

JUDICIARY AND COURTS (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT

Part 1 – Judicial Independence

Section 1 - Guarantee of continued judicial independence

9. **Section 1** places a duty on the First Minister, the Lord Advocate, the Scottish Ministers, members of the Scottish Parliament and any other persons who have responsibility for matters relating to the judiciary or the administration of justice in Scotland to uphold the continued independence of the judiciary. In doing so it also sets out two specific duties for the purpose of upholding that independence.
10. The first is a duty on the First Minister, the Lord Advocate and the Scottish Ministers not to seek to influence judicial decisions through any special access to the judiciary. "Special access" is intended to refer to any access which they may have which a member of the general public may not. However this duty would not limit what may be said on their behalf in court in the course of presenting any case in which they are a party.
11. The second is a duty on the First Minister, the Lord Advocate and the Scottish Ministers to have regard to the need for the judiciary to have the support necessary to enable them to carry out their functions.