



# Social Security (Scotland) Act 2018

## 2018 asp 9

### PART 7

#### FINAL PROVISIONS

#### **97 Further procedure for regulations about assistance**

- (1) This section applies (subject to subsection (11)) in relation to regulations under—
  - (a) any section in Chapter 2 of Part 2, and
  - (b) section 79.
- (2) Where the Scottish Ministers propose to make regulations to which this section applies, they must (before laying a draft Scottish statutory instrument containing such regulations before the Scottish Parliament for approval by resolution)—
  - (a) inform the Scottish Commission on Social Security of their proposals,
  - (b) notify the Scottish Parliament that they have done so, and
  - (c) make their proposals publicly available by such means as the Ministers consider appropriate.
- (3) For the purposes of subsection (2), proposals must take the form of draft regulations.
- (4) Having been informed of the Scottish Ministers' proposals, the Commission must prepare a report setting out its observations and recommendations in relation to the proposals.
- (5) The Scottish Ministers must ensure that the Commission has such time to prepare the report as the Commission deems appropriate.
- (6) In preparing its report, the Commission—
  - (a) must have regard to—
    - (i) the Scottish social security principles, and
    - (ii) any relevant international human rights instruments (as defined in section 22(5)), and
  - (b) may consult any persons it considers appropriate.
- (7) If the Commission's members are unable to agree the terms of its report unanimously, the report must set out the matters over which members differ.

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*Status: This is the original version (as it was originally enacted).*

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- (8) Having prepared its report, the Commission must—
- (a) submit a copy of the report to—
    - (i) the Scottish Ministers, and
    - (ii) the Scottish Parliament, and
  - (b) make the report publicly available by such means as the Commission considers appropriate.
- (9) When laying a draft Scottish statutory instrument containing regulations to which this section applies before the Scottish Parliament for approval by resolution, the Scottish Ministers must also lay before the Parliament either—
- (a) a response to the Commission’s report on the proposals for the regulations, or
  - (b) a statement explaining why the Ministers consider it appropriate to lay the draft instrument before the Parliament before the Commission has submitted its report on the proposals for the regulations.
- (10) The response mentioned in subsection (9)(a) must, in particular, give details of—
- (a) how (if at all) the regulations differ from the proposals,
  - (b) how the Scottish Ministers have sought to address the observations and recommendations contained in the Commission’s report, and
  - (c) any observations or recommendations contained in the report that the Ministers disagree with and have not sought to address.
- (11) This section does not apply in relation to regulations made only for the purpose of the consolidation of earlier regulations.