

*These notes refer to the Scotland Act 1998 (c.46)  
which received Royal Assent on 19th November 1998*

# SCOTLAND ACT 1998

---

## EXPLANATORY NOTES

### COMMENTARY

#### **Part II: the Scottish Administration**

SECTION 59: Property and liabilities of the Scottish Ministers

#### **Purpose and Effect**

This section makes general provision relating to the property and liabilities of the Scottish Ministers, namely provision as to how property may be held by them, how there is perpetual succession to their property and liabilities, and how documents may be validly executed by them.

#### **General**

This is the first of a series of four sections dealing with the property and liabilities of the Scottish Ministers, including the First Minister and the Lord Advocate.

This section makes general provision regarding the property and liabilities of Scottish Ministers. Section 61 makes similar provision in relation to the property and liabilities of the Lord Advocate and the First Minister.

Sections 60 and 62 make provision for the transfer to Scottish Ministers and the Lord Advocate respectively of property and liabilities belonging to the UK Government.

Property is defined in section 126(1) to include rights and interests of any description. This will therefore include rights under a contract or in any Memorandum and Articles of Association.

#### **Parliamentary Consideration**

<i>Stage</i>	<i>Date</i>	<i>Column</i>
LC	30-Jul-98	1640

#### **Details of Provisions**

Subsection (1) provides for property to be held by the Scottish Ministers in that name without the need for any further designation. This makes it clear, for example, that the title to any heritable property belonging to the Scottish Ministers may be taken in the name of the Scottish Ministers.

Subsection (2) provides that property acquired by or transferred to the Scottish Ministers shall belong to those who are the Scottish Ministers for the time being. The same applies to the liabilities of the Scottish Ministers. This ensures that there is perpetual succession to such the property and liabilities: they remain vested in the Scottish Ministers, even although there may be changes in who the Scottish Ministers are or even if there is an entirely new Scottish Executive appointed.

*These notes refer to the Scotland Act 1998 (c.46)  
which received Royal Assent on 19th November 1998*

Subsection (3) provides that, in relation to the property and liabilities of the Scottish Ministers, references to them in titles recorded in the Register of Sasines or registered in the Land Register of Scotland and in any other document (e.g. a contract) are to be read as meaning the Scottish Ministers for the time being in accordance with subsection (2). This provision is necessary to support the provision in subsection (2) about perpetual succession.

Subsection (4) provides that documents are validly executed by the Scottish Ministers if they are executed by any member of the Scottish Executive. The [Requirements of Writing \(Scotland\) Act 1995 \(c.7\)](#), as amended by paragraph 31 of Schedule 8 to the Scotland Act, makes provision as to how documents are signed by a member of the Scottish Executive.