



# Social Security (Scotland) Act 2018

## 2018 asp 9

### PART 5

#### DISCRETIONARY HOUSING PAYMENTS

PROSPECTIVE

#### **88 Local authorities' power to make payments**

- (1) A local authority has power to give financial assistance to a qualifying individual to meet, or help towards meeting, the individual's housing costs.
- (2) In subsection (1), “qualifying individual” means an individual who—
  - (a) is entitled to—
    - (i) housing benefit, or
    - (ii) an award of universal credit which includes an amount for rent, and
  - (b) appears to the authority to need financial assistance under subsection (1) (in addition to any assistance of a kind mentioned in paragraph (a) which the individual receives) in order to meet housing costs.
- (3) For the purposes of subsection (2)(a)—
  - (a) “housing benefit” means housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992,
  - (b) an award of universal credit includes an amount for rent if—
    - (i) the calculation of the award includes an amount under section 11 of the Welfare Reform Act 2012, and
    - (ii) that amount is included (wholly or partly) in respect of a liability to make payments within the meaning of paragraph 2 of schedule 1 of the Universal Credit Regulations 2013 (S.I. 2013/376).
- (4) Financial assistance under this section may be given to an individual by way of—
  - (a) payment to the individual,
  - (b) payment to another person to meet, or contribute towards meeting, any liability the individual has to that person,

*Status: This version of this part contains provisions that are prospective.*

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- (c) deduction from any liability the individual has to the authority giving the assistance which is connected to housing costs,
- (d) any combination of the ways mentioned in the preceding paragraphs.

PROSPECTIVE

## 89 Restrictions on power to make payments

- (1) Financial assistance may not be given under section 88 by way of a loan.
- (2) Financial assistance may not be given under section 88 where the need for the assistance arises solely from reduction, non-payability or suspension of a reserved benefit as a result of an individual's conduct (for example, non-compliance with work-related requirements relating to the benefit).
- (3) But subsection (2) does not prevent assistance from being given where the need for the assistance in question—
  - (a) also arises from some exceptional event or exceptional circumstances, and
  - (b) is immediate.
- (4) In subsection (2), “reserved benefit” means a benefit which is to any extent a reserved matter within the meaning of schedule 5 of the Scotland Act 1998.

PROSPECTIVE

## 90 Local authorities' duty to provide information about payments

Each local authority must make available to the public resident in its area information about—

- (a) how to apply to the authority for financial assistance under section 88,
- (b) which housing costs the authority gives assistance in relation to,
- (c) the rules the authority applies in deciding—
  - (i) whether to give someone assistance,
  - (ii) the amount of assistance to give, and
  - (iii) what period to give assistance for,
- (d) how to apply for a review challenging a decision by the authority—
  - (i) to refuse to give assistance,
  - (ii) as to the amount of assistance it will give, or
  - (iii) as to the period for which it will give assistance.

## 91 Guidance

- (1) Local authorities must have regard to any guidance issued by the Scottish Ministers in connection with the exercise of the power conferred by section 88.
- (2) Guidance under subsection (1) may, in particular, deal with—
  - (a) the rules which authorities are to apply in deciding—

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- (i) whether to give someone financial assistance,
    - (ii) the amount of assistance to give, and
    - (iii) what period to give assistance for,
  - (b) the form of applications for—
    - (i) assistance, and
    - (ii) review of authorities' decisions about the giving of assistance,
  - (c) the processes which authorities are to follow in—
    - (i) determining applications for assistance and review, and
    - (ii) deciding whether to stop giving someone assistance,
  - (d) the circumstances in which authorities should, and should not, seek to recover the value of assistance given in error or following a breach of any of the conditions under which it was given.
- (3) Guidance under subsection (1) may be addressed to—
- (a) an authority, or more than one authority, identified in the guidance, or
  - (b) all authorities.
- (4) Before issuing guidance under subsection (1), the Scottish Ministers must consult such body representing authorities as the Ministers think fit.
- (5) As soon as reasonably practicable after issuing guidance under subsection (1), the Scottish Ministers must lay a copy of the guidance before the Scottish Parliament.
- (6) The Scottish Ministers must make guidance issued under subsection (1) publicly available.
- (7) The power to issue guidance under subsection (1) includes the power to—
- (a) issue guidance which varies guidance issued under that subsection, and
  - (b) revoke guidance issued under that subsection.

#### Commencement Information

**II** S. 91 in force at 1.4.2020 for specified purposes by [S.S.I. 2020/75](#), [reg. 2\(2\)\(3\)](#)

PROSPECTIVE

#### **92 Local authorities need not make payments if not funded**

- (1) The Scottish Ministers may make grants to local authorities to fund the giving of financial assistance under section 88.
- (2) Monies granted to an authority under subsection (1) may be spent only on giving financial assistance under section 88.
- (3) If an authority has spent all monies granted to it under subsection (1), the authority may refuse to consider any application for financial assistance under section 88.
- (4) If, by virtue of subsection (3), an authority is refusing to consider applications, it need not comply with section 90.

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- (5) For the avoidance of doubt, subsection (3) does not prevent an authority from considering applications or giving financial assistance under section 88 should it choose to.

PROSPECTIVE

### **93 Power to modify section 88**

- (1) The Scottish Ministers may by regulations make whatever amendment to section 88 they think appropriate in consequence of—
- (a) an enactment mentioned in that section being amended, repealed or revoked, or
  - (b) the creation of a reserved benefit payable in respect of a liability to make rent payments.
- (2) Expressions used in subsection (1)(b) have the same meaning as they have for the purposes of exception 6 in Section F1 of Part 2 of schedule 5 of the Scotland Act 1998.

**Status:**

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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\(6\)](#)