

These notes relate to the Judiciary and Courts (Scotland) Act 2008 (asp 6) which received Royal Assent on 29 October 2008

JUDICIARY AND COURTS (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT

Part 2 – the Judiciary

Chapter 3 - Judicial Appointments

Section 15 - Guidance

45. Subsections (1) and (2) confer powers on both the Scottish Ministers and the Lord President to issue guidance to the Board. The power is conferred on both because both have an interest in the work of the Board.
46. Subsection (3) provides a non-exhaustive list of examples of the sorts of issues which may be included in the guidance.
47. Under subsection (4) the Board is required to have regard to any guidance issued under this section. This means that the Board is required to consider the guidance, but the Board is not obliged to follow the guidance provided that the decision not to follow it is not unreasonable.
48. To ensure transparency, subsections (8) and (9) require that guidance issued under this section must be published and laid before the Scottish Parliament.