Im Bereich der Ziviljustiz kommt für vor dem Ablauf des Übergangszeitraums eingeleitete und noch anhängige Verfahren weiterhin EU-Recht zur Anwendung. Die Informationen über das Vereinigte Königreich werden im gegenseitigen Einvernehmen bis Ende 2024 über das Europäische Justizportal verfügbar bleiben.

National legislation

Schottland

This page provides you with information on law and legal databases in the United Kingdom, with particular reference to the Scotland jurisdiction.

Sources of law

The principal sources of law in the Scotland jurisdiction of the United Kingdom are:

Primary Legislation in the form of **Acts of the United Kingdom Parliament** and **Acts of the Scottish Parliament**

European Union law

Secondary (or subordinate legislation) in the form of **Statutory Instruments** and **Scottish Statutory Instruments**. Some other subordinate legislation may be made as **Administrative Orders**

The **common law** as developed through judicial decisions.

Types of legal instruments – description

Primary legislation, or **Acts of Parliament**, are made by the UK Parliament in London and may apply to all or any part of the United Kingdom. The UK Parliament has also approved the **devolution of legislative powers** to the devolved Parliaments and Assemblies, under which they can pass primary legislation covering a limited range of subjects, which will apply within their own jurisdictions. Other legislation may be made by the Sovereign under the prerogative in various forms, such as Orders in Council, proclamations, royal warrants, royal instructions, regulations and letters patent.

Secondary legislation is made under powers conferred by or under statute on Her Majesty in Council, Ministers, Departments (Ministries), the Scottish Ministers, or other body or person. This is also called **delegated or secondary legislation**, and the statute conferring the power is referred to as the enabling or empowering or 'parent' Act. Secondary legislation may have various titles (such as Orders in Council, Regulations or Rules), all of which may be referred to collectively as 'Statutory Instruments' or 'Scottish Statutory Instruments'.

The **Scotland Act 1998** created and devolved power to the Scottish Parliament in Edinburgh. It restored to Scotland (following a referendum) the separate Parliament that had been lost at the time of the Union with England and Wales in 1707. However, as Scotland continues to be part of the UK, the UK Parliament is still able to legislate in certain areas. Primary legislation may be made by the Scottish Parliament in devolved subject areas (i.e. principally under the Scotland Acts of 1997, 2012 and 2016). These include: health; education; local government; social work; housing; planning; tourism and economic development; some aspects of transport; justice, including most aspects of private and criminal law; police and fire services; many aspects of the environment; agriculture and fisheries; sport and the arts and implementation of international obligations in devolved areas. The Scotland Acts of 2012 and 2016 extended these devolved powers into areas such as: certain aspects of taxation; employment support services; aspects of social security (including benefits for disabled people and carers); law on abortion; management of the Crown Estate; consumer adovocacy and competition; energy (including licensing of onshore oil and gas and fuel poverty schemes); equalities (including quotas for gender equality on public sector boards); further aspects of transport (including policing of railways); and licensing and gaming machines. Scottish Statutory Instruments (SSIs) may also be made by the Scottish Ministers under powers delegated by Acts of the UK Parliament or Acts of the Scottish Parliament.

The power to make **international treaties** on behalf of the UK is vested in the Crown, i.e. the Sovereign under the Royal Prerogative, acting on the advice of the UK Government. The UK Parliament currently has no formal role in making treaties, but where a treaty requires a change in UK legislation or a grant of public money, Parliament will vote on that in the normal way. All EU treaties require legislation for their implementation in the UK and are therefore subject to parliamentary scrutiny. When the Constitutional Reform and Governance Act 2010 comes into force a treaty may not be ratified unless (a) a Minister of a Crown has in the first instance laid before Parliament a copy of the treaty, (b) the treaty has been published and (c) a period of 21 sitting days has expired without either House of Parliament having resolved that the treaty should not be ratified.

Hierarchy of norms

Where there are conflicts between the different sources of law, the principal forum for resolving them is the courts. Disputes about the interpretation of legislation may also be resolved by the courts. However, since there is no 'written constitution' in the UK, it is not possible to challenge an Act of Parliament in court on the basis that it is 'unconstitutional'. **The constitutional doctrine of 'parliamentary sovereignty'** holds that the UK Parliament is the supreme legislative authority, in the sense that it may make and repeal any law, and that no other body may repeal or question the validity of an Act of Parliament. Whilst therefore the UK Parliament retains authority to legislate on any issue, whether devolved or not, the UK Government has however committed to proceed in accordance with the (Sewel) convention that the UK Parliament would not normally legislate with regard to devolved matters except with the agreement of the devolved legislature.

However, the doctrine of parliamentary sovereignty is qualified by the UK's membership of the European Union. By virtue of the European Communities Act 1972, **European Union Law** forms part of the law of England and Wales (and Scotland and Northern Ireland). Domestic legislation must be interpreted so as to comply with EU law wherever possible.

The Human Rights Act 1998, which incorporated the European Convention on Human Rights into UK law, gives the courts another power to call Acts of Parliament into question. As far as possible, domestic legislation must be interpreted to be compatible with Convention rights.

Decisions of the courts, and particularly of the appeal courts, play an important role in the development of the law. Not only do they provide authoritative rulings on the interpretation of legislation, but they also form the basis of the common law, which is derived from court decisions in previous cases (or case law). In general, as to which courts' decisions bind which other courts, the general principle is that a court will be bound by earlier decisions made by a higher court. In relation to matters of European Union Law, the European Court of Justice is the highest authority. The **High Court of Justiciary** is the supreme

criminal court in Scotland, while the **Law Lords** within the House of Lords have acted as the Supreme Court for Civil matters in Scotland. However, they were replaced by the Supreme Court, which came into being on 1st October 2009. The Law Lords became the first Justices of the Supreme Court, and the Senior Law Lord became the President.

Institutional framework

Institutions responsible for the adoption of legal rules and the decision-making process

Primary legislation is made by the UK Parliament in London. Before a **proposal for legislation** (known as a Bill) can become an **Act of Parliament**, it must be approved by both Houses of Parliament: the House of Commons and the House of Lords. The following stages take place in both Houses:

First reading (formal introduction of the Bill without debate)

Second reading (general debate)

Committee stage (detailed examination, debate and amendments. In the House of Commons, this stage generally takes place in a Public Bill Committee.)

Report stage (opportunity for further amendments)

Third reading (final chance for debate; amendments are possible in the Lords)

When a Bill has passed through both Houses, it is returned to the first House (where it started) for the second House's amendments to be considered. Both Houses must agree on the final text. There may be several rounds of exchanges between the two Houses until agreement is reached on every word of the Bill. Once this happens, the Bill can be submitted for Royal Assent.

In the Scottish Parliament, a similar process involving introduction of a Bill, consideration, debate and voting occurs, though there is **only a single Chamber** within the devolved Parliament. There are three stages:

Stage 1: The appropriate parliamentary committee(s) takes evidence on the Bill and produces a report on the Bill's general principles. A meeting of the Parliament then considers the report and debates whether to agree to the Bill's general principles. If the Parliament agrees, the Bill goes on to Stage 2

Stage 2: The bill is considered in detail by a committee or, occasionally, by a Committee of the Whole Parliament. Changes, known as amendments to the Bill, can be made at this stage.

Stage 3: The Bill is again considered at a meeting of the Parliament. Further amendments can be made and the Parliament then debates and decides whether to pass the Bill in its final form.

When a Bill has passed through all its parliamentary stages in the UK or Scottish Parliaments, it is sent to the Sovereign for **Royal Assent**, after which it becomes an **Act**. In Scotland, there is a there is a four week period during which it may be challenged by the Law Officers if they believe it falls outside the law-making powers of the Scottish Parliament.

Primary legislation can generally be **amended or repealed** only by new primary legislation, There are, however, exceptions under which certain amendments and repeals may be made by Statutory instrument – where these are implementing EU obligations, or a piece of legislative reform that reduces or eliminates regulatory burdens or failure to comply with the European Convention on Human Rights. Such Orders, however, require to be approved by affirmative resolution of both Houses of Parliament before they can be made.

Primary legislation comes into force in accordance with **commencement provisions,** which are included in the Act. The Act may specify a particular coming into force date. This might be immediately on Royal Assent, on a specified date (generally at least two months after Royal Assent) or a date to be specified by a Minister or Department by the making of a Commencement Order (Statutory Instrument). Different dates may be specified for different provisions within the Act.

The coming into force date for any piece of secondary legislation will generally be specified in the instrument itself. Exceptionally, the commencement date may be made by publication of a notice in the official gazettes (the London or Edinburgh Gazette).

Legal databases

A number of legal databases are available.

The website of the Office of Public Sector Information (OPSI) provides the full text of **all primary legislation** as enacted by the UK Parliament, the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales, together with **all secondary legislation** applying to the UK as a whole or parts of the UK. Access to the information is free of charge.

Revised primary legislation from 1235 to date covering all parts of the UK can be found in the UK Statute Law Database. Access to the database is free of charge.

Although **all Scottish legislation** is available on the OPSI website, all Scottish primary and secondary legislation enacted and made since devolution in 1999 is also available on the Office of the Queen's Printer for Scotland website. Access to the legislation is free of charge.

Legislation.gov.uk, incorporating both the OPSI and Statute Law Database websites and also replacing the legislation published on the Office of the Queen's Printer for Scotland website, is the official home of all UK Legislation

Related Links

Office of Public Sector Information (OPSI), Statute Law Database, legislation.gov.uk, Office of the Queen's Printer for Scotland

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