
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 4 to the Scotland Act 1998 (c. 46) (“the 1998 Act”) by adding a new paragraph 4A. Schedule 4 is concerned with laws, including the 1998 Act, that cannot be modified by the Scottish Parliament.

The new paragraph 4A enables the Scottish Parliament to modify the 1998 Act so as to provide that certain proceedings have to be brought before the end of a limitation period. The proceedings are those brought (other than by specified Law Officers) in any court or tribunal against the Scottish Ministers or a member of the Scottish Executive, by virtue of the 1998 Act, on the ground that an act of the Scottish Ministers or of a member of the Scottish Executive is incompatible with “the Convention rights” (a term which under the 1998 Act has the same meaning as in the Human Rights Act 1998 (c. 42)). The term “act” includes all acts and omissions other than the making of legislation.

The amendment enables the Scottish Parliament to provide that the period within which such proceedings must be brought is the period of one year beginning with the date on which the act complained of took place or such longer period as the court or tribunal considers equitable having regard to all the circumstances. It also enables the Scottish Parliament to legislate so that the provision it makes may have effect subject to any stricter time limit applicable to the procedure in question.