



Scotland Act 1998

1998 CHAPTER 46

PART I

THE SCOTTISH PARLIAMENT

Legislation

29 Legislative competence.

- (1) An Act of the Scottish Parliament is not law so far as any provision of the Act is outside the legislative competence of the Parliament.
- (2) A provision is outside that competence so far as any of the following paragraphs apply—
 - (a) it would form part of the law of a country or territory other than Scotland, or confer or remove functions exercisable otherwise than in or as regards Scotland,
 - (b) it relates to reserved matters,
 - (c) it is in breach of the restrictions in Schedule 4,
 - (d) it is incompatible with any of the Convention rights or with [F¹EU] law,
 - (e) it would remove the Lord Advocate from his position as head of the systems of criminal prosecution and investigation of deaths in Scotland.
- (3) For the purposes of this section, the question whether a provision of an Act of the Scottish Parliament relates to a reserved matter is to be determined, subject to subsection (4), by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.
- (4) A provision which—
 - (a) would otherwise not relate to reserved matters, but
 - (b) makes modifications of Scots private law, or Scots criminal law, as it applies to reserved matters,

Changes to legislation: Scotland Act 1998, Section 29 is up to date with all changes known to be in force on or before 21 February 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

is to be treated as relating to reserved matters unless the purpose of the provision is to make the law in question apply consistently to reserved matters and otherwise.

[^{F2}(5) Subsection (1) is subject to section 30(6).]

Annotations:

Amendments (Textual)

- F1** Words in s. 29(2)(d) substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 3, 6
- F2** S. 29(5) inserted (3.7.2012) by [Scotland Act 2012 \(c. 11\)](#), ss. 9(2), 44(5); S.I. 2012/1710, art. 2(d)

Modifications etc. (not altering text)

- C1** S. 29(2)(b)(c) excluded by 1974 c. 53, Sch. 3 para. 9(1) (as inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), ss. 19, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 15)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 80D(4A)(4B) inserted by 2014 c. 29 s. 11(5)
- s. 80F(1)(a)-(c) substituted for words in s. 80F(1) by 2014 c. 29 s. 11(8)(a)
- s. 80DA inserted by 2014 c. 29 s. 11(6)
- s. 113(10A) inserted by 2003 c. 44 Sch. 27 para. 7(3)
- Sch. 5 Pt. 2 s. J5 omitted by 2016 c. 11 s. 27(4)
- Sch. 5 Pt. 2 s. F1 words inserted by 2016 c. 11 s. 27(2)
- Sch. 5 Pt. 2 s. F1 words inserted by 2016 c. 11 s. 27(3)
- Sch. 5 Pt. 2 s. D2 words inserted by 2016 c. 11 s. 47(2)
- Sch. 5 Pt. 2 s. D2 words inserted by 2016 c. 11 s. 47(3)
- Sch. 5 Pt. 2 s. B8 words substituted by 2016 c. 25 Sch. 10 para. 41