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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2024 No.**

**The Social Security Information-sharing  
(Scotland) Amendment Regulations 2024**

**Amendment of the 2021 Regulations**

**3.** After regulation 4 of the 2021 Regulations (use of information supplied by the Scottish Ministers), insert—

**“Use of information supplied under regulation 4(1)(c)**

**4A.—**(1) This regulation applies where—

- (a) in the exercise of their social security functions, the Scottish Ministers know or believe that a person with whom they have come into contact (“person A”) is—
  - (i) at real risk of harm,
  - (ii) has needs of care and support, and
  - (iii) as a result of those needs, is unable to protect themselves against that risk, and
- (b) the Scottish Ministers consider the supply of information is necessary to protect person A from harm.

(2) The information is to be supplied only with the explicit consent of person A unless paragraph (3) applies.

(3) This paragraph applies where—

- (a) in the circumstances, person A’s consent cannot be given,
- (b) in the circumstances, the Scottish Ministers cannot reasonably be expected to obtain the consent of person A, or
- (c) in the circumstances, the Scottish Ministers consider obtaining consent of person A would prejudice the protection mentioned in paragraph (1)(b).

(4) In this regulation—

- (a) in paragraph (1)(a)(i)—
  - (i) “real risk of harm” means being subjected to conduct causing or likely to cause a person to suffer significant—
    - (aa) neglect, or
    - (bb) physical, mental or emotional harm,and includes engaging in, or being likely to engage in, conduct which causes or is likely to cause self-harm, and
  - (ii) “conduct” includes failures to act,
- (b) in paragraph (1)(b) and in the definition of “real risk of harm”, “harm” means neglect or physical, mental or emotional harm, and
- (c) “person” means a natural person of any age.

#### **Use of information supplied under regulation 4(1)(d)**

**4B.**—(1) This regulation applies where—

- (a) in the exercise of their social security functions, the Scottish Ministers know or believe that—
  - (i) the property or financial affairs of a person with whom they have come into contact (“person B”) are at risk,
  - (ii) person B has needs of care and support, and
  - (iii) as a result of those needs, person B is unable to protect themselves against that risk, and
- (b) the Scottish Ministers consider the supply of information is necessary to—
  - (i) safeguard the property or financial affairs of person B, and
  - (ii) protect person B from harm.

(2) The information is to be supplied only with the explicit consent of person B unless paragraph (3) applies.

(3) This paragraph applies where—

- (a) in the circumstances, person B’s consent cannot be given,
- (b) in the circumstances, the Scottish Ministers cannot reasonably be expected to obtain the consent of person B, or
- (c) in the circumstances, the Scottish Ministers consider obtaining consent of person B would prejudice the matters mentioned in paragraph (1)(b).

(4) In this regulation, “harm” means mental or emotional harm.

#### **Use of information supplied under regulation 4(1)(e)**

**4C.**—(1) This regulation applies where—

- (a) in the exercise of their social security functions, the Scottish Ministers know or believe that—
  - (i) a person with whom they have come into contact (“person C”) is incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000(1), and
  - (ii) the property or financial affairs of person C are at risk, and
- (b) the Scottish Ministers consider the supply of information is necessary to—
  - (i) safeguard the property or financial affairs of person C, and
  - (ii) protect person C from harm.

(2) In this regulation, “harm” means mental or emotional harm.”.

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(1) 2000 asp 4.