

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

SCOTLAND ACT 1998

EXPLANATORY NOTES

COMMENTARY

Part II: the Scottish Administration

SECTION 61: Property and liabilities of the Lord Advocate and the First Minister

Purpose and Effect

This section makes general provision relating to the property and liabilities of the Lord Advocate and of the First Minister.

General

This is the third of a series of four sections dealing with the property and liabilities of the Scottish Executive, including the First Minister and the Lord Advocate. See the general note to section 59.

Details of Provisions

Subsection (1) provides for property to be held by the Lord Advocate in that name without the need for any further designation.

Subsection (2) provides that property acquired by or transferred to the Lord Advocate shall belong to the Lord Advocate for the time being. The same applies to the liabilities of the Lord Advocate. This ensures that there is perpetual succession to such property and liabilities, which remains vested in the Lord Advocate for the time being despite the appointment of any successor.

Subsection (3) provides that, in relation to the property and liabilities of the Lord Advocate, references to the office in titles recorded in the Register of Sasines or registered in the Land Register of Scotland and in any other document (e.g. a contract) and any other documents are to be read as meaning the Lord Advocate for the time being in accordance with subsection (2).

Subsection (4) provides that any rights and liabilities acquired or incurred by the First Minister shall belong to the First Minister for the time being. It is envisaged by section 52 that statutory functions may be conferred on the First Minister alone and therefore it will be possible that he will acquire rights or incur liabilities in relation to such functions.