

*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 47: Ministers

Purpose and Effect

This section provides for the appointment of Ministers by the First Minister from among members of the Parliament. Appointments require the approval of the Parliament and Her Majesty. The section also makes provision about the tenure of office of such Ministers.

Background

This section forms part of a group of sections about the Scottish Administration. Section 44 provides for the Scottish Executive whose members are known as Scottish Ministers. Scottish Ministers include Ministers appointed under this section as well as the First Minister (see sections 45 and 46) and the Scottish Law Officers (see section 48).

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
CC	10-Feb-98	160
CC	10-Feb-98	185
LC	28-Jul-98	1477

Details of Provisions

Subsection (1) provides that the First Minister may, with the approval of Her Majesty, appoint Ministers from among the members of the Scottish Parliament. These Ministers must, therefore, be MSPs.

Subsection (2) provides that the First Minister shall not seek Her Majesty's approval for any appointment under this section without obtaining the Parliament's agreement. The Standing Orders of the Parliament make provision for the agreement of the Parliament to be sought, by motion, to the appointment of either an individual MSP to be a Minister or for a slate of 2 or more MSPs to be Ministers. A slate may be amended by the Parliament to delete the name of a particular member or members.

Subsection (3) makes provision about the tenure of office of a Minister appointed under this section. It provides that he shall hold office at Her Majesty's pleasure, may be removed from office by the First Minister, may resign at any time and must do so if the Scottish Parliament resolves that the Scottish Executive no longer enjoys the confidence of the Parliament. Subsection (3) further provides that a Minister shall cease to hold office immediately on resigning and shall cease to hold office if he ceases to be a

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member of Parliament other than by virtue of a dissolution (e.g. by resigning from his seat).

There is no requirement in the Act for the Parliament to be notified when a Minister ceases to hold office except where he resigns. Provision for this is made in the Standing Orders of the Parliament.