



# 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<sup>F1</sup>...,
  - (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,

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*Status: Point in time view as at 31/03/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Section 29. (See end of Document for details)*

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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.

[<sup>F2</sup>(5) Subsection (1) is subject to section 30(6).]

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**Textual Amendments**

- F1** Words in s. 29(2)(d) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), **2(2)**
- 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)
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**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)
- C2** S. 29(2)(d) restricted (1.3.2019) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), Sch. 8 para. 41(3)(**9**) (with s. 19, Sch. 8 para. 37); S.I. 2019/399, reg. 2
- C3** S. 29(2)(d) excluded (14.11.2020) by [Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(c. 20\)](#), s. 9(4), **Sch. 2 para. 2**; S.I. 2020/1279, reg. 2(c)

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