

Draft Regulations laid before the Scottish Parliament under section 79(2)(a) and (c) of the Tribunals (Scotland) Act 2014 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

TRIBUNALS AND INQUIRIES

The First-tier Tribunal for Scotland Social Security Chamber and Upper Tribunal for Scotland (Allocation of Functions, Procedure and Composition) (Miscellaneous Amendments) Regulations 2020

<i>Made</i>	- - - -	2020
<i>Coming into force</i>	- -	2020

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20(2) and 38(1) and paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 11(1)(a) of that Act, they have obtained the approval of the Lord President for the making of these Regulations.

In accordance with section 11(1)(b) and (2) and paragraph 4(3) of schedule 9 of that Act, they have consulted the President of the Scottish Tribunals and such other persons as they considered appropriate.

In accordance with section 79(2)(a) and (c) of that Act a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament⁽²⁾.

Citation and commencement

1. These Regulations may be cited as the First-tier Tribunal for Scotland Social Security Chamber and Upper Tribunal for Scotland (Allocation of Functions, Procedure and Composition) (Miscellaneous Amendments) Regulations 2020 and come into force on the day after the day on which they are made.

(1) 2014 asp 10.

(2) 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.

Amendment of the First-tier Tribunal for Scotland (Allocation of Functions to the Social Security Chamber) Regulations 2018

2.—(1) The First-tier Tribunal for Scotland (Allocation of Functions to the Social Security Chamber) Regulations 2018⁽³⁾ are amended as follows.

(2) In regulation 3 (allocation of social security functions to the Social Security Chamber), for paragraph (2) substitute—

“(2) The social security functions of the First-tier Tribunal are the functions conferred on the Tribunal by—

- (a) the 2018 Act;
- (b) regulations made under the 2018 Act; and
- (c) the Carer’s Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020⁽⁴⁾.”.

Amendment of the Upper Tribunal for Scotland (Social Security Rules of Procedure) Regulations 2018

3.—(1) The Upper Tribunal for Scotland (Social Security Rules of Procedure) Regulations 2018⁽⁵⁾ are amended as follows.

(2) In regulation 3 (application of Rules in schedule) for the words from “the 2018 Act” to the end substitute—

“—

- (a) the 2018 Act;
- (b) regulations made under the 2018 Act; or
- (c) the Carer’s Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020⁽⁶⁾.”.

Amendment of the First-tier Tribunal for Scotland Social Security Chamber and Upper Tribunal for Scotland (Composition) Regulations 2018

4.—(1) The First-tier Tribunal for Scotland Social Security Chamber and Upper Tribunal for Scotland (Composition) Regulations 2018⁽⁷⁾ are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of “the 2020 Regulations” insert—

““the Carer’s Allowance Supplement Regulations” means the Carer’s Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020⁽⁸⁾,” and

(b) in the definition of “process decision”, after sub-paragraph (b) insert—

“(c) in relation to an appeal under paragraph 13 of schedule 2 of the Carer’s Allowance Supplement Regulations, a decision made under paragraph 1(5), 4(6) or 5(2)(b) of schedule 2 of those Regulations.”.

(3) [S.S.I. 2018/350](#). There is an amendment to these Regulations which is not relevant to this instrument.

(4) [S.S.I. 2020/XX](#).

(5) [S.S.I. 2018/274](#).

(6) [S.S.I. 2020/XX](#).

(7) [S.S.I. 2018/351](#), which was amended by [S.S.I. 2020/353](#).

(8) [S.S.I. 2020/XX](#).

(3) For regulation 3 (composition of the First-tier Tribunal when deciding an appeal against a process decision) substitute—

“3. The First-tier Tribunal, when convened to decide an appeal under any of the following provisions against a process decision, must consist only of a legal member—

- (a) section 61 of the 2018 Act;
- (b) paragraph 23 of the schedule of the 2020 Regulations; or
- (c) paragraph 13 of schedule 2 of the Carer’s Allowance Supplement Regulations.”.

(4) After regulation 4 (composition of the First-tier Tribunal when deciding an appeal against a determination of entitlement to assistance) insert—

“Composition of the First-tier Tribunal when deciding an appeal against a determination of entitlement to a carer’s allowance supplement

4A. The First-tier Tribunal, when convened to decide an appeal under paragraph 9 of schedule 2 of the Carer’s Allowance Supplement Regulations against a determination by the Scottish Ministers of entitlement to a carer’s allowance supplement, must consist only of a legal member.”.

Amendment of the First-tier Tribunal for Scotland Social Security Chamber (Procedure) Regulations 2018

5.—(1) The First-tier Tribunal for Scotland Social Security Chamber (Procedure) Regulations 2018⁽⁹⁾ are amended as follows.

(2) In regulation 2 (application of the Rules set out in the schedule) for the words from “the Social Security (Scotland) Act 2018” to the end substitute—

“—

- (a) the Social Security (Scotland) Act 2018⁽¹⁰⁾;
- (b) regulations made under the Social Security (Scotland) Act 2018; or
- (c) the Carer’s Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020⁽¹¹⁾.”.

(3) In the schedule—

- (a) in rule 1 (interpretation)—
 - (i) after the definition of “the 2020 Regulations” insert—

““the Carer’s Allowance Supplement Regulations” means the Carer’s Allowance Supplement and Young Carer Grants (Residence Requirements and Procedural Provisions) (EU Exit) (Scotland) Regulations 2020;”,
 - (ii) in the definition of “the prescribed time period”, after sub-paragraph (b) insert—

“(c) in relation to re-determination of entitlement to a carer’s allowance supplement, the period provided for in paragraph 6(2) of schedule 2 of the Carer’s Allowance Supplement Regulations.”, and
 - (iii) in the definition of “process decision” after sub-paragraph (b) insert—

⁽⁹⁾ S.S.I. 2018/273, which was amended by S.S.I. 2018/343, S.S.I. 2020/100 and S.S.I. 2020/353.

⁽¹⁰⁾ 2018 asp 9.

⁽¹¹⁾ S.S.I. 2020/XX.