

2016 No. 761

CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND

The Scotland Act 2016 (Saving) Regulations 2016

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| <i>Made</i> - - - - | <i>14th July 2016</i> |
| <i>Laid before Parliament</i> | <i>18th July 2016</i> |
| <i>Coming into force</i> - - | <i>5th September 2016</i> |

The Secretary of State for Scotland makes the following Regulations in exercise of the powers conferred by section 71(1)(b) of the Scotland Act 2016(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Scotland Act 2016 (Saving) Regulations 2016 and come into force on 5th September 2016.

(2) In these Regulations, reference to a section by number alone is a reference to that section in the Scotland Act 2016.

Saving provision in connection with the coming into force of section 23(3) of the Scotland Act 2016

2.—(1) Notwithstanding the coming into force of subsection (3) of section 23 (exclusions from exceptions 1 to 10), the words repealed by that subsection continue in force as follows.

(2) The words “But the following are not excepted—” continue in force until—

- (a) subsection (2) of section 23 comes into force, or
- (b) section 25 comes into force,

whichever is later.

(3) The words in paragraph (a) continue in force until subsection (2) of section 23 comes into force.

(4) The words in paragraph (b), except for those in sub-paragraph (i), continue in force until section 25 comes into force.

14th July 2016

David Mundell
Secretary of State
Scotland Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make saving provision in connection with the coming into force of section 23(3) of the Scotland Act 2016 (c. 11).

Subsection 23(3) of the Act provides for exclusions from the exceptions to the reserved areas set out in Section F1 of Part 2 of Schedule 5 to the Scotland Act 1998, so that nothing in exceptions 1 to 10 is read as devolving the National Insurance Fund, the Social Fund or loans for the purpose of meeting an intermittent expense. It does this by substituting this general exclusion provision for the exceptions in Section F1 which provide for the reservation of:

- financial assistance for the purposes of maternity expenses, funeral expenses or expenses for heating incurred due to cold weather;
- the subject matter of section 138 of the Social Security Contributions and Benefits Act 1992 (payments out of the Social Fund);
- the subject matter of section 69 of the Child Support, Pensions and Social Security Act 2000 (discretionary housing payments).

In respect of the substituted wording, in so far as the inserted words make the same or similar provision to that repealed, the subsection can be commenced without more. This is the case in respect of provision made for the Social Fund. The same is true where additional provision is made, such as in the case of loans for the purpose of meeting an intermittent expense.

However:

- provision repealing the reservation in respect of maternity expenses, funeral expenses or expenses for heating incurred due to cold weather may not be commenced until section 23(2) of the Act, which inserts a new exception 4 into Section F1 in respect of such matters, is commenced;
- provision repealing the reservation in respect of discretionary housing payments may not be commenced until section 25 of the Act, which inserts a new exception 6 into Section F1 in respect of this matter, is commenced.

These Regulations provide that, where necessary, the words repealed will continue in force until the relevant exceptions provided by section 23(2) or 25 of the Act are commenced.

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£4.25

UK201607148 07/2016 19585

<http://www.legislation.gov.uk/id/uksi/2016/761>

ISBN 978-0-11-114855-6



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