

SOCIAL SECURITY (SCOTLAND) ACT 2018

EXPLANATORY NOTES

OVERVIEW

Part 4 (Further Provision in Connection With Parts 2 and 3)

Inalienability of assistance

121. An individual's entitlement to social security assistance is a personal right based on the individual's needs. Section 83 prevents someone agreeing to transfer that personal right to assistance to someone else. Section 84 prevents involuntary transfers of the right so that if, for example, an individual were to become bankrupt the individual would retain his or her personal entitlement to assistance rather than it becoming part of the person's estate that transfers into the hands of the trustee in bankruptcy.
122. [Section 83\(2\)](#) makes clear that while a person cannot agree to transfer their right to assistance, the section does not prevent the Scottish Ministers operating arrangements where an individual requests that payments should be made (in whole or in part) to someone else. For example, a young person may prefer to have payments made to a parent, or some people may find it easier to have some of their assistance given directly to their landlord. That is not the same as the right to the assistance being transferred to a third party. Because the individual's entitlement is personal, the individual can at any time change the payment arrangements.

Information-sharing

123. [Section 85](#) facilitates information sharing in connection with social security functions (as defined in subsection (10)). Subsection (1) allows the Scottish Ministers to require the bodies listed in subsection (2) to provide them with information for the purpose of a social security function. Subsection (5) allows the Scottish Ministers to give information which they hold for the purpose of a social security function to one of the bodies listed in subsection (2), provided it is given for a purpose specified in regulations under subsection (5). However, the information-sharing permitted by section 85 does not extend to sharing information in circumstances where it is unlawful to do so (see subsection (9)).
124. The list of bodies from whom the Scottish Ministers can require information, and to whom they can give information, in subsection (2) can be extended by regulations under paragraph (g) of that subsection.
125. Regulations under subsection (2)(g), extending the list of bodies with whom information can be shared, and (5), specifying the purposes for which the Scottish Ministers can share information with a listed body, are subject to the negative procedure (see section 96).

Agency arrangements for housing assistance

126. [Section 86](#) allows the Scottish Ministers, by regulations, to give local authorities the task of exercising Ministers' functions in relation to the delivery of housing assistance (see

section 35) and also short-term assistance (see section 36) that is related to review of housing assistance. Subsection (3) of section 86 makes clear that, despite any delegation of the Ministers' functions in this regard, the Ministers will remain, ultimately, legally responsible for the exercise of those functions. Regulations under section 86 are subject to the affirmative procedure (see section 96).

Monitoring of appeal process

127. [Section 87](#) requires the Scottish Ministers to prepare an annual report on how many people had the right to appeal to the First-tier Tribunal for Scotland under section 46 and how many did so. (Section 46 is the right to appeal to the Tribunal against a determination by Ministers of an individual's entitlement to assistance under Part 2.) A report under section 87 is also to state whether Ministers think it would be appropriate to change the process for determining entitlement to assistance. Reports under section 87 are to be published and laid before the Scottish Parliament.