

SCHEDULES

SCHEDULE 4

ENACTMENTS ETC. PROTECTED FROM MODIFICATION

PART III

CONSEQUENTIAL MODIFICATION OF SECTIONS 53 AND 54

- 12 (1) This paragraph applies to a function which (apart from this Schedule) would be transferred to the Scottish Ministers by virtue of section 53(2)(c).
- (2) If, because of anything in Part I of this Schedule, a provision of an Act of the Scottish Parliament modifying an enactment so as to provide for the function to be exercisable by a different person would be outside the legislative competence of the Parliament, the function is not so transferred.
- 13 (1) Paragraph 12 does not apply to any function conferred by any provision of—
- (a) the European Communities Act 1972,
 - (b) the Human Rights Act 1998, except sections 1, 5, 14 to 17 and 22 of that Act,
 - (c) the law on reserved matters (for the purposes of paragraph 2) so far as contained in an enactment.
- (2) For the purpose of determining—
- (a) whether any function under any of the provisions referred to in sub-paragraph (1) is transferred to the Scottish Ministers by virtue of section 53, and
 - (b) the extent to which any such function (other than a function of making, confirming or approving subordinate legislation) is exercisable by them,
- the references in section 54 to the legislative competence of the Parliament are to be read as if section 29(2)(c) were omitted.
- (3) Part I of this Schedule does not prevent an Act of the Scottish Parliament modifying, or conferring power by subordinate legislation to modify, any of the provisions mentioned in sub-paragraph (1) so as to provide for a function transferred to the Scottish Ministers by virtue of section 53 to be exercisable by a different person.
- 14 If any pre-commencement enactment or prerogative instrument is modified by subordinate legislation under section 105, a function under that enactment or instrument (whether as it has effect before or after the modification) is not transferred by virtue of section 53 if the subordinate legislation provides that it is not to be so transferred.