

Social Security (Scotland) Act 2018 2018 asp 9

SOCIAL SECURITY (SCOTLAND) ACT 2018

PART 1

TENETS AND OVERSIGHT

Principles

- 1 The Scottish social security principles
- 2 Effect of the principles

Promotion of take-up

- 3 Scottish Ministers' duty to promote take-up
- 4 Recognition of importance of inclusive communication
- 5 Recognition of importance of accessible information
- 6 Recognition of importance of independent information, advice and advocacy
- 7 Recognition of importance of available data
- 8 Strategy to promote take-up
- 9 Further provision about preparing strategies to promote take-up

Advocacy

- 10 Right to advocacy
- 11 Advocacy service standards

Assessments

- 12 Restriction on private-sector involvement in assessments
- 13 Assessors to be suitably qualified
- 14 Assessments only to be required where necessary

Charter

- 15 The Scottish social security charter
- 16 Preparing the first charter

- 17 Publication of the charter
- 18 Reviewing the charter
- 19 Effect of the charter

Accountability

- 20 Annual report
- 21 Scottish Commission on Social Security
- 22 Commission functions

Interpretation

23 Meaning of "Scottish social security system"

PART 2

GIVING OF ASSISTANCE BY SCOTTISH MINISTERS

CHAPTER 1

ASSISTANCE TO BE GIVEN ACCORDING TO DETERMINATION OF ENTITLEMENT

- 24 Duty to give assistance
- 25 Meaning of "determination of entitlement"
- 26 Individual's right to stop receiving assistance
- 27 Later determination supersedes earlier

CHAPTER 2

TYPES OF ASSISTANCE TO BE GIVEN

- 28 Carer's assistance
- 29 Cold-spell heating assistance
- 30 Winter heating assistance
- 31 Disability assistance
- 32 Early years assistance
- 33 Employment-injury assistance
- 34 Funeral expense assistance
- 35 Housing assistance
- 36 Short-term assistance

CHAPTER 3

DETERMINING ENTITLEMENT

Determination by the Scottish Ministers

- 37 Duty to make determination
- 38 Application for assistance
- 39 Withdrawal of application
- 40 Notice of determination

Re-determination by the Scottish Ministers

- 41 Right to request re-determination
- 42 Late request for re-determination

- 43 Duty to re-determine
- 44 Notice of re-determination
- 45 Notice where re-determination not made timeously

Appeal against the Scottish Ministers' determination

- 46 Right to appeal to First-tier Tribunal against determination
- 47 Initiating an appeal
- 48 Deadline for appealing
- 49 First-tier Tribunal's power to determine entitlement

The determination of entitlement

- 50 Decisions comprising determination
- 51 Determination on basis of ongoing entitlement
- 52 Determination without application

CHAPTER 4

FURTHER PROVISION ABOUT DETERMINING ENTITLEMENT

Identifying possible eligibility

53 Duty to inform about possible eligibility

Obtaining information to make determination

- 54 Obligation to provide information on request
- 55 Requirement to justify assessment requests
- 56 Duty to notify change of circumstances
- 57 Lifting of duty to notify change of circumstances

Appointees

58 Appointment of person to act on behalf of individual

Support during discussions and assessments

59 Right to support

Access to reports

60 Right to reports used in determining entitlement

Right to appeal Scottish Ministers' process decisions

61 Appeal to First-tier Tribunal against process decisions

Presumption about when information is received

62 Presumption for purposes of sections 41, 48 and 61

CHAPTER 5

RECOVERY OF VALUE OF ASSISTANCE

Assistance given in error

- 63 Liability for assistance given in error
- 64 Exclusion from liability
- 65 Consideration for debtor's circumstances
- 66 Prescription of liability
- 67 Exclusion of other rights of recovery
- 68 First-tier Tribunal's jurisdiction
- 69 Liability where assistance given for period after death

Funeral expense assistance

70 Liability of deceased's estate

CHAPTER 6

OFFENCES AND INVESTIGATIONS

Offences

- 71 Offence of trying to obtain assistance by deceit
- 72 Offence of failing to notify
- 73 Offence of causing a failure to notify
- 74 Individual culpability for offending by an organisation

Investigations

- 75 Power to make provision about investigations
- 76 Code of practice on investigations

CHAPTER 7

UPRATING FOR INFLATION

- 77 Duty to consider effects of inflation
- 78 Duty to uprate carer's, disability, employment-injury and funeral expense assistance

PART 3

SUPPLEMENTING ASSISTANCE UNDER OTHER ENACTMENTS

Top up of reserved benefits

- 79 Power to provide for top up
- 80 Restrictions on power

Carer's allowance: temporary provision

- 81 Carer's allowance supplement
- 82 Power to repeal temporary provision

PART 4

FURTHER PROVISION IN CONNECTION WITH PARTS 2 AND 3

Inalienability of assistance

- 83 No assignation or charge
- 84 Retention of right to assistance on bankruptcy etc.

Information-sharing

85 Information-sharing

Agency arrangements

86 Agency arrangements for housing assistance

Monitoring of appeal process

87 Report to the Scottish Parliament on exercise of right to appeal

PART 5

DISCRETIONARY HOUSING PAYMENTS

- 88 Local authorities' power to make payments
- 89 Restrictions on power to make payments
- 90 Local authorities' duty to provide information about payments
- 91 Guidance
- 92 Local authorities need not make payments if not funded
- 93 Power to modify section 88

PART 6

UNIVERSAL CREDIT: PAYMENT TO JOINT CLAIMANTS

94 Universal credit: payment to joint claimants

PART 7

FINAL PROVISIONS

- 95 Ancillary provision
- 96 Regulation-making powers
- 97 Further procedure for regulations about assistance
- 98 Temporary disapplication of section 97
- 99 Commencement
- 100 Short title

SCHEDULE 1 — SCOTTISH COMMISSION ON SOCIAL SECURITY PART 1 — OPERATION AND COMPOSITION OF THE COMMISSION

CHAPTER 1

STATUS

- 1 Independence
- 2 Exclusion of Crown status

POWERS

- 3 General powers
- 4 Access to information

CHAPTER 3

PROCEDURE

- 5 Committees
- 6 Regulation of procedure
- 7 Authority to perform functions
- 8 Validity of things done

CHAPTER 4

FINANCE

- 9 Remuneration and expenses of members
- 10 Expenses of non-members
- 11 Resources
- 12 Accounts and audit

CHAPTER 5

MEMBERSHIP

- 13 Number of members
- 14 Appointment of members
- 15 Tenure and other terms and conditions
- 16 Early termination
- Disqualification grounds
 PART 2 APPLICATION OF LEGISLATION RELATING TO PUBLIC
 BODIES
- 18 Ethical Standards in Public Life etc. (Scotland) Act 2000
- 19 Freedom of Information (Scotland) Act 2002
- 20 Public Appointments and Public Bodies etc. (Scotland) Act 2003
- 21 Public Services Reform (Scotland) Act 2010

SCHEDULE 2 — CARER'S ASSISTANCE REGULATIONS PART 1 — ELIGIBILITY

CHAPTER 1

ELIGIBILITY IS TO DEPEND ON BEING OR HAVING BEEN A CARER

- 1 (1) The regulations must be framed so that (subject to...
- 2 (1) The regulations may be framed so that, despite the...

FURTHER CRITERIA

- 3 Carer's other activities
- 4 Multiple carers
- 5 Residence and presence
- 6 Age
- 7 Financial circumstances
- 8 Receipt of, or eligibility for, other types of State assistance
- 9 Application within specified period
 - PART 2 ASSISTANCE TO BE GIVEN
- 10 Meeting liabilities
- 11 Restriction on giving assistance in a form other than money PART 3 — FINAL PROVISIONS
- 12 Generality of enabling power unaffected
- 13 Interpretation

SCHEDULE 3 — COLD-SPELL HEATING ASSISTANCE REGULATIONS PART 1 — ELIGIBILITY

CHAPTER 1

ELIGIBILITY IS TO DEPEND ON LIVING IN AN AREA DURING A COLD SPELL

- 1 The regulations must be framed so that (subject to any...
- 2 (1) The regulations may be framed so that, despite the...
- 3 The regulations are to set out, for the purpose of...

CHAPTER 2

FURTHER CRITERIA

- 4 Age
- 5 Financial circumstances
- 6 Receipt of, or eligibility for, other types of State assistance
- 7 Application within specified period
 - PART 2 ASSISTANCE TO BE GIVEN
- 8 Domestic circumstances and age
- 9 Restriction on giving assistance in a form other than money PART 3 — FINAL PROVISIONS
- 10 Generality of enabling power unaffected
- 11 Interpretation

SCHEDULE 4 — WINTER HEATING ASSISTANCE REGULATIONS PART 1 — ELIGIBILITY

- 1 Residence and presence
- 2 Age
- 3 Financial circumstances
- 4 Receipt of, or eligibility for, other types of State assistance
- 5 Application within specified period PART 2 — ASSISTANCE TO BE GIVEN
- 6 Domestic circumstances and age

- 7 Financial circumstances
- 8 Receipt of, or eligibility for, other types of State assistance
- 9 Restriction on giving assistance in a form other than money PART 3 — FINAL PROVISIONS
- 10 Generality of enabling power unaffected
- 11 Interpretation

SCHEDULE 5 — DISABILITY ASSISTANCE REGULATIONS PART 1 — ELIGIBILITY

CHAPTER 1

ELIGIBILITY IS TO DEPEND ON HAVING, OR HAVING HAD, A DISABILITY

- 1 (1) The regulations must be framed so that (subject to...
- 2 (1) The regulations may be framed so that, despite the...

CHAPTER 2

FURTHER CRITERIA

- 3 Nature and extent of disability and needs
- 4 Residence and presence
- 5 Age
- 6 Financial circumstances
- 7 Receipt of, or eligibility for, other types of State assistance
- 8 Application within specified period

CHAPTER 3

SPECIAL RULES FOR TERMINAL ILLNESS CASES

- 9 No minimum period
- 10 No requirement for assessment
- 11 Eligibility from date of application
- 12 Entitlement to maximum amount PART 2 — ASSISTANCE TO BE GIVEN

CHAPTER 1

VALUE

- 13 Nature and extent of disability
- 14 Age

CHAPTER 2

FORM

- 15 Meeting liabilities
- 16 Payment to someone else
- 17 Restriction on giving assistance in a form other than money
- 18 Restriction on lump sums

PART 3 — FINAL PROVISIONS

- 19 Generality of enabling power unaffected
- 20 Interpretation

SCHEDULE 6 — EARLY YEARS ASSISTANCE REGULATIONS PART 1 — ELIGIBILITY

CHAPTER 1

ELIGIBILITY IS TO DEPEND ON HAVING, OR EXPECTING TO HAVE, RESPONSIBILITY FOR A CHILD

1 (1) The regulations must be framed so that an individual's...

CHAPTER 2

FURTHER CRITERIA

- 2 Limit to number of people entitled
- 3 Residence and presence
- 4 Financial circumstances
- 5 Receipt of, or eligibility for, other types of State assistance
- 6 Application within specified period
 - PART 2 ASSISTANCE TO BE GIVEN
- 7 Restriction on giving assistance in a form other than money PART 3 — FINAL PROVISIONS
- 8 Generality of enabling power unaffected
- 9 Interpretation

SCHEDULE 7 — EMPLOYMENT-INJURY ASSISTANCE REGULATIONS PART 1 — ELIGIBILITY

CHAPTER 1

ELIGIBILITY IS TO DEPEND ON BEING INJURED OR CONTRACTING A DISEASE AT WORK

- 1 The regulations must be framed so that (subject to any...
- 2 (1) The regulations may be framed so that, despite the...
- 3 (1) The regulations are to define the following terms for...

CHAPTER 2

FURTHER CRITERIA

- 4 Place where injury suffered or disease contracted
- 5 Residence and presence
- 6 Age

9

- 7 Financial circumstances
- 8 Receipt of, or eligibility for, other types of State assistance
 - Application within specified period
 - PART 2 ASSISTANCE TO BE GIVEN

VALUE

- 10 Nature of injury or disease
- 11 Age

CHAPTER 2

FORM

- 12 Meeting liabilities
- 13 Restriction on giving assistance in a form other than money
- 14 Restriction on lump sums
 - PART 3 FINAL PROVISIONS
- 15 Generality of enabling power unaffected
- 16 Interpretation

SCHEDULE 8 — FUNERAL EXPENSE ASSISTANCE REGULATIONS PART 1 — ELIGIBILITY

CHAPTER 1

ELIGIBILITY IS TO DEPEND ON BEING RESPONSIBLE FOR FUNERAL EXPENSES

1 (1) The regulations must be framed so that an individual's...

CHAPTER 2

FURTHER CRITERIA

- 2 Location of the funeral
- 3 Relationship with the deceased
- 4 Value of deceased's estate
- 5 Residence and presence
- 6 Financial circumstances
- 7 Receipt of, or eligibility for, other types of State assistance
- 8 Application within specified period
 - PART 2 ASSISTANCE TO BE GIVEN
- 9 The regulations may specify items of expense in relation to...
- 10 The regulations may set a limit on the value of...
- 11 The regulations may set a limit on the total value...
- 12 The regulations may provide for the amount of funeral expense...
- 13 Restriction on giving assistance in a form other than money
 - PART 3 FINAL PROVISIONS
- 14 Generality of enabling power unaffected
- 15 Interpretation

SCHEDULE 9 — HOUSING ASSISTANCE REGULATIONS PART 1 — ELIGIBILITY

ELIGIBILITY IS TO DEPEND ON BEING TREATED IN CERTAIN WAYS UNDER THE WELFARE REFORM ACT 2012 OR OTHERWISE NEEDING ASSISTANCE WITH HOUSING COSTS

- 1 (1) Subject to sub-paragraph (2) and paragraph 2, the regulations...
- 2 (1) The regulations may be framed so that, despite the...

CHAPTER 2

FURTHER CRITERIA

- 3 Participation in education
- 4 Residence and presence
- 5 Age
- 6 Financial circumstances
- 7 Receipt of, or eligibility for, other types of State assistance
- 8 Application within specified period PART 2 — ASSISTANCE TO BE GIVEN

CHAPTER 1

VALUE

- 9 Cases where paragraph 1(3) conditions met
- 10 Cases where paragraph 1(3) conditions not met

CHAPTER 2

FORM

- 11 Meeting liabilities
- 12 Restriction on giving assistance in a form other than money PART 3 — FINAL PROVISIONS
- 13 Generality of enabling power unaffected
- 14 Interpretation

SCHEDULE 10 — SHORT-TERM ASSISTANCE REGULATIONS PART 1 — ELIGIBILITY

- 1 Entitlement to other assistance being reviewed PART 2 — ASSISTANCE TO BE GIVEN
- 2 Value and form of assistance where entitlement to other assistance under review
 - PART 3 FINAL PROVISIONS
- 3 Generality of enabling power unaffected
- 4 Interpretation