



# Scotland Act 2016

## 2016 CHAPTER 11

### PART 3

#### WELFARE BENEFITS AND EMPLOYMENT SUPPORT

##### *General*

### **32 Functions exercisable within devolved competence**

- (1) The Scotland Act 1998 (“the 1998 Act”) has effect, in relation to any function so far as exercisable within devolved competence by virtue of a provision of section 22, 23, 24, 25, 26, 27 or 31, as if references to a “pre-commencement enactment” were to—
  - (a) an Act passed before or in the same session as the relevant date,
  - (b) any other enactment made before the relevant date,
  - (c) subordinate legislation under section 106 of the 1998 Act, to the extent that the legislation states that it is to be treated as a pre-commencement enactment, but did not include the 1998 Act or this Act (or any amendment made by either of those Acts) or, subject to paragraph (c), an enactment comprised in subordinate legislation under either of those Acts.
- (2) In this section—
  - (a) expressions used in the 1998 Act have the same meaning as in that Act;
  - (b) in relation to a provision of section 22, 23, 24, 25, 26, 27 or 31, the relevant date for any purpose is the date on which the provision comes into force for that purpose.
- (3) In section 53 of the 1998 Act (general transfer of functions), after subsection (3) insert—

“(3A) But see sections 9, 32 and 51 of the Scotland Act 2016 (which give “pre-commencement enactment” a different meaning for functions exercisable within devolved competence by virtue of certain provisions of that Act).”

*Changes to legislation: Scotland Act 2016, Cross Heading: General is up to date with all changes known to be in force on or before 16 September 2023. 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*

**Commencement Information**

**II** S. 32 in force at 5.9.2016 by S.I. 2016/759, reg. 3(i)

**33 Social Security Advisory Committee and Industrial Injuries Advisory Council**

- (1) Section 53 of the Scotland Act 1998 does not apply in relation to any function of a Minister of the Crown under the legislation relating to social security and industrial injuries advisory bodies.
- (2) Section 117 of that Act does not apply in relation to any reference to a Minister of the Crown in that legislation.
- (3) In this section—
  - “the legislation relating to social security and industrial injuries advisory bodies” means any provision of sections 170 to 174 of, and Schedules 5 to 7 to, the Social Security Administration Act 1992 (Social Security Advisory Committee and Industrial Injuries Advisory Council);
  - “Minister of the Crown” includes the Treasury.

**Commencement Information**

**I2** S. 33 in force at 5.9.2016 by S.I. 2016/759, reg. 3(j)

**34 Information-sharing**

- (1) Information held by the Secretary of State for the purpose of a social security function may be supplied by the Secretary of State to the Scottish Ministers for use for the purpose of a relevant Scottish social security function.
- (2) Where information is supplied to the Scottish Ministers under subsection (1) for use for any purpose, they may use it for any other purposes for which information held by them for that purpose may be used.
- (3) Information held by the Scottish Ministers for the purpose of a relevant Scottish social security function may be supplied by them to the Secretary of State for use for the purpose of a social security function.
- (4) Where information is supplied to the Secretary of State under subsection (3) for use for any purpose, the Secretary of State may use it for any other purposes for which information held by him or her for that purpose may be used.
- (5) In subsections (1) to (4)—
  - (a) references to the Secretary of State include a person providing services to him or her;
  - (b) references to the Scottish Ministers include a person providing services to them.
- (6) Information supplied under this section must not be supplied by the recipient of the information to any other person or body without—
  - (a) the authority of the Secretary of State, in the case of information supplied under subsection (1);

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- (b) the authority of the Scottish Ministers, in the case of information supplied under subsection (3).

(7) In this section—

“social security function” means a function of the Secretary of State relating to—

- (a) social security,
- (b) the investigation or prosecution of offences relating to tax credits,
- (c) employment or training,
- (d) war pensions,
- (e) welfare foods, or
- (f) any other prescribed matter;

“relevant Scottish social security function” means—

- (a) a function which is exercisable by the Scottish Ministers within devolved competence by virtue of any of the following provisions of Part 2 of Schedule 5 to the Scotland Act 1998—
  - (i) exceptions 1, 2, 4 to 8 and 10 in Section F1 (social security schemes), and
  - (ii) exception 1 in Section H3 (job search and support);
- (b) a function of the Scottish Ministers under or by virtue of—
  - (i) section 29 (universal credit: costs of claimants who rent accommodation), or
  - (ii) section 30 (universal credit: persons to whom, and time when, paid);
- (c) a function of the Scottish Ministers relating to welfare foods;
- (d) any other prescribed function of the Scottish Ministers.

(8) In subsection (7)—

- (a) the reference to a function being exercisable within devolved competence is to be read in accordance with section 54 of the Scotland Act 1998;
- (b) “war pensions” means schemes for the payment of pensions, grants, allowances, supplements or gratuities for or in respect of persons who have a disablement or have died in consequence of service as members of the armed forces of the Crown;
- (c) “prescribed” means prescribed by regulations made by the Secretary of State.

(9) Regulations under this section must be made by statutory instrument.

(10) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

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**Modifications etc. (not altering text)**

**C1** S. 34 modified (28.6.2022) by [Social Security \(Additional Payments\) Act 2022 \(c. 38\)](#), **ss. 7(4), 11(2)**

**C2** S. 34 modified (23.3.2023) by [Social Security \(Additional Payments\) Act 2023 \(c. 7\)](#), **ss. 7(4), 12(2)**

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**Commencement Information**

**I3** S. 34 in force at 5.9.2016 by [S.I. 2016/759](#), **reg. 3(k)**

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### **35 Extension of unauthorised disclosure offence**

- (1) Part 2 of Schedule 4 to the Social Security Administration Act 1992 is amended as follows.
- (2) After paragraph 1A insert—

“1B The reference in Part 1 of this Schedule to the Scottish Administration is a reference to that Administration only to the extent that the functions carried out by persons in its employ—

- (a) relate to social security, or
- (b) are, or are connected with, functions of the First-tier Tribunal or Upper Tribunal which relate to social security or to occupational or personal pension schemes or to war pensions or functions of the Chief, or any other, Social Security Commissioner.”

- (3) In paragraph 3, omit “, the Scottish Administration”.

#### **Commencement Information**

**I4** S. 35 in force at 5.9.2016 by S.I. 2016/759, reg. 3(l)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/455, reg. 3 by [S.I. 2019/1438 reg. 2](#)