



Social Security Administration and Tribunal Membership (Scotland) Act 2020

2020 asp 18

PART 1

SOCIAL SECURITY ADMINISTRATION

Top up of reserved benefits

4 Offences

- (1) The Social Security (Scotland) Act 2018 is modified as follows.
- (2) In section 79(2), after paragraph (f) insert—
“*(g) offences.*”.
- (3) In section 80, after subsection (3) insert—
“*(4) The maximum penalty that may be provided for in regulations under section 79 in respect of an offence under those regulations is—*
 - (a) on summary conviction—*
 - (i) imprisonment for a term not exceeding 12 months,*
 - (ii) a fine not exceeding the statutory maximum, or*
 - (iii) both,*
 - (b) on conviction on indictment—*
 - (i) imprisonment for a term not exceeding 5 years,*
 - (ii) a fine, or*
 - (iii) both.*”.
- (4) After section 80 insert—

“80A Default provision in respect of offences

- (1) Sections 71 to 73 (which establish offences) apply in connection with financial assistance given by virtue of top-up assistance regulations as they apply in connection with assistance given under section 24.
- (2) But subsection (1) is subject to any contrary provision in top-up assistance regulations.
- (3) Where they apply by virtue of subsection (1), sections 71 to 73 apply subject to the following modifications—
 - (a) a reference to assistance is to be read as a reference to financial assistance provided for by top-up assistance regulations,
 - (b) a reference to giving notice in accordance with section 56 is to be read as a reference to giving notice in accordance with top-up assistance regulations,
 - (c) sections 72(3) and 73(3) do not apply unless, in accordance with top-up assistance regulations, the Scottish Ministers have informed the person in question about the way in which notification of a change of circumstances is to be given.
- (4) For the avoidance of doubt, the reference in section 74 to an offence under this Act or any regulations made under it includes—
 - (a) an offence under any of sections 71 to 73 as applied by virtue of subsection (1),
 - (b) an offence under top-up assistance regulations.
- (5) In this section, “top-up assistance regulations” means regulations under section 79.”.

5 Investigations

- (1) The Social Security (Scotland) Act 2018 is modified as follows.
- (2) The title of Chapter 6 of Part 2 becomes “OFFENCES”.
- (3) The italic heading immediately preceding section 71 is omitted.
- (4) Section 75 is—
 - (a) moved to after section 84 (and the italic heading immediately preceding it moves with it), and
 - (b) re-numbered 84A.
- (5) Section 76 is—
 - (a) moved to after section 84A, and
 - (b) renumbered 84B.
- (6) In section 84A(1), after “Act” insert “or regulations under section 79”.
- (7) In section 84B(1), for “75” substitute “84A”.
- (8) In section 96(2)—
 - (a) the word “75,” is repealed,

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

(b) after “82,” insert “84A,”.

6 Transitional provision in consequence of section 5

- (1) Anything done under section 75 or 76 of the Social Security (Scotland) Act 2018 (“the 2018 Act”) is to be treated as having been done under section 84A or 84B, respectively, of that Act.
- (2) And any reference to section 75 or 76 of the 2018 Act in any enactment or other document is to be read accordingly.
- (3) The Scottish Ministers may publish a code of practice under section 84B of the 2018 Act without consulting in accordance with section 84B(3) of that Act, provided the only differences from the code last published under section 76 of that Act are to reflect the renumbering effected by section 5 of this Act.

7 Uprating for inflation

- (1) The Social Security (Scotland) Act 2018 is modified as follows.
- (2) The Chapter number and title immediately preceding section 77 are omitted.
- (3) Section 77 is—
 - (a) moved to after section 86, and
 - (b) renumbered 86A.
- (4) Section 78 is—
 - (a) moved to after section 86A, and
 - (b) renumbered 86B.
- (5) Immediately before section 86A, insert the italic heading “Uprating for inflation”.
- (6) In section 86A—
 - (a) in subsection (3), for paragraph (a) substitute—
 - “(a) a figure prescribed as the value, or part of the value, of the assistance that is to be given to an individual in regulations under—
 - (i) any section in Chapter 2 of Part 2, or
 - (ii) section 79, but”,
 - (b) subsection (6) is repealed.
- (7) In section 86B—
 - (a) in subsection (1)—
 - (i) the word “and” immediately preceding paragraph (d) is repealed,
 - (ii) at the end of paragraph (d) insert “and
 - (e) the Scottish Child Payment Regulations 2020,”,
 - (b) for subsection (2) substitute—
 - “(2) The reference in subsection (1) to bringing forward legislation to replace a figure is a reference to laying before the Scottish Parliament for approval by resolution a draft Scottish statutory instrument containing regulations that would have the effect of replacing the figure.”,

(c) in subsection (4), in the definition of “relevant figure”, for “77(3)” substitute “86A(3)”.

(8) The title of section 86B becomes “Duty to uprate certain types of assistance”.

8 Transitional provision in consequence of section 7

- (1) Anything done under section 77 or 78 of the Social Security (Scotland) Act 2018 (“the 2018 Act”) is to be treated as having been done under section 86A or 86B, respectively, of that Act.
- (2) And any reference to section 77 or 78 of the 2018 Act in any enactment or other document is to be read accordingly.