



Social Security (Scotland) Act 2018

2018 asp 9

PART 7

FINAL PROVISIONS

95 Ancillary provision

The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, or in connection with, or for giving full effect to this Act or any provision made under it.

96 Regulation-making powers

- (1) A power to make regulations conferred by this Act includes the power to make different provision for different purposes and areas.
- (2) Regulations under any of the following provisions are subject to the affirmative procedure: sections 11, 13, 22(1)(e), any section in Chapter 2 of Part 2 and sections 51, 52, ^{F1}... ^{F2}... 79, 81(8), 82, [^{F3}84A,] 85(2)(g) and (5), 86 [^{F4}, 87A] and 93 and paragraph 4(2)(c) of schedule 1.
- (3) Regulations under any of the following provisions are subject to the negative procedure: sections 41(4)(a) and 43(5) and paragraph 13(2) of schedule 1.
- (4) Regulations under section 95—
 - (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act (including this Act), but
 - (b) otherwise are subject to the negative procedure.
- (5) Regulations under section 22(1)(e), which modify the functions of the Scottish Commission on Social Security, may not be made after the Commission is established unless the Scottish Ministers have consulted the Commission about the modification.

Changes to legislation: Social Security (Scotland) Act 2018, PART 7 is up to date with all changes known to be in force on or before 23 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F1** Word in s. 96(2) repealed (11.11.2020) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\), ss. 14\(4\)\(a\)](#), 18(1)
- F2** Word in s. 96(2) repealed (11.11.2020) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\), ss. 5\(8\)\(a\)](#), 18(1) (with s. 6)
- F3** Word in s. 96(2) inserted (11.11.2020) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\), ss. 5\(8\)\(b\)](#), 18(1) (with s. 6)
- F4** Word in s. 96(2) inserted (11.11.2020) by [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(asp 18\), ss. 14\(4\)\(b\)](#), 18(1)

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.
- (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.

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- (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.

F⁵98 Temporary disapplication of section 97

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Textual Amendments

F5 S. 98 revoked (11.9.2019) by [The Social Security \(Scotland\) Act 2018 \(Commencement No. 5, Revocation and Saving Provision\) Regulations 2019 \(S.S.I. 2019/269\)](#), regs. 1(1), 5

99 Commencement

- (1) The following provisions come into force on the day after Royal Assent: this section and sections 95, 96, 97, 98 and 100.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) The power conferred by subsection (2) includes the power to make transitional, transitory or saving provision.

100 Short title

The short title of this Act is the Social Security (Scotland) Act 2018.

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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\(6\)](#)