
STATUTORY INSTRUMENTS

2019 No. 1439

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND**

**The Scotland Act 2016 (Transitional)
(Amendment) Regulations 2019**

Made - - - - 30th October 2019
Laid before Parliament 31st October 2019
Coming into force - - 21st November 2019

The Secretary of State for Scotland makes the following Regulations in exercise of the powers conferred by section 71(1), (2) and (5) of the Scotland Act 2016⁽¹⁾.

Citation and commencement

1. These Regulations may be cited as the Scotland Act 2016 (Transitional) (Amendment) Regulations 2019 and come into force on 21st November 2019.

Amendment of the Scotland Act 2016 (Transitional) Regulations 2017

2.—(1) The Scotland Act 2016 (Transitional) Regulations 2017⁽²⁾ are amended in accordance with this regulation.

(2) In regulation 4 (duration of modification of the Scotland Act 1998: benefits for disability and industrial injury)—

(a) after paragraph (2) insert—

“(2A) Paragraph (2)(a) does not apply where sections 1, 2, 21 or 22 of, or Schedule 1 to, the Social Security (Scotland) Act 2018⁽³⁾ come into force for purposes related to disability assistance.”, and

(b) in paragraph (3), before sub-paragraph (a), insert—

“(za) “disability assistance” has the meaning given in section 31(1) of the Social Security (Scotland) Act 2018;”.

(1) 2016 c. 11.
(2) S.I. 2017/444.
(3) 2018 asp. 9.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) In regulation 7(b) (duration of modification of the Scotland Act 1998: benefits for maternity, funeral and heating expenses) for “2020” substitute “2022”.

30th October 2019

Alister Jack
Secretary of State
Office of the Secretary of State for Scotland

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to regulations 4 and 7 of the Scotland Act 2016 (Transitional) Regulations 2017 (S.I. 2017/444) (“the Transitional Regulations”).

Regulation 4 of the Transitional Regulations specifies the time period during which certain transitional modifications to the Scotland Act 1998 (c. 46) apply in connection with the coming into force of certain sections of the Scotland Act 2016 (c. 11) (including section 22(2) (disability, industrial injury and carer’s benefits)).

The transitional modifications in question are set out in regulation 3 of the Transitional Regulations. This regulation modifies section 53 of the Scotland Act 1998 (c. 46) in respect of functions conferred on a Minister of the Crown by an enactment—

- made or passed before the day on which section 22(2) of the Scotland Act 2016 (disability, industrial injuries and carer’s benefit) comes into force, and
- that is within legislative competence by virtue of exception 1 or 2 of Section F1 of Schedule 5 to the Scotland Act 1998,

so that such functions are not exercisable by the Scottish Ministers during the period specified in regulation 4 of the Transitional Regulations.

Regulation 4(1) of the Transitional Regulations provides for the modifications made by regulation 3 of those regulations to have effect for no longer than the period beginning with the day on which section 22(2) of the Scotland Act 2016 comes into force and ending with 31st March 2020. However, in certain circumstances, the modifications made by regulation 3 may cease to apply earlier. In respect of an enactment that is within legislative competence by virtue of all or part of exception 1 of Section F1 of Schedule 5 to the Scotland Act 1998 (benefits for disability and industrial injury), regulation 4(2)(a) of the Transitional Regulations provides that, if a provision contained in an Act of the Scottish Parliament which is within legislative competence by virtue of exception 1 (or part thereof) comes into force before 31st March 2020, the abovementioned modifications to section 53 of the Scotland Act 1998 will cease to apply immediately before the relevant provision of Scottish law comes into force.

Regulation 2 of these Regulations sets out an exception to the application of regulation 4(2)(a) of the Transitional Regulations. Regulation 4(2)(a) of the Transitional Regulations does not apply (and the transitional modifications made by regulation 3 of the Transitional Regulations will continue to apply up to and including 31st March 2020) if sections 1, 2, 21 or 22 of, or Schedule 1 to, the Social Security (Scotland) Act 2018 (Scottish Commission on Social Security) come into force before that date for purposes related to disability assistance (as that term is defined in section 31(1) of the Social Security (Scotland) Act 2018).

Regulation 2(3) of these Regulations makes an unrelated amendment to regulation 7(b) of the Transitional Regulations. This is a minor consequential amendment to reflect the fact that section 23(5) of the Scotland Act 2016 (payment of benefits for maternity, funeral and heating expenses in or as regards Scotland) now comes into force for remaining purposes on 1st April 2022.