

*Draft Regulations laid before the Scottish Parliament under section 96(2) of the Social Security (Scotland) Act 2018 for approval by resolution of the Scottish Parliament*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2021 No.**

**SOCIAL SECURITY**

**The Social Security Information-sharing (Scotland) Regulations 2021**

*Made* - - - - 2021  
*Coming into force* - - 26th July 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 85(2)(g) and (5) and 95 of the Social Security (Scotland) Act 2018(1) and all other powers enabling them to do so.

In accordance with section 96(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security Information-sharing (Scotland) Regulations 2021 and come into force on 26 July 2021.

(2) In these Regulations—

“the 1978 Act” means the National Health Service (Scotland) Act 1978(2),

“the 2018 Act” means the Social Security (Scotland) Act 2018,

“the Public Guardian” is to be construed in accordance with section 6 of the Adults with Incapacity (Scotland) Act 2000(3) (the Public Guardian and his functions).

**Specification of persons who may be required to supply information**

2.—(1) The persons described in paragraph (2) are specified for the purposes of section 85(2)(g) of the 2018 Act (persons who may be required to supply information).

(2) The persons are—

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(1) [2018 asp 9](#). 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 affirmative procedure by virtue of section 33(3) of that Act.

(2) [1978 c.29](#).

(3) [2000 asp 4](#). Section 6 was amended by section 67 and paragraph 5(a) of schedule 1 of the Adult Support and Protection (Scotland) Act 2007 ([asp 10](#)) and [S.S.I. 2015/157](#).

- (a) any supplier of vehicles approved by the Scottish Ministers under an accreditation scheme run by Ministers to supply vehicles for the benefit of individuals who are entitled to the higher rate of the mobility component of Child Disability Payment in accordance with regulation 13 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021<sup>(4)</sup> (mobility requirements: higher rate mobility component),
- (b) the contractor under a general medical services contract within the meaning of section 17J of the 1978 Act<sup>(5)</sup> (Health Boards' power to enter into general medical services contracts),
- (c) the contractor under an arrangement under section 2C(2) of the 1978 Act<sup>(6)</sup> (functions of Health Boards: primary medical services),
- (d) the provider under an agreement under section 17C(1)(a) of the 1978 Act<sup>(7)</sup> (agreement for provision of primary medical services), and
- (e) the Public Guardian.

### Supplying information to receive information in return

3.—(1) Paragraph (2) applies where the Scottish Ministers require information to be supplied under section 85(1) of the 2018 Act (requirement to supply information) by—

- (a) a Health Board constituted under section 2(1)(a) of the 1978 Act<sup>(8)</sup> (Health Boards) or a Special Health Board constituted under section 2(1)(b) of the 1978 Act<sup>(9)</sup>,
- (b) a contractor or provider of primary medical services described in regulation 2(2)(b), (c) or (d), or
- (c) a local authority,

for the purpose of determining an individual's entitlement to social security assistance in accordance with section 37 of the 2018 Act (duty to make determination).

(2) The Scottish Ministers may supply to the person such information relating to the individual as is necessary for the purpose of enabling the person to comply with the requirement under section 85(1) of the 2018 Act.

(3) Information may be supplied by the Scottish Ministers under paragraph (2) only with the authorisation of the individual to whom the information relates.

### Use of information supplied by the Scottish Ministers

4.—(1) Information held by the Scottish Ministers for the purpose of a social security function may be supplied by Ministers under section 85(5) of the 2018 Act (specification of functions) to—

- (a) a supplier of vehicles described in regulation 2(2)(a) for use for the purposes of the function of that person specified in paragraph (2),
- (b) a local authority for use for the purposes of the functions of the local authority specified in paragraph (3).

(2) The specified function referred to in paragraph (1)(a) is the provision of a vehicle.

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(4) S.S.I. 2021/XX.

(5) Section 17J was inserted by section 4 of the Primary Medical Services (Scotland) Act 2004 ([asp 1](#)) ("the 2004 Act").

(6) Section 2C was inserted by section 1(2) of the 2004 Act. Section 2C(2) was amended by section 37(a) of the Tobacco and Primary Medical Services (Scotland) Act 2010 ([asp 3](#)).

(7) Section 17C was inserted by section 21(2) of the National Health Service (Primary Care) Act 1997 ([c.46](#)). Section 17C(1)(a) was amended by section 2(2)(a) of the 2004 Act.

(8) Section 2(1)(a) was amended by paragraph 1 of schedule 7 of the Health and Social Services and Social Security Adjudications Act 1983 ([c.41](#)), section 28(a)(i) and (ii) of the National Health Service and Community Care Act 1990 ([c.19](#)), paragraph 1(2)(a) of schedule 1 of the National Health Service Reform (Scotland) Act 2004 ([asp 7](#)) and paragraph 2(2) of schedule 2 of the Smoking, Health and Social Care (Scotland) Act 2005 ([asp 13](#)).

(9) Section 2(1)(b) was inserted by section 28(a)(ii) of the National Health Service and Community Care Act 1990 ([c.19](#)). It was amended by paragraph 2(2) of schedule 2 of the Smoking, Health and Social Care (Scotland) Act 2005 ([asp 13](#)).

- (3) The specified functions referred to in paragraph (1)(b) are—
- (a) the assessment of liability to pay local taxes used to fund local authority expenditure,
  - (b) the administration under section 134(1) of the Social Security Administration Act 1992<sup>(10)</sup> (arrangements for housing benefit) of housing benefit provided by virtue of a scheme under section 123(1)(d) of the Social Security Contributions and Benefits Act 1992<sup>(11)</sup> (income-related benefit),
  - (c) the administration of the national travel concession scheme provided for by the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006<sup>(12)</sup>,
  - (d) the administration of a travel concession scheme established under section 93 of the Transport Act 1985<sup>(13)</sup> (travel concession schemes),
  - (e) determining whether a person falls within the description of person prescribed for the purposes of section 21(2) of the Chronically Sick and Disabled Persons Act 1970<sup>(14)</sup> (issue of badges for display on motor vehicles to disabled persons falling within prescribed descriptions) by regulation 4(2)(ad) of the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000<sup>(15)</sup> (descriptions of disabled persons),
  - (f) determining whether to provide occasional financial or other assistance for the purpose described in section 2(1)(a) or (b) of the Welfare Funds (Scotland) Act 2015<sup>(16)</sup> (use of welfare funds: assistance for short term need and community care),
  - (g) determining—
    - (i) whether to make discretionary housing payments under regulation 2(1) of the Discretionary Financial Assistance Regulations 2001<sup>(17)</sup> (provision of additional financial assistance towards meeting housing costs),
    - (ii) the amount of any such payments.

5. Where the Scottish Ministers supply information under these Regulations, which relates to an individual, the information supplied must be no more than is necessary for the purpose for which it is to be used by the recipient.

St Andrew's House,  
Edinburgh  
Date

*Name*  
A member of the Scottish Government

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<sup>(10)</sup> 1992 c.5. Section 134 was substituted by paragraph 1(2) of schedule 12 of the Housing Act 1996 (c.52).

<sup>(11)</sup> 1992 c.4.

<sup>(12)</sup> S.S.I. 2006/107.

<sup>(13)</sup> 1985 c.67. Section 93, as it applies to Scotland, was amended by paragraph 141 of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39), S.I. 1996/974, section 44(1) of the Local Government in Scotland Act 2003 (asp 1) and section 49(2) of the Transport (Scotland) Act 2019 (asp 17).

<sup>(14)</sup> 1970 c.44.

<sup>(15)</sup> S.S.I. 2000/59. Sub-paragraph (ad) was inserted by S.S.I. 2021/73.

<sup>(16)</sup> 2015 asp 5.

<sup>(17)</sup> S.I. 2001/1167. Regulation 2(1) was amended by S.I. 2013/1139 and S.I. 2013/458.

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## EXPLANATORY NOTE

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

These Regulations make provision regarding the sharing of information in connection with the social security functions of the Scottish Ministers, in accordance with section 85 of the Social Security (Scotland) Act 2018 (“the 2018 Act”).

Regulation 2 specifies, for the purposes of section 85(2) of the 2018 Act, three additional persons who may be required by the Scottish Ministers to supply information to them for the purpose of a social security function. These are GP practices, the Public Guardian and suppliers of vehicles for the benefit of individuals who are entitled to the mobility component of Child Disability Payment, at the higher rate.

Regulation 3 provides an express power for the Scottish Ministers to share information with local authorities, Health Boards and GP practices, in order to receive from them information required under section 85(1) of the 2018 Act. This reflects the substantive nature of the information which may be shared.

Regulation 4 provides that information held by the Scottish Ministers for the purpose of a social security function may be supplied by them, under section 85(5) of the 2018 Act, for the purposes of a specified function to a supplier of vehicles described in regulation 2 and to a local authority. The specified function in respect of a supplier of vehicles is the provision of a vehicle. The specified functions in relation to local authorities, include establishing entitlement to council tax reduction and other forms of concession related to local taxes, establishing entitlement to a Blue Badge, and reaching decisions on making discretionary housing payments.

Regulation 5 makes clear that no more information may be supplied than is necessary to enable a specified person to fulfil a particular function or, as the case may be, to enable them to supply the information which is required from them under section 85(1) of the 2018 Act.