

*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 32: Submission of Bills for Royal Assent

Details of Provisions

Subsection (1) provides that it is for the Presiding Officer to submit Bills for Royal Assent. No-one else can do so other than a deputy Presiding Officer in terms of section 19(4) or (5). Bills require Royal Assent before they can become Acts of the Scottish Parliament.

Subsection (2) provides that the Presiding Officer shall not submit a Bill for Royal Assent at any time when:

- (a) the Advocate General, the Lord Advocate or the Attorney General may make a reference in relation to the Bill under section 33; or
- (b) the Judicial Committee is considering any such reference; or
- (c) an order may be made by the Secretary of State under section 35 prohibiting the Presiding Officer from submitting the Bill for Royal Assent.

Under section 33, any of the specified Law Officers may refer to the Judicial Committee the question whether the Bill, or any provision in it, is within the legislative competence of the Parliament. They may do so at any time during the period of 4 weeks after the passing of the Bill or after any subsequent approval of the Bill after its reconsideration in terms of section 36(5). An order under section 35 may be made by the Secretary of State at any time during the same period but, if the Bill is referred to the Judicial Committee, the Secretary of State has a further period of 4 weeks after the reference has been decided or otherwise disposed of by the Judicial Committee in which to make the order. Bills may be submitted more quickly for Royal Assent in cases where the Law Officers and the Secretary of State notify the Presiding Officer as provided for in sections 33 and 35.

If a reference to the Judicial Committee is made, the Presiding Officer cannot submit the Bill for Royal Assent until the reference has been decided or otherwise disposed of by the Judicial Committee, such as by the Judicial Committee agreeing to the withdrawal of the reference.

Subsection (3) provides that the Presiding Officer shall not submit a Bill in its unamended form for Royal Assent if:

- (a) the Judicial Committee decides that the Bill or any part of it is outside the legislative competence of the Parliament; or
- (b) a reference made in relation to a Bill under section 33 has been withdrawn following a request for withdrawal of the reference under section 34(2)(b).

This ensures that the Presiding Officer cannot submit a Bill for Royal Assent containing provisions in their original form which the Judicial Committee have found to be outside

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

the competence of the Parliament or about which there may have been questions referred to the Judicial Committee but the reference has been withdrawn in the circumstances described in section 34. However, it does not prevent the Presiding Officer from submitting such a Bill after it has been amended following a reconsideration of it by the Parliament in terms of section 36, but only after the period (normally 4 weeks) allowed for a further reference to the Judicial Committee under section 33 or the making of an order under section 35.

Subsection (4) provides a definition of the 'Advocate General' to mean the Advocate General for Scotland (see section 87) and the 'Judicial Committee' to mean the Judicial Committee of the Privy Council (see section 103).