

Changes to legislation: Social Security (Scotland) Act 2018, PART 1 is up to date with all changes known to be in force on or before 02 April 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

SCHEDULE 1 SCOTTISH COMMISSION ON SOCIAL SECURITY

PART 1

OPERATION AND COMPOSITION OF THE COMMISSION

CHAPTER 1

STATUS

Independence

- 1 (1) In performing its functions, the Scottish Commission on Social Security is not subject to the direction or control of any member of the Scottish Government.
- (2) This paragraph is subject to any contrary provision in this or any other enactment.

Commencement Information

- II** Sch. 1 para. 1 in force at 21.1.2019 by [S.S.I. 2018/393](#), [reg. 2](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 3\(2\)](#))

Exclusion of Crown status

- 2 The Commission—
- (a) is not a servant or agent of the Crown, and
- (b) does not enjoy any status, immunity or privilege of the Crown.

Commencement Information

- I2** Sch. 1 para. 2 in force at 21.1.2019 by [S.S.I. 2018/393](#), [reg. 2](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 3\(2\)](#))

CHAPTER 2

POWERS

General powers

- 3 The Commission may do anything which appears to it—
- (a) to be necessary or expedient for the purposes of, or in connection with, the performance of its functions, or
- (b) to be otherwise conducive to the performance of its functions.

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I3 Sch. 1 para. 3 in force at 21.1.2019 by [S.S.I. 2018/393](#), **reg. 2** (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), **regs. 1, 3(2)**)

Access to information

- 4 (1) The Commission—
- (a) has a right of access at reasonable times to any relevant information that it may reasonably require for the purpose of performing its functions, and
 - (b) may require any person who holds or is accountable for relevant information to provide at reasonable times any assistance or explanation that the Commission may reasonably require for the purpose of—
 - (i) performing its functions, or
 - (ii) exercising the right conferred by paragraph (a).
- (2) In sub-paragraph (1), “relevant information” means information in the possession or under the control of—
- (a) any member of the Scottish Government,
 - (b) a local authority,
 - (c) any person, or person of such description, as is specified by the Scottish Ministers in regulations.
- (3) Sub-paragraph (1) is subject to any enactment or rule of law that prohibits or restricts—
- (a) the disclosure of any information, or
 - (b) the giving of any assistance or explanation.

Commencement Information

I4 Sch. 1 para. 4 in force at 21.1.2019 by [S.S.I. 2018/393](#), **reg. 2** (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), **regs. 1, 3(2)**)

CHAPTER 3

PROCEDURE

Committees

- 5 (1) The Commission may establish committees and sub-committees.
- (2) The membership of the Commission's committees and sub-committees may include (but may not consist entirely of) persons who are not members of the Commission but those persons are not entitled to vote at meetings.

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I5 Sch. 1 para. 5 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

Regulation of procedure

6 The Commission may regulate its own procedure (including quorum) and that of its committees and sub-committees.

Commencement Information

I6 Sch. 1 para. 6 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

Authority to perform functions

7 (1) The Commission may authorise—
(a) any of its members, or
(b) any of its committees or sub-committees,
to perform such of its functions (and to such extent) as it may determine.
(2) The giving of authority under sub-paragraph (1) does not—
(a) affect the Commission's responsibility for the performance of the function,
or
(b) prevent the Commission from performing the function itself.

Commencement Information

I7 Sch. 1 para. 7 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

Validity of things done

8 The validity of anything done by the Commission, its committees or sub-committees is not affected by—
(a) a vacancy in its membership,
(b) a defect in the appointment of a member,
(c) the disqualification of a person as a member after appointment.

Commencement Information

I8 Sch. 1 para. 8 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

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CHAPTER 4

FINANCE

Remuneration and expenses of members

- 9 (1) The Commission's members are entitled to be paid by the Scottish Ministers such—
- (a) remuneration, and
 - (b) sums in respect of expenses incurred in performing their functions as members of the Commission,
- as the Ministers determine.
- (2) In sub-paragraph (1)—
- (a) the reference to the Commission's members includes a person who is not a member of the Commission but is a member of one of the Commission's committees or sub-committees, and
 - (b) the reference to performing functions as a member of the Commission, in the case of a person described in paragraph (a), is to be read as though it were a reference to performing the person's functions as a member of the committee or (as the case may be) sub-committee.

Commencement Information

- I9** Sch. 1 para. 9 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

Expenses of non-members

- 10 (1) A person who attends a meeting of the Commission at its request is entitled to be paid by the Scottish Ministers such travelling and other allowances (including compensation for loss of time) as the Ministers determine.
- (2) In sub-paragraph (1) the reference to the Commission includes any of its committees or sub-committees.

Commencement Information

- I10** Sch. 1 para. 10 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

Resources

- 11 The Scottish Ministers are to provide the Commission with such staff and other resources as it requires to carry out its functions.

Commencement Information

- I11** Sch. 1 para. 11 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

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Accounts and audit

- 12 (1) The Commission must—
- (a) keep proper accounts and accounting records,
 - (b) prepare in respect of each financial year a statement of accounts, and
 - (c) send a copy of the statement to the Auditor General for Scotland for auditing.
- (2) The Commission must comply with any directions which the Scottish Ministers give it in relation to the matters mentioned in sub-paragraph (1)(a) and (b).

Commencement Information

I12 Sch. 1 para. 12 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

CHAPTER 5

MEMBERSHIP

Number of members

- 13 (1) The Commission is to consist of—
- (a) a member to chair the Commission, and
 - (b) at least 2 but no more than 4 other members.
- (2) The Scottish Ministers may by regulations amend sub-paragraph (1)(b) by substituting a different number for any number for the time being specified there.

Commencement Information

I13 Sch. 1 para. 13 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

Appointment of members

- 14 (1) The Scottish Ministers are to appoint the Commission's members.
- (2) The Scottish Ministers may not appoint a person who is disqualified from being a member (see paragraph 17).
- (3) When appointing members the Scottish Ministers must have regard to the desirability of—
- (a) securing that the Commission (taken as a whole) has experience in or knowledge of—
 - (i) the formulation, implementation and evaluation of social security policies in Scotland and elsewhere in the United Kingdom,
 - (ii) research in connection with social security, and
 - (iii) the effect of disability, arising from a physical or mental impairment, on daily life,

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- (b) having a member with personal experience of having a disability arising from a physical or mental impairment, and
- (c) having as members people who have not previously been members.

Commencement Information

I14 Sch. 1 para. 14 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

Tenure and other terms and conditions

- 15 (1) A person's membership of the Commission continues until the end of the period of appointment (subject to paragraph 16(1) and (2)).
- (2) In sub-paragraph (1), “the period of appointment” means the period specified by the Scottish Ministers on appointing the person as a member.
- (3) The Scottish Ministers may not specify a period of appointment that is longer than 4 years, beginning with the day that the appointment takes effect.
- (4) Nothing in this paragraph prevents a person from being a member of the Commission for two or more consecutive periods of appointment.
- (5) The Scottish Ministers may determine other terms and conditions of membership, in relation to matters not covered by this schedule.

Commencement Information

I15 Sch. 1 para. 15 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

Early termination

- 16 (1) A member of the Commission may resign by giving notice in writing to the Scottish Ministers.
- (2) A person's membership of the Commission ends if—
- (a) the person becomes disqualified from being a member (see paragraph 17), or
 - (b) the Scottish Ministers give the person written notice that the person is removed from the Commission.
- (3) The Scottish Ministers may remove a member of the Commission by virtue of sub-paragraph (2)(b) only if they consider that the member is—
- (a) unfit to continue to be a member, or
 - (b) unable to perform the member's functions.

Commencement Information

I16 Sch. 1 para. 16 in force at 21.1.2019 by S.S.I. 2018/393, **reg. 2** (with **reg. 3**) (as amended (10.12.2019) by S.S.I. 2019/406, **regs. 1, 3(2)**)

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Disqualification grounds

- 17 (1) A person is disqualified from being a member of the Commission if sub-paragraph (2) or (3) applies to the person.
- (2) This sub-paragraph applies to a person who is—
- (a) a member of the—
 - (i) Scottish Parliament,
 - (ii) House of Commons,
 - (iii) House of Lords,
 - (iv) National Assembly for Wales,
 - (v) Northern Ireland Assembly, or
 - (vi) European Parliament,
 - (b) a councillor of any local authority,
 - (c) a member of the Scottish Government,
 - (d) a Minister of the Crown,
 - (e) an office-holder of the Crown in right of Her Majesty's Government in the United Kingdom,
 - (f) an office-holder in the Scottish Administration,
 - (g) a civil servant,
 - (h) one of the members of the Scottish Tribunals, as defined in section 13(3) of the Tribunals (Scotland) Act 2014,
 - (i) a judge, or other member, of the Upper Tribunal or First-tier Tribunal established by section 3 of the Tribunals, Courts and Enforcement Act 2007.
- (3) This sub-paragraph applies to a person (subject to sub-paragraph (4)) who is or has been—
- (a) disqualified as a company director under the Company Directors Disqualification Act 1986,
 - (b) disqualified as a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005,
 - (c) the subject of a disqualification under a disqualification provision analogous to either of those mentioned in paragraph (a) or (b) anywhere in the world.
- (4) Sub-paragraph (3) does not apply to a person who is or has been disqualified as mentioned in that sub-paragraph only by—
- (a) section 11 of the Company Directors Disqualification Act 1986 (undischarged bankrupts),
 - (b) section 69(2)(b) of the Charities and Trustee Investment (Scotland) Act 2005 (which disqualifies undischarged bankrupts from being charity trustees), or
 - (c) a provision analogous to either of those mentioned in paragraph (a) or (b) anywhere in the world.

Commencement Information

I17 Sch. 1 para. 17 in force at 21.1.2019 by [S.S.I. 2018/393](#), [reg. 2](#) (with [reg. 3](#)) (as amended (10.12.2019) by [S.S.I. 2019/406](#), [regs. 1, 3\(2\)](#))

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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\(6\)](#)