



# Social Security (Scotland) Act 2018

## 2018 asp 9

### PART 1

#### TENETS AND OVERSIGHT

##### *Charter*

#### **15 The Scottish social security charter**

- (1) A Scottish social security charter is to be prepared, published and from time to time reviewed in accordance with sections 16 to 18.
- (2) The charter is to set out what should be expected—
  - (a) from the Scottish Ministers when—
    - (i) developing social security policy, and
    - (ii) exercising the functions conferred on them by this Part and Parts 2 and 3, and
  - (b) from the individuals who apply for, and receive, assistance through the Scottish social security system.
- (3) The charter is to reflect the Scottish social security principles.

#### **16 Preparing the first charter**

- (1) The Scottish Ministers are to prepare the charter within 6 months of this section coming into force.
- (2) In preparing the charter, the Scottish Ministers must consult such persons as they consider appropriate.
- (3) The Scottish Ministers must ensure, as far as is reasonably practicable, that the persons consulted include, in particular, a representative proportion of persons such as are mentioned in subsection (4)(a)(i), (ii) and (iv) who have—
  - (a) a physical impairment,
  - (b) a mental impairment.
- (4) The persons consulted must include—

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- (a) individuals who are in receipt of—
    - (i) disability living allowance as provided for by sections 71 to 76 of the Social Security Contributions and Benefits Act 1992,
    - (ii) personal independence payment as provided for by Part 4 of the Welfare Reform Act 2012,
    - (iii) severe disablement allowance as provided for by sections 68 and 69 of the Social Security Contributions and Benefits Act 1992,
    - (iv) attendance allowance as provided for by section 64 of that Act,
    - (v) industrial injuries benefits within the meaning of Part 5 of that Act,
    - (vi) child benefit as provided for by Part 9 of that Act,
    - (vii) carer’s allowance as provided for by section 70 of that Act,
    - (viii) payments under section 138 of that Act in respect of—
      - (A) maternity expenses,
      - (B) funeral expenses,
      - (C) heating expenses, and
  - (b) persons who work with or represent individuals living in households whose income is adversely affected, or whose expenditure is increased, because a member of the household has one or more protected characteristics within the meaning of section 4 of the Equality Act 2010.
- (5) For the purpose of subsection (2), it is immaterial that anything done by way of consultation was done before the Bill for this Act was passed or after that but before this section comes into force.
- (6) The Scottish Ministers may not make the charter unless a draft of it has been laid before, and approved by resolution of, the Scottish Parliament.

## **17 Publication of the charter**

The Scottish Ministers are to make the charter publicly available by such means as they consider appropriate.

## **18 Reviewing the charter**

- (1) The Scottish Ministers must review the charter—
- (a) within 5 years of its being made, and
  - (b) thereafter, within 5 years of the report of the last review being laid before the Parliament in accordance with subsection (4)(b).
- (2) In carrying out a review, the Scottish Ministers must consult—
- (a) the Scottish Commission on Social Security, and
  - (b) any other persons they consider appropriate.
- (3) The persons consulted must include—
- (a) individuals who have received assistance through the Scottish social security system, and
  - (b) persons who work with or represent individuals living in households whose income is adversely affected, or whose expenditure is increased, because a member of the household has one or more protected characteristics within the meaning of section 4 of the Equality Act 2010.

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- (4) Following a review, the Scottish Ministers must—
  - (a) decide whether or not to make any changes to the charter, and
  - (b) lay before the Scottish Parliament a report setting out—
    - (i) the consultation undertaken in carrying out the review,
    - (ii) the reasons for their decision to make changes, or not make changes, to the charter, and
    - (iii) if the Ministers have decided to make changes to the charter, a draft of the charter showing the changes they intend to make.
- (5) The Scottish Ministers may not make changes to the charter unless a draft of the charter showing the changes they intend to make has been laid before, and approved by resolution of, the Scottish Parliament.

## **19 Effect of the charter**

- (1) A court or tribunal in civil or criminal proceedings may take the Scottish social security charter into account when determining any question arising in the proceedings to which the charter is relevant.
- (2) Breach of the charter does not of itself give rise to grounds for any legal action.