



# Scotland Act 1998

## 1998 CHAPTER 46

### PART V

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **91 Maladministration.**

- (1) The Parliament shall make provision for the investigation of relevant complaints made to its members in respect of any action taken by or on behalf of—
  - (a) a member of the [<sup>F1</sup>Scottish Government] in the exercise of functions conferred on the Scottish Ministers, or
  - (b) any other office-holder in the Scottish Administration.
- (2) For the purposes of subsection (1), a complaint is a relevant complaint if it is a complaint of a kind which could be investigated under the <sup>M1</sup>Parliamentary Commissioner Act 1967 if it were made to a member of the House of Commons in respect of a government department or other authority to which that Act applies.
- (3) The Parliament may make provision for the investigation of complaints in respect of—
  - (a) any action taken by or on behalf of an office-holder in the Scottish Administration,
  - (b) any action taken by or on behalf of the Parliamentary corporation,
  - (c) any action taken by or on behalf of a Scottish public authority with mixed functions or no reserved functions, or
  - (d) any action concerning Scotland and not relating to reserved matters which is taken by or on behalf of a cross-border public authority.
- (4) In making provision of the kind required by subsection (1), the Parliament shall have regard (among other things) to the Act of 1967.
- (5) Sections 53 and 117 to 121 shall not apply in relation to functions conferred by or under the Act of 1967.

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(6) In this section—

“action” includes failure to act (and related expressions shall be read accordingly),

“provision” means provision by an Act of the Scottish Parliament;

and the references to the Act of 1967 are to that Act as it has effect on the commencement of this section.

#### Textual Amendments

**F1** Words in Act substituted (3.7.2012) by [Scotland Act 2012 \(c. 11\)](#), **ss. 12(2)(a)**, 44(5) (with s. 12(3)); [S.I. 2012/1710](#), art. 2(f)

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

**C1** S. 91(3)(d) modified (27.7.2004) by [Energy Act 2004 \(c. 20\)](#), ss. 2(10), 198(2), **Sch. 1 para. 17(c)**; [S.I. 2004/1973](#), art. 2, Sch.

**C2** S. 91(3)(d) modified by [Private Security Industry Act 2001 \(c. 12\)](#), s. 2A (as inserted (E.W.S) (30.6.2006 for S. and 6.7.2006 for E.W.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 171(1), 178(6), **Sch. 15 para. 3**; [S.S.I. 2006/381](#), art. 2)

#### Marginal Citations

**M1** 1967 c. 13.

## 92 Queen’s Printer for Scotland.

(1) There shall be a Queen’s Printer for Scotland who shall—

- (a) exercise the Queen’s Printer functions in relation to Acts of the Scottish Parliament and subordinate legislation [<sup>F2</sup>(other than Scottish statutory instruments)] to which this section applies, and
- (b) exercise any other functions conferred on her by this Act or any other enactment.

(2) In subsection (1), “the Queen’s Printer functions” means the printing functions in relation to Acts of Parliament and subordinate legislation of the Queen’s Printer of Acts of Parliament.

(3) The Queen’s Printer for Scotland shall also on behalf of Her Majesty exercise Her rights and privileges in connection with—

- (a) Crown copyright in Acts of the Scottish Parliament,
- (b) Crown copyright in subordinate legislation to which this section applies,
- (c) Crown copyright in any existing or future works (other than subordinate legislation) made in the exercise of a function which is exercisable by any office-holder in, or member of the staff of, the Scottish Administration (or would be so exercisable if the function had not ceased to exist),
- (d) other copyright assigned to Her Majesty in works made in connection with the exercise of functions by any such office-holder or member.

(4) This section applies to subordinate legislation made, confirmed or approved—

- (a) by a member of the [<sup>F1</sup>Scottish Government],
- (b) by a Scottish public authority with mixed functions or no reserved functions,  
or

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- (c) within devolved competence by a person other than a Minister of the Crown or such a member or authority.

<sup>F3</sup>(4A) . . . . .

[<sup>F4</sup>(4B) If, following an alteration such as is mentioned in section 30(5)—

- (a) subordinate legislation is made, confirmed or approved under a provision which continues to have effect by virtue of section 30(6), and  
(b) the making, confirmation or approval would be within devolved competence but for the alteration,

the subordinate legislation is to be regarded for the purposes of this section as being made, confirmed or approved within devolved competence.]

- (5) The Queen’s Printer of Acts of Parliament shall hold the office of Queen’s Printer for Scotland.  
(6) References in this Act to a Scottish public authority include the Queen’s Printer for Scotland.

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**Textual Amendments**

- F1** Words in Act substituted (3.7.2012) by [Scotland Act 2012 \(c. 11\)](#), **ss. 12(2)(a)**, 44(5) (with s. 12(3)); [S.I. 2012/1710](#), art. 2(f)  
**F2** Words in s. 92(1)(a) inserted (S.) (4.6.2010) by [Interpretation and Legislative Reform \(Scotland\) Act 2010 \(asp 10\)](#), **ss. 45**, 58(2)  
**F3** [S. 92\(4A\)](#) omitted (18.5.2017) by virtue of [Scotland Act 2016 \(c. 11\)](#), **ss. 10(3)**, 72(4)(a); [S.I. 2017/608](#), reg. 2(1)(h)  
**F4** [S. 92\(4B\)](#) inserted (3.7.2012) by [Scotland Act 2012 \(c. 11\)](#), **ss. 9(3)**, 44(5); [S.I. 2012/1710](#), art. 2(d)

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

- C3** [S. 92\(4\)\(c\)](#) modified (23.3.2016) by [Scotland Act 2016 \(c. 11\)](#), **ss. 36(12)(a)**, 72(1)(b)

**93 Agency arrangements.**

- (1) A Minister of the Crown may make arrangements for any of his specified functions to be exercised on his behalf by the Scottish Ministers; and the Scottish Ministers may make arrangements for any of their specified functions to be exercised on their behalf by a Minister of the Crown.  
(2) An arrangement under this section does not affect a person’s responsibility for the exercise of his functions.

[<sup>F5</sup>(2A) The collection and management of a devolved tax is a specified function of the Scottish Ministers.]

- (3) In this section—  
“functions” does not include a function of making, confirming or approving subordinate legislation,  
“Minister of the Crown” includes government department,  
“specified” [<sup>F6</sup>(subject to subsection (2A))] means specified in an Order in Council made by Her Majesty under this subsection;  
and this section applies to the Lord Advocate as it applies to the Scottish Ministers.

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#### Textual Amendments

- F5** S. 93(2A) inserted (1.7.2012) by [Scotland Act 2012 \(c. 11\)](#), [ss. 23\(3\)\(a\)](#), [44\(2\)\(b\)](#)  
**F6** Words in s. 93(3) inserted (1.7.2012) by [Scotland Act 2012 \(c. 11\)](#), [ss. 23\(3\)\(b\)](#), [44\(2\)\(b\)](#)

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

- C4** S. 93 modified (7.4.2005 at 5:45 pm) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), [ss. 15\(1\)](#), [53\(1\)](#); [S.I. 2005/1126](#), [art. 2\(1\)](#)

#### Commencement Information

- I1** S. 93 in force for certain purposes at 6.5.1999 and at 1.7.1999 for all remaining purposes by [S.I. 1998/3178](#), [arts. 2\(2\)](#), [3](#)

### 94 Private legislation.

- (1) This section applies where a pre-commencement enactment makes provision which has the effect of—
- (a) requiring any order to be confirmed by Act of Parliament, or
  - (b) requiring any order (within the meaning of the <sup>M2</sup>Statutory Orders (Special Procedure) Act 1945) to be subject to special parliamentary procedure, and power to make, confirm or approve the order in question is exercisable by the Scottish Ministers by virtue of section 53.
- (2) The provision shall have effect, so far as it relates to the exercise of the power to make, confirm or approve the order by virtue of section 53, as if it required the order—
- (a) to be confirmed by an Act of the Scottish Parliament, or
  - (b) (as the case may be) to be subject to such special procedure as may be provided by or under such an Act.

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

- C5** S. 94 applied (with modifications) (1.7.1999) by [S.I. 1999/1750](#), [arts. 1\(1\)](#), [6\(2\)\(a\)](#), [Sch. 5](#); [S.I. 1998/3178](#), [art. 3](#)  
S.94 applied (14.12.2000) by [S.I. 2000/3251](#), [art. 3](#) (with [art. 4](#))  
**C6** S. 94(2)(b) applied (1.7.1999) (*temp.*) by [S.I. 1999/1593](#), [arts. 1](#), [2](#), [3](#); [S.I. 1998/3178](#), [art. 2\(1\)](#)

#### Marginal Citations

- M2** 1945 c. 18.

### 95 Appointment and removal of judges.

- (1) It shall continue to be for the Prime Minister to recommend to Her Majesty the appointment of a person as Lord President of the Court of Session or Lord Justice Clerk.
- (2) The Prime Minister shall not recommend to Her Majesty the appointment of any person who has not been nominated by the First Minister for such appointment.
- (3) Before nominating persons for such appointment the First Minister shall consult the Lord President and the Lord Justice Clerk (unless, in either case, the office is vacant).

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- (4) It is for the First Minister, after consulting the Lord President, to recommend to Her Majesty the appointment of a person as—
- (a) a judge of the Court of Session (other than the Lord President or the Lord Justice Clerk), or
  - (b) a sheriff principal or a sheriff.
- (5) The First Minister shall comply with any requirement in relation to—
- (a) a nomination under subsection (2), or
  - (b) a recommendation under subsection (4),
- imposed by virtue of any enactment.
- (6) A judge of the Court of Session and the Chairman of the Scottish Land Court may be removed from office only by Her Majesty; and any recommendation to Her Majesty for such removal shall be made by the First Minister.
- (7) The First Minister shall make such a recommendation if (and only if) the Parliament, on a motion made by the First Minister, resolves that such a recommendation should be made.
- (8) Provision shall be made for a tribunal constituted by the First Minister to investigate and report on whether a judge of the Court of Session or the Chairman of the Scottish Land Court is unfit for office by reason of inability, neglect of duty or misbehaviour and for the report to be laid before the Parliament.
- (9) Such provision shall include provision—
- (a) for the constitution of the tribunal by the First Minister when requested by the Lord President to do so and in such other circumstances as the First Minister thinks fit, and
  - [<sup>F7</sup>(b) for the appointment to chair the tribunal of a member of the Judicial Committee of the Privy Council who holds or has held high judicial office,]
- and may include provision for suspension from office.
- (10) The First Minister may make a motion under subsection (7) only if—
- (a) he has received from a tribunal constituted in pursuance of subsection (8) a written report concluding that the person in question is unfit for office by reason of inability, neglect of duty or misbehaviour and giving reasons for that conclusion,
  - (b) where the person in question is the Lord President or the Lord Justice Clerk, he has consulted the Prime Minister, and
  - (c) he has complied with any other requirement imposed by virtue of any enactment.
- (11) In subsections (8) to (10)—
- [<sup>F8</sup> “ high judicial office ” has the meaning given by section 60 of the Constitutional Reform Act 2005, ]
  - “provision” means provision by or under an Act of the Scottish Parliament,
  - “tribunal” means a tribunal of at least three persons.

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#### Textual Amendments

**F7** S. 95(9)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40(4), 148(1), [Sch. 9 para. 100\(a\)](#); [S.I. 2009/1604, art. 2](#)

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**F8** S. 95(11): definition of "high judicial office" inserted (1.10.2009) by [Constitutional Reform Act 2005](#) (c. 4), ss. 40(4), 148(1), **Sch. 9 para. 100(b)**; S.I. 2009/1604, **art. 2**

## **96 Provision of information to the Treasury.**

- (1) The Treasury may require the Scottish Ministers to provide, within such period as the Treasury may reasonably specify, such information, in such form and prepared in such manner, as the Treasury may reasonably specify.
- (2) If the information is not in their possession or under their control, their duty under subsection (1) is to take all reasonable steps to comply with the requirement.

## **[<sup>F9</sup>96A Provision of information to the Office for Budget Responsibility**

- (1) The Office for Budget Responsibility has a right of access at any reasonable time to all Scottish public finances information which it may reasonably require for the purpose of the performance of its duty under section 4 of the Budget Responsibility and National Audit Act 2011 (duty to examine and report on the sustainability of the public finances).
- (2) The Office is entitled to require from any person holding or accountable for any Scottish public finances information any assistance or explanation which the Office reasonably thinks necessary for that purpose.
- (3) "Scottish public finances information" means information held by the Scottish Ministers or by any Scottish public authority specified in regulations made by the Secretary of State.
- (4) This section is subject to any enactment or rule of law which operates to prohibit or restrict the disclosure of information or the giving of any assistance or explanation.]

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### **Textual Amendments**

**F9** S. 96A inserted (1.4.2017) by [Scotland Act 2016](#) (c. 11), **ss. 21(2), 72(5)**; S.I. 2016/1178, **reg. 2(b)**

## **[<sup>F10</sup>97 Assistance for registered political parties in the Parliament.**

- (1) The Parliament may by resolution make provision for payments to be made to registered political parties for the purpose of assisting members of the Parliament who are connected with the parties to perform their Parliamentary duties.
- (2) A resolution under subsection (1) may—
  - (a) confer functions on the Parliamentary corporation,
  - (b) determine, or make provision for determining, the circumstances in which a member of the Parliament and a registered political party are to be regarded for the purposes of the resolution as connected,
  - (c) make different provision for different purposes.]

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### Textual Amendments

**F10** S. 97 substituted (S.) (22.5.2021) by [Scottish Parliament \(Assistance for Political Parties\) Act 2021 \(asp 7\)](#), **ss. 1, 4** (with s. 3)

**Changes to legislation:**

There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: Miscellaneous.