

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 ^{F1}or
 - ^{F1}(c) the obligations under an order made by virtue of section 12A(2) or (3) of the Family Law (Scotland) Act 1985 ^{M1} (orders relating to pensions lump sums) of the person responsible for a pension arrangement other than an occupational or personal pension scheme; or
 - ^{F1}(d) the obligations under Chapter I of Part IV of the Welfare Reform and Pensions Act 1999 ^{M2} (sharing of rights under pension arrangements) of the person responsible for such a pension arrangement; or
 - ^{F1}(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

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and Benefits Act 1992 ^{M3} (contributory benefits) [^{F2} and Part 1 of the Pensions Act 2014 (state pension)].]

[^{F3}(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.]

[^{F4}(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.
- [^{F5}(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)

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