

*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**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 2 – the Judiciary**

#### ***Chapter 3 - Judicial Appointments***

#### ***Section 11 - Recommendations of the Board***

38. Subsection (1) ensures that only individuals who have been recommended by the Board for appointment to judicial office may be nominated or recommended by the First Minister or Scottish Ministers as applicable.
39. Subsections (2) to (5) set out a formal process to be followed if the relevant Minister decides not to accept a recommendation of the Board. The Minister must explain his or her decision in a notice to the Board and the Board must reconsider the matter and make a further recommendation. These provisions are intended to enable the Minister to seek clarification or further information in respect of the Board's recommendations.
40. Subsection (6) recognises that both the First Minister and the Scottish Ministers have, in different circumstances, the function of making appointments or nominating or recommending individuals for appointment to judicial office.