



# Social Security (Scotland) Act 2018

## 2018 asp 9

### PART 4

#### FURTHER PROVISION IN CONNECTION WITH PARTS 2 AND 3

#### *[<sup>F1</sup>Appointees*

#### **[<sup>F1</sup>85A Appointment of person to act on behalf of child**

- (1) The Scottish Ministers may appoint a person (an “appointee”) to act on behalf of a child in connection with the determination of the child's entitlement to assistance under section 24 or regulations under section 79.
- (2) An appointment under subsection (1) may, if the Scottish Ministers consider it appropriate, include an appointment of the person to receive such assistance on the child's behalf.
- (3) The Scottish Ministers may only appoint an appointee if it appears to them that there is no person who—
  - (a) has authority to act on behalf of the child,
  - (b) resides with, and has care of, the child, and
  - (c) is willing, and practicably able, to act on the child's behalf in relation to the matter mentioned in subsection (1).
- (4) An individual who is under 16 years may not be appointed as an appointee.
- (5) Where an appointee is appointed under subsection (1) to act on behalf of a child—
  - (a) the appointee can do anything that a person with authority (however arising) to act on behalf of the child in relation to the determination of the child's entitlement to assistance could do in connection with the determination of the child's entitlement to assistance (including making an application for assistance),
  - (b) the Scottish Ministers may request that the appointee provide them with information that the Ministers may otherwise request under section 54 or (as the case may be) the regulations under section 79 (and in the case of section 54, subsections (2) and (3) of that section apply to that request as they apply to a request made to the child),

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- (c) any information that would be given to the child under or by virtue of Part 2 or (as the case may be) the regulations, must be given to the appointee instead.

[ The Scottish Ministers must consider whether to make an appointment under <sup>F2</sup>(5A) subsection (1), or to terminate such an appointment, if requested to do so by—

- (a) the child, or  
 (b) anyone else who appears to the Ministers to—  
     (i) have authority to act on behalf of the child,  
     (ii) reside with, and have care of, the child, or  
     (iii) have an interest in the welfare or financial affairs of the child.

(5B) Subsection (5C) applies where the Scottish Ministers are deciding whether to make or terminate an appointment under subsection (1).

(5C) In making the decision the Scottish Ministers must, insofar as practicable, have regard to the views of—

- (a) the child,  
 (b) anyone who is a relevant person in relation to the child within the meaning of section 200 of the Children's Hearings (Scotland) Act 2011, and  
 (c) anyone else who appears to the Ministers to have an interest in the welfare or financial affairs of the child.]

(6) The Scottish Ministers may terminate an appointment under subsection (1) at any time.

(7) In this section, “child” means an individual who is under 16 years.]

#### **Textual Amendments**

- F1** S. 85A and cross-heading inserted (11.11.2020) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\), ss. 1\(2\), 18\(1\)](#)
- F2** S. 85A(5A)-(5C) inserted (24.1.2022) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\), ss. 2\(3\), 18\(2\)\(3\); S.S.I. 2021/442, reg. 2\(a\) \(with reg. 3\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 81(4C) inserted by [2021 asp 20 s. 2\(a\)](#)
- s. 85D inserted by [2020 asp 18 s. 2\(6\)](#)