

4. The 1998 Act followed a referendum on devolution in 1997. The 1998 Act established the Scottish Parliament and Scottish Executive (which has since been renamed the Scottish Government) and defines their powers. Scottish devolution is based on a “retained powers” model of devolution in which – broadly – the power to make legislation about matters not “reserved” in the 1998 Act is “devolved” to the Scottish Parliament. As a result, the Scottish Parliament has the powers to make primary legislation – Acts of the Scottish Parliament – on a range of matters commonly called “devolved matters”.¹

5. The table below has illustrative lists of reserved and devolved matters:

Devolved matters	Reserved matters
Agriculture, forestry and fisheries	Broadcasting
Education and training	Aspects of the Constitution
Environment	Defence and national security
Health, care and social services	Immigration
Housing and land use planning	Energy
Law and order	Employment
Local Government	Equal opportunities
Sports, arts and tourism	Foreign affairs and international relations
Parts of social security	Macroeconomic and fiscal policy
Some forms of taxation	Pensions, and parts of social security
Many aspects of transport	Trade, including international trade

6. Scottish Government Ministers have executive powers, including to make secondary legislation (such as regulations and orders), and responsibilities for which they are accountable to the Scottish Parliament. Those are in areas where legislative competence is devolved to the Scottish Parliament and a range of “executively devolved” powers and duties in relation to matters (for example many aspects of transport) for which the competence to make primary legislation is reserved. The 1998 Act removed most UK Ministerial powers and duties, so far as they were exercisable in relation to devolved matters, and transferred them

¹ The UK Internal Market Act 2020 increased the powers of UK Ministers to undertake expenditure in devolved areas.