

*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 27: Participation of the Scottish Law Officers

Details of Provisions

Subsection (1) provides that, if either the Lord Advocate or the Solicitor General is not a member of the Scottish Parliament, he may participate in its proceedings to the extent specified by the Parliament's standing orders but may not vote, and that otherwise standing orders may apply to him in the same way as to an MSP. "Proceedings" includes proceedings of committees and sub-committees - see section 126(1). The Standing Orders of the Parliament permit the Scottish Law Officers to participate as fully in the proceedings of the Parliament as any other member but they may not vote or be appointed a member of the SPCB or the Parliamentary Bureau.

Subsection (2) qualifies subsection (1) by making it clear that it is without prejudice to section 39 which requires the Parliament to make provision about members' interests. Section 39(8)(b) provides that for this purpose the Law Officers are to be subject to the same rules as MSPs even if they are not members of the Parliament.

Subsection (3) provides that the Lord Advocate or the Solicitor General for Scotland may decline to answer questions or to provide documents relating to the operation of the criminal prosecution system in relation to about particular criminal cases if he considers that doing so might prejudice the proceedings in that case or would otherwise be contrary to the public interest. There is a similar provision in relation to a procurator fiscal in section 23(10).