

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

# SCOTLAND ACT 1998

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## EXPLANATORY NOTES

### COMMENTARY

#### SECTION 33: Scrutiny of Bills by the Judicial Committee

##### Details of Provisions

Subsection (1) provides that the Advocate General, the Lord Advocate or the Attorney General may refer the question as to whether a Bill of the Scottish Parliament or any provision of it is within the Parliament's legislative competence to the Judicial Committee for a decision.

Subsection (2) prescribes when such a reference by those Law Officers may be made. It may be made during a period of four weeks following either the passing of the Bill by the Parliament or the approval of a Bill by the Parliament on its reconsideration in accordance with the Standing Orders made by virtue of section 36(5).

If the Law Officers do not refer a Bill to the Judicial Committee within that four week period, then the Presiding Officer will be free to submit it for Royal Assent at the end of that period, subject to any order made by the Secretary of State under section 35. If, however, a reference is made, the Presiding Officer will not be able to submit the Bill for Royal Assent until it has been decided or otherwise disposed of by the Judicial Committee by virtue of section 32(2)(b).

Subsection (3) qualifies subsection (2) by providing that a Law Officer shall not refer a Bill to the Judicial Committee if he has already notified the Presiding Officer that he does not intend to make a reference in relation to that Bill. However, if, after giving such a notification, the Bill has been approved by the Parliament on reconsideration, then that notification does not preclude him making a reference during the second four week period following such approval in terms of subsection (2)(b).

The provision to allow the Law Officers to notify their intention not to refer a Bill will allow for cases where it is intended that the Bill should be brought into force as soon as possible, such as in the case of emergency legislation. The Presiding Officer will be entitled to submit a Bill for Royal Assent as soon as all the Law Officers so notify and the Secretary of State has notified him that he does not propose to make an order under section 35. So far as the Law Officers are concerned, this, of course, depends on general agreement that the Bill raises no question of *vires* which ought to be referred.