

*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 46: Choice of the First Minister

Purpose and Effect

Section 45 provides for the First Minister to be appointed by Her Majesty. This section makes provision about the way in which a person is chosen for such appointment. It provides for the Parliament to nominate one of its members for appointment as First Minister and for the Presiding Officer to recommend to Her Majesty the appointment of the person nominated by the Parliament.

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
CC	10-Feb-98	185
LC	28-Jul-98	1474

Details of Provisions

Subsection (1) requires the Parliament, within the period allowed in subsection (3), to nominate one of its members for appointment as First Minister if one of the events mentioned in subsection (2) occurs. The Standing Orders of the Parliament set out the procedure and system of voting for the nomination of a person as First Minister.

The period allowed for nomination is normally 28 days after the occurrence of the event in question. If the Parliament fails to make a nomination within that period, then the Presiding Officer is required by section 3(1)(b) to propose a day for the holding of an extraordinary general election.

Subsection (2) specifies four events which trigger the procedure for the nomination of the First Minister, namely:

- (a) the holding of a poll at a general election;
- (b) the First Minister tendering his resignation to Her Majesty;
- (c) the office of First Minister becoming vacant (other than in consequence of his resignation;
or
- (d) the First Minister ceasing to be a member of the Parliament, other than on a dissolution (e.g. by resigning his seat under section 14).

Subsection (3) provides that the period within which the Parliament must nominate a First Minister is 28 days from the date of the relevant event.

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However, that period may be extended under subsection (3)(a) if another of the specified events occurs within that period of 28 days, in which case the period is extended so that it ends 28 days after the occurrence of the second event.

Subsection (3)(b) provides that the 28 day period shall end if the Parliament resolves to dissolve itself under section 3(1)(a) in which case an extraordinary general election requires to be held and a new 28 day period begins to run from the day of the holding of the poll. The period also ends when Her Majesty appoints a First Minister. This prevents the Parliament from seeking to change its nomination after the person has been appointed.

Subsection (4) requires the Presiding Officer to recommend to Her Majesty the appointment of any member of the Scottish Parliament nominated for First Minister under this section.