
DRAFT STATUTORY INSTRUMENTS

2020 No.

**The Scotland Act 1998 (Transfer of Functions
to the Scottish Ministers etc.) Order 2020**

Functions exercisable concurrently by the Secretary of State and the Scottish Ministers

2.—(1) The functions of the Secretary of State under section 2 of the Employment and Training Act 1973(1) are exercisable by the Scottish Ministers concurrently with the Secretary of State insofar as they—

- (a) are exercisable in or as regards Scotland; and
- (b) are not exercisable by the Scottish Ministers by virtue of section 53 of the Scotland Act 1998(2).

(2) But the Scottish Ministers may only exercise those functions, by virtue of paragraph (1), to make an arrangement under which a person in the circumstances described by paragraph (3) or (4) may be given assistance to retain employment.

(3) The circumstances are—

- (a) an offer of employment was made to the person when the person was—
 - (i) 16 years of age or over; but
 - (ii) under 25 years of age;
- (b) the person was not in employment at any point in the 6 months before the offer was made; and
- (c) the person applied to the Scottish Ministers for assistance under the arrangements made by virtue of paragraph (1) within the period of one year beginning with the day that the offer was made.

(4) The circumstances are—

- (a) an offer of employment was made to the person when the person was—
 - (i) 16 years of age or over; but
 - (ii) under 26 years of age;
- (b) the person—
 - (i) was looked after by a local authority on or after the person's 16th birthday; and
 - (ii) is no longer looked after by a local authority; and
- (c) the person applied to the Scottish Ministers for assistance under the arrangements made by virtue of paragraph (1) within the period of one year beginning with the day that the offer was made.

(5) For the purposes of paragraph (4)(b), a person is looked after by a local authority if—

(1) 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), section 25(1); the section has subsequently been amended by the Employment Act 1989 (c.38), section 29(4) and Schedule 7, Part 1, and by the Trade Union Reform and Employment Rights Act 1993 (c.19), section 47(1).

(2) 1998 c.46; section 53 is amended by the Scotland Act 2016 (c.11), section 32(3).

- (a) the person is looked after, within the meaning of section 17(6) of the Children (Scotland) Act 1995(3), by a local authority in Scotland;
 - (b) the person is looked after, within the meaning of section 105(4) of the Children Act 1989(4), by a local authority in England or Wales; or
 - (c) the person is looked after, within the meaning of article 25 of the Children (Northern Ireland) Order 1995(5), by an authority in Northern Ireland.
- (6) For the avoidance of doubt, nothing in this article requires the Scottish Ministers to make an arrangement to assist every person in the circumstances described by paragraphs (3) and (4).

(3) 1995 c.36; section 17(6) is amended by the Children’s Hearings (Scotland) Act 2011 (asp 1), schedule 5, paragraph 2, by the Adoption and Children (Scotland) Act 2007 (asp 4), schedule 2, paragraph 9(4)(b), and by S.S.I. 2013/211.

(4) 1989 c.41; section 105(4) is substituted by S.I. 2016/413.

(5) S.I. 1995/755 (N.I. 2); article 25 is amended by the Children (Leaving Care) Act (Northern Ireland) 2002 (c.11), section 2(1).