SCOTTISH STATUTORY INSTRUMENTS

2018 No. 350

TRIBUNALS AND INQUIRIES

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

Made - - - -	*14th November 2018*
Coming into force - -	*22nd November 2018*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20(2) and 79(1)(b) of the Tribunals (Scotland) Act 2014(**a**) and all other powers enabling them to do so.

In accordance with section 11(1) of that Act, they have obtained the approval of the Lord President for the making of these Regulations and have consulted such other persons as they considered appropriate.

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

Citation and commencement

1.—(1) These Regulations may be cited as the First-tier Tribunal for Scotland (Allocation of Functions to the Social Security Chamber) Regulations 2018.

(2) These Regulations come into force on 22nd November 2018.

Interpretation

2. In these Regulations—

"the 2018 Act" means the Social Security (Scotland) Act 2018(**b**); and

"the First-tier Tribunal" means the First-tier Tribunal for Scotland.

Allocation of social security functions to the Social Security Chamber

3.—(1) The social security functions of the First-tier Tribunal are allocated to the Social Security Chamber(**c**).

(2) The social security functions of the First-tier Tribunal are the functions conferred on the Tribunal by the 2018 Act and by regulations made under that Act.

(**a**) 2014 asp 10.
(**b**) 2018 asp 9.
(**c**) The First-tier Tribunal for Scotland Social Security Chamber is brought into being by S.S.I. 2018/349.

Scope of consideration by the Social Security Chamber

4. The First-tier Tribunal Social Security Chamber may consider all aspects of a determination or a decision which it is called upon to consider, in exercising the functions allocated to it by regulation 3, and not only the particular aspect challenged by the party appealing against the determination or decision.

Chamber president

5. Until the Scottish Ministers begin to provide a type of assistance under the 2018 Act that requires determination on the basis of ongoing entitlement, within the meaning of section 51 of that Act, the following provisions of the Tribunals (Scotland) Act 2014 will not apply in relation to the presidency of the First-tier Tribunal Social Security Chamber—

(a) section 21(2); and

(b) in schedule 4—

(i) in paragraph 5(1), the words "(other than a Chamber President)"; and

(ii) in paragraph 7, sub-paragraphs (3) and (4)(a).

SHIRLEY-ANNE SOMERVILLE
A member of the Scottish Government

St Andrew's House,
Edinburgh
14th November 2018

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Tribunals (Scotland) Act 2014 ("the 2014 Act") created a new structure for tribunals in Scotland dealing with devolved matters under the judicial leadership of the Lord President of the Court of Session as head of the Scottish Tribunals. It provided for a First-tier Tribunal for Scotland and an Upper Tribunal for Scotland, with these being known, collectively, as the Scottish Tribunals. Generally, the First-tier Tribunal will deal with cases in the first instance to which a general right of appeal will lie to the Upper Tribunal. The 2014 Act provided for the First-tier Tribunal to be divided into chambers in order to deal with the various matters falling within the jurisdiction of the Scottish Tribunals.

The First-tier Tribunal for Scotland (Chambers) Regulations 2016 are being amended to further divide the First-tier Tribunal for Scotland by adding a new chamber to its structure. This is to be known as the First-tier Tribunal for Scotland Social Security Chamber. These Regulations provide for the allocation of certain functions to that Chamber, namely those conferred on the First-tier Tribunal for Scotland by the Social Security (Scotland) Act 2018 ("the 2018 Act"), as well as any conferred under it, by regulations made under that Act (regulation 3).

The Social Security Chamber is empowered by regulation 4 to consider all aspects of a determination or a decision that is the subject of an appeal, and not only the particular aspects which are challenged.

Regulation 5 provides that it will be competent to assign to the Social Security Chamber, on a temporary basis, a president who is also the president of another chamber of the First-tier Tribunal for Scotland. This will be competent until the Scottish Ministers begin to deliver a form of assistance under the 2018 Act that involves the making of determinations on the basis of ongoing entitlement to the assistance (rather than assistance that involves a single payment).

A Partial Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government Social Security Directorate.

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