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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 442 (C. 31)**

**SOCIAL SECURITY**

**The Social Security Administration and Tribunal  
Membership (Scotland) Act 2020 (Commencement  
No. 5 and Transitional Provisions) Regulations 2021**

*Made* - - - - 25th November 2021  
*Laid before the Scottish  
Parliament* - - - - 30th November 2021  
*Coming into force* - - 24th January 2022

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 17(1) and 18(2) of the Social Security and Tribunal Membership (Scotland) Act 2020(1) and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security Administration and Tribunal Membership (Scotland) Act 2020 (Commencement No. 5 and Transitional Provisions) Regulations 2021 and come into force on 24 January 2022.

(2) In these Regulations “the 2018 Act” means the Social Security (Scotland) Act 2018(2).

**Appointed day**

2. 24 January 2022 is the day appointed for the coming into force of the following provisions of the Social Security Administration and Tribunal Membership (Scotland) Act 2020—

- (a) section 2(1), (2), (3) and (7) (appointment of person to act on behalf of individual), and
- (b) section 2(4), for all remaining purposes other than allowing appointments to be made under section 85B(1) of the 2018 Act in the circumstances described in subsection (3)(a) of that section.

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(1) [2020 asp 18](#). The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#)). These Regulations are subject to the negative procedure by virtue of section 33(4) of that Act.

(2) [2018 asp 9](#).

**Transitional provision in respect of appointments under the 2018 Act**

3.—(1) Any appointment made by the Scottish Ministers under section 58(1) of the 2018 Act, which has not been terminated under section 58(7) of that Act, is to be treated on and after 24 January 2022 as though made by the Scottish Ministers under section 85B(1) of the 2018 Act, in accordance with the requirements in subsection (3)(b) of that section.

(2) Where paragraph (1) applies—

- (a) anything done by an appointee under section 58(6)(a) of the 2018 Act is to be treated as having been done under section 85B(9)(a) of that Act,
- (b) anything requested or given by the Scottish Ministers under section 58(6)(b) or (c) of the 2018 Act is to be treated as having been requested or given by them under section 85B(9)(b) or (c) of that Act, and
- (c) the appointment under section 85B(1) is to be treated as having been made on the date the appointment was made by the Scottish Ministers under section 58(1) of the 2018 Act.

St Andrew's House,  
Edinburgh  
25th November 2021

*BEN MACPHERSON*  
Authorised to sign by the Scottish Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations bring into force certain provisions of the Social Security Administration and Tribunal Membership (Scotland) Act 2020 (“the 2020 Act”). These Regulations make transitional provision relating to appointments under the Social Security (Scotland) Act 2018 (“the 2018 Act”). Regulation 2 commences section 2(1), (2), (3) and (7) of the 2020 Act on 24 January 2022. It also commences section 2(4) in part on the same date. Section 2 of the 2020 Act amends the 2018 Act to insert a new set of provisions relating to appointments of persons to act on behalf of an individual in connection with the determination of their entitlement to social security assistance, and repeals section 58 of that Act which is superseded by the new provisions.

Regulation 3 makes transitional provision for persons previously appointed to act on behalf of an individual under section 58(1) of the 2018 Act. It provides that on or after 24 January 2022 persons appointed under section 58 will be treated as if they had been appointed under section 85B which is being inserted into the 2018 Act.

The Bill for the 2020 Act received Royal Assent on 10 November 2020. In accordance with section 18(1) of that Act, sections 1, 4, 5, 6, 14, 17, 18 and 19 came into force the following day.

## NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

*(This note is not part of the Regulations)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 2(4) (partially)	23 December 2020	<a href="#">S.S.I. 2020/422</a>
Section 2(5)	26 July 2021	<a href="#">S.S.I. 2021/232</a>
Section 3	26 July 2021	<a href="#">S.S.I. 2021/232</a>
Section 7	11 October 2021	<a href="#">S.S.I. 2021/338</a>
Section 8	20 October 2021	<a href="#">S.S.I. 2021/352</a>
Section 9	26 July 2021	<a href="#">S.S.I. 2021/232</a>
Section 10	26 July 2021	<a href="#">S.S.I. 2021/232</a>
Section 11	26 July 2021	<a href="#">S.S.I. 2021/232</a>
Section 12	26 July 2021	<a href="#">S.S.I. 2021/232</a>
Section 13	26 July 2021	<a href="#">S.S.I. 2021/232</a>