

## SCOTLAND ACT 2012

---

### EXPLANATORY NOTES

#### COMMENTARY ON SECTIONS (AND SCHEDULES)

##### **Part 2: Ministers and Their Powers**

##### ***Section 13: Exercise of power to make Order disqualifying persons from membership of the Parliament***

50. *Subsection (2)* amends section 112 of the 1998 Act with the effect of giving the Scottish Ministers responsibility for taking forward Orders in Council under section 15(1) or (2) of the 1998 Act to specify descriptions of office-holders who are disqualified from being a member of the Scottish Parliament. These Orders are currently made by statutory instrument (being a reserved matter); the responsibility for preparing them therefore falls to Scotland Office Ministers. *Subsection (2)* applies section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 to the function of making an Order in Council under section 15(1) or (2), so that these Orders will now be Scottish statutory instruments rather than statutory instruments. This means that – although they remain a reserved matter – these Orders will be subject to the affirmative procedure in the Scottish Parliament before being recommended to Her Majesty for making. It follows that the responsibility for preparing them will fall to the Scottish Ministers.
51. *Subsections (3) to (5)* amend other provisions of the 1998 Act in consequence of this. *Subsection (3)* modifies the function of the Queen’s Printer for Scotland in section 92 so that the Queen’s Printer may exercise functions in relation to the Orders (eg, printing them as part of the series of Scottish statutory instruments) by regarding those functions as being exercisable within devolved competence. *Subsection (4)* amends the scope of section 104 Orders to apply to Orders made under section 15. *Subsection (5)* makes a consequential amendment to paragraph 11 of Schedule 4 to the 1998 Act.