minister of the Crown or into the Consolidated Fund or National Loans Fund.
- (3) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless the cross-border public authority concerned has been consulted.

#### Commencement Information

**I2** S. 89 in force at 6.5.1999 and at 1.7.1999 for all remaining purposes by [S.I. 1998/3178](#), [arts. 2\(2\), 3](#)

## **90 Power to transfer property of cross-border public authorities.**

- (1) This section applies if an Act of the Scottish Parliament provides for any functions of a cross-border public authority to be no longer exercisable in or as regards Scotland.
- (2) Her Majesty may by Order in Council provide—
  - (a) for the transfer of any property to which this section applies, or
  - (b) for any person to have such rights or interests in relation to any property to which this section applies as Her Majesty considers appropriate (whether in connection with a transfer or otherwise).
- (3) This section applies to property belonging to the cross-border public authority concerned which appears to Her Majesty—
  - (a) to be held or used wholly or partly for or in connection with the exercise of any of the functions concerned, or
  - (b) not to be within paragraph (a) but, when last held or used for or in connection with the exercise of any function, to have been so held or used for or in connection with the exercise of any of the functions concerned.
- (4) Her Majesty may by Order in Council provide for the transfer of any liabilities—
  - (a) to which the cross-border public authority concerned is subject, and
  - (b) which appear to Her Majesty to have been incurred wholly or partly for or in connection with the exercise of any of the functions concerned.
- (5) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless the cross-border public authority concerned has been consulted.

**Changes to legislation:**

There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: Cross-border public authorities.