

*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 V: Miscellaneous and General

SECTION 108: Agreed redistribution of functions exercisable by the Scottish Ministers etc.

Details of Provisions

Subsection (1) provides for Her Majesty, by Order in Council, to provide for the transfer of functions exercisable by a member of the Scottish Executive to a Minister of the Crown, or for such functions to be exercisable by a member of the Scottish Executive concurrently with, or with the agreement of, or after consultation with a Minister of the Crown.

Subsection (2) provides that where such an Order transfers to a Minister of the Crown a function which is exercisable only with the agreement of, or after consultation with, the Scottish Ministers, the First Minister or the Lord Advocate, that requirement is disapplied unless the Order provides otherwise. Requirements for consultation or agreement with other persons are not affected.

Subsection (3) provides that where an Order provides for a function to be transferred to a Minister of the Crown or to be exercisable by a Minister of the Crown concurrently with a member of the Scottish Executive, it may provide for it to be exercisable with the agreement of, or after consultation with, another person.

Subsection (4) provides that the section does not apply to those retained functions of the Lord Advocate which were exercisable by him immediately before he ceased to be a Minister of the Crown. Retained functions are defined in section 52(6).