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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 298 (C. 20)**

**SOCIAL SECURITY**

**The Social Security (Scotland) Act 2018 (Commencement  
No. 2, Transitory and Saving Provision) Regulations 2018**

<i>Made</i>	- - - -	<i>3rd October 2018</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>5th October 2018</i>
<i>Coming into force</i>	- -	<i>22nd October 2018</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 99(2) and (3) of the Social Security (Scotland) Act 2018<sup>(1)</sup>.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Social Security (Scotland) Act 2018 (Commencement No. 2, Transitory and Saving Provision) Regulations 2018 and come into force on 22 October 2018.

(2) In these Regulations “the Act” means the Social Security (Scotland) Act 2018.

**Appointed days**

2.—(1) The day appointed for the coming into force of the following provisions of the Act is 22 October 2018—

- (a) sections 1 and 2 (the Scottish social security principles);
- (b) sections 3 to 9 (promotion of take-up of assistance under the Scottish social security system);
- (c) sections 15 to 19 (the Scottish social security charter);
- (d) section 20 (annual report on the performance of the Scottish social security system);
- (e) section 23 (meaning of the Scottish social security system);
- (f) sections 24 to 27 (giving assistance according to determination of entitlement);
- (g) sections 37 to 52 (determination of entitlement, re-determination and appeal);
- (h) section 53 and 54 (identifying possible eligibility and obtaining information);

- (i) sections 56 to 59 (duty to notify change of circumstances, appointees and right to a supporter);
- (j) sections 61 and 62 (right to appeal process decisions and presumption about receipt of information);
- (k) sections 63 to 69 (recovery of value of assistance);
- (l) sections 71 to 74 (offences);
- (m) section 75 (provision by regulations about investigations); and
- (n) section 87 (annual report on appeals).

(2) 22 October 2018 is also the day appointed for section 76 (code of practice on investigations) of the Act to come into force, so far as not already in force (but subject to the saving provision in regulation 3(2)).

### **Transitory and saving provision**

**3.—**(1) For the avoidance of doubt, the commencement by regulation 2(1)(d) and (n) of sections 20 and 87 of the Act does not require the Scottish Ministers to prepare any report in respect of the financial year ending on 31 March 2018.

(2) Nothing in regulation 2 brings a provision into force for any purpose within exception 1 in Section F1 (benefits for disability and industrial injury) in Part 2 of schedule 5 of the Scotland Act 1998(2).

St Andrew's House,  
Edinburgh  
3rd October 2018

*S SOMERVILLE*  
A member of the Scottish Government

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(2) 1998 c.46. Section F1 was amended by sections 22 to 28 of the Scotland Act 2016 (c.11); of particular relevance to these Regulations is section 22(2) which inserted exception 1.

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## EXPLANATORY NOTE

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

These Regulations bring sections in Parts 1, 2 and 4 of the Social Security (Scotland) Act 2018 (“the 2018 Act”) into force on the appointed day.

Regulation 2 paragraph (1)(a) to (e) relates to the tenets and oversight of the Scottish social security system. Paragraph (1)(f) to (j) commences provisions that relate to the giving of assistance and the operation of the system, including appeals, and paragraph (1)(n) requires an annual report on appeal volumes. Paragraph (1)(k) to (m) and paragraph (2) relate to recovery of assistance given in error, offences and investigations.

Regulation 3(1) clarifies that the commencement of sections 20 and 87 does not require any report to be produced for the 2017/18 financial year.

Regulation 3(2) makes saving provision. This is to ensure that the commencement of sections of the 2018 Act has no effect on the arrangements made by regulation 4(2)(a) of the Scotland Act 2016 (Transitional) Regulations 2017 ([S.I. 2017/444](#)). Those arrangements delay, for a transitional period, the transfer to the Scottish Ministers of the Secretary of State’s functions in relation to certain disability and industrial injury benefits.

The Bill for the 2018 Act received Royal Assent on 1 June 2018. Part 7 of the 2018 Act (sections 95 to 100: final provisions) came into force the following day.

## NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

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

The following provisions of the Social Security (Scotland) Act 2018 have been brought into force by commencement Regulations made before the date of these Regulations:—

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 76 (partially)	3 September 2018	<a href="#">S.S.I. 2018/250</a>
Sections 81 to 85	3 September 2018	<a href="#">S.S.I. 2018/250</a>