

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

SCOTLAND ACT 1998

EXPLANATORY NOTES

COMMENTARY

SECTION 19: Presiding Officer

Purpose and Effect

This section provides for the election of a Presiding Officer and two deputies by the Parliament. It also provides for the term of office of the Presiding Officer and deputies; the exercise of Presiding Officer functions by a deputy if the Presiding Officer is unable to act or his office is vacant, delegation of the Presiding Officer's functions to a deputy and participation of the Presiding Officer and deputies in proceedings of the Parliament.

General

This section about the Presiding Officer is one of three sections set under the heading of the Presiding Officer and Administration. Other sections in the Act relating to the Presiding Officer and setting out his statutory functions include:

Sections 2, 3 and 9 - recommending to Her Majesty the date for holding general elections and fixing the dates of by-elections;

Sections 10 and 14 - receiving notification of a member's resignation and of the filling of a vacancy in a regional seat;

Section 21 - membership of the Scottish Parliamentary Corporate Body;

Section 26 - administering oaths to witnesses before the Parliament;

Sections 31 to 35 - scrutiny of Bills and submission of Bills for Royal Assent; and

Sections 45 and 46 - recommending to Her Majesty the Parliament's choice of First Minister and the appointment of another member to exercise the First Minister's functions in certain circumstances.

The Standing Orders of the Parliament also provide that the Presiding Officer shall have such other functions as may be conferred upon him or her by the Parliament or by the Standing Orders.

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
CC	29-Jan-98	529
LC	14-Jul-98	230
LC	14-Jul-98	236
LR	22-Oct-98	1667
LR	22-Oct-98	1674

<i>Stage</i>	<i>Date</i>	<i>Column</i>
L3	9-Nov-98	516

Details of Provisions

Subsection (1) requires the Parliament at its first meeting following a general election to elect from amongst its membership a Presiding Officer and two deputies. The elections have to take place after members take their oath of allegiance because the members cannot take part in any proceedings until they have done so under section 84(2). The Standing Orders of the Scottish Parliament further detail the procedure for the election of the Presiding Officer and deputies.

Subsection (2) provides for a Presiding Officer or deputy to hold office until:

- a new Presiding Officer is elected;
- he resigns;
- he ceases to be a member otherwise than by virtue of a dissolution; or
- he is removed from office by resolution of the Parliament.

In other words, the Presiding Officer and the deputies will not cease to hold office merely because of the dissolution of the Parliament before a general election. They will continue to hold office until such time as the new Parliament elects a Presiding Officer (and the deputies) under subsection (1).

Subsection (3) requires the Parliament to elect a replacement for the Presiding Officer or a deputy who ceases to hold office for any reason before dissolution of the Parliament. The Standing Orders of the Parliament make further provision in this regard.

Subsection (4) provides that the Presiding Officer's functions may be exercised by a deputy if the office is vacant or if the Presiding Officer is for any reason unable to act.

Subsection (5) empowers the Presiding Officer, subject to standing orders, to authorise any deputy to exercise functions on his behalf.

Subsection (6) enables standing orders to regulate the participation of the Presiding Officer and deputies in proceedings of the Parliament. In particular they may cover any constraints on the way in which the Presiding Officer and deputies may vote in proceedings which they chair.

Subsection (7) provides that the validity of any act of the Presiding Officer or a deputy is not affected by any defect in his election.