

*Status: Point in time view as at 27/06/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: The law on reserved matters. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

#### ENACTMENTS ETC. PROTECTED FROM MODIFICATION

##### **Modifications etc. (not altering text)**

- C1** Sch. 4 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)

#### PART I

##### THE PROTECTED PROVISIONS

###### *The law on reserved matters*

- 2 (1) An Act of the Scottish Parliament cannot modify, or confer power by subordinate legislation to modify, the law on reserved matters.
- (2) In this paragraph, “the law on reserved matters” means—
- (a) any enactment the subject-matter of which is a reserved matter and which is comprised in an Act of Parliament or subordinate legislation under an Act of Parliament, and
  - (b) any rule of law which is not contained in an enactment and the subject-matter of which is a reserved matter,
- and in this sub-paragraph “Act of Parliament” does not include this Act.
- (3) Sub-paragraph (1) applies in relation to a rule of Scots private law or Scots criminal law (whether or not contained in an enactment) only to the extent that the rule in question is special to a reserved matter or the subject-matter of the rule is—
- (a) interest on sums due in respect of taxes or excise duties and refunds of such taxes or duties, or
  - (b) the obligations, in relation to occupational or personal pension schemes, of the trustees or managers [<sup>F1</sup>or]
  - <sup>F1</sup>(c) the obligations under an order made by virtue of section 12A(2) or (3) of the Family Law (Scotland) Act 1985 <sup>M1</sup> (orders relating to pensions lump sums) of the person responsible for a pension arrangement other than an occupational or personal pension scheme; or
  - <sup>F1</sup>(d) the obligations under Chapter I of Part IV of the Welfare Reform and Pensions Act 1999 <sup>M2</sup> (sharing of rights under pension arrangements) of the person responsible for such a pension arrangement; or
  - <sup>F1</sup>(e) the effect of Chapter II of Part IV of that Act of 1999 (sharing of rights in state pension schemes) as read with Part II of the Social Security Contributions

*Status: Point in time view as at 27/06/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: The law on reserved matters. (See end of Document for details)*

and Benefits Act 1992 <sup>M3</sup> (contributory benefits) [<sup>F2</sup> and Part 1 of the Pensions Act 2014 (state pension)].]

[<sup>F3</sup>(4) In sub paragraph (3)(c) “pension arrangement” and “person responsible for a pension arrangement” have the same meaning as in section 27(1) of the Family Law (Scotland) Act 1985.]

[<sup>F4</sup>(5) Sub-paragraph (3) does not affect sub-paragraph (1) as it applies to an Act of the Scottish Parliament so far as any matter to which a provision of the Act relates falls within exception 10 of Section F1 of Part 2 of Schedule 5.]

#### Textual Amendments

- F1** Sch. 4 Pt. I para. 2(3)(c)-(e) and the word preceding it inserted (13.7.2000) by S.I. 2000/1831, **art. 2(a)**
- F2** Words in Sch. 4 para. 2(3)(e) inserted (coming into force in accordance with art. 1(2) of the amending S.I.) by **The Pensions Act 2014 (Consequential and Supplementary Amendments) Order 2016 (S.I. 2016/224), art. 4**
- F3** Sch. 4 Pt. I para. 2(4) substituted (13.7.2000) by S.I. 2000/1831, **art. 2(b)**
- F4** Sch. 4 para. 2(5) inserted (5.9.2016) by **Scotland Act 2016 (c. 11), ss. 28(4), 72(4)(b); S.I. 2016/759, reg. 3(e)**

#### Marginal Citations

- M1** 1985 c.37. Section 12A was inserted by the **Pensions Act 1995 (c.26), section 167**.
- M2** 1999 c.30.
- M3** 1992 c.4.

- 3 (1) Paragraph 2 does not apply to modifications which—
- (a) are incidental to, or consequential on, provision made (whether by virtue of the Act in question or another enactment) which does not relate to reserved matters, and
  - (b) do not have a greater effect on reserved matters than is necessary to give effect to the purpose of the provision.
- (2) In determining for the purposes of sub-paragraph (1)(b) what is necessary to give effect to the purpose of a provision, any power to make laws other than the power of the Parliament is to be disregarded.
- [<sup>F5</sup>(3) Sub-paragraph (1) does not affect the application of paragraph 2 to modifications which are incidental to, or consequential on, any provision, if it is only by virtue of exception 10 of Section F1 of Part 2 of Schedule 5 that the provision does not relate to reserved matters.]

#### Textual Amendments

- F5** Sch. 4 para. 3(3) inserted (5.9.2016) by **Scotland Act 2016 (c. 11), ss. 28(5), 72(4)(b); S.I. 2016/759, reg. 3(e)**

**Status:**

Point in time view as at 27/06/2018.

**Changes to legislation:**

There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: The law on reserved matters.