

*These notes refer to the Scotland Act 1998 (c.46)
which received Royal Assent on 19th November 1998*

SCOTLAND ACT 1998

EXPLANATORY NOTES

COMMENTARY

Part II: the Scottish Administration

SECTION 57: Community law and Convention rights

Purpose and Effect

This section:

- (a) makes it clear that section 53 has the effect of transferring to Scottish Ministers any functions of Ministers of the Crown of observing and implementing Community law in relation to devolved matters in or as respects Scotland; but
- (b) provides that, notwithstanding such transfer, Ministers of the Crown shall continue to be able to exercise those functions as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972; and
- (c) provides that members of the Scottish Executive have no power to make subordinate legislation, or to do any other act, if the subordinate legislation or act is incompatible with Community law or with rights under the European Convention of Human Rights (ECHR) which are given effect to in UK law.
- (d) ensures that the Lord Advocate is able to enjoy the protection afforded by section 6(2) of the Human Rights Act 1998 in prosecuting offences or in his capacity as the head of the systems of criminal prosecution and investigation of deaths.