Social Security (Scotland) Act 2018
2018 asp 9

PART 2

GIVING OF ASSISTANCE BY SCOTTISH MINISTERS

CHAPTER 3

DETERMINING ENTITLEMENT

The determination of entitlement

50   Decisions comprising determination

(1) A determination of an individual's entitlement to a particular type of assistance consists of—

   (a) a decision about whether or not the eligibility rules prescribed in the applicable regulations are satisfied in the individual's case,

   (b) if those rules are satisfied, a decision (taken in accordance with the applicable regulations) about what assistance of the type in question the individual is entitled to be given,

   (c) if the determination is to be made on the basis that the individual has ongoing entitlement to the type of assistance in question (see section 51), a decision about what assistance of the type in question the determination is to entitle the individual to be given in the future, and

   (d) if the determination is of an individual's entitlement to assistance in respect of an event, a decision about whether the individual's application for assistance in respect of the event is possibly premature.

(2) If it is decided under subsection (1)(d) that an individual's application for assistance in respect of an event is possibly premature, the determination must include a statement that the individual may make another application for assistance in respect of the event.

(3) An individual's application for assistance in respect of an event is possibly premature for the purpose of subsection (1)(d) if—

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    (a)   the decision under subsection (1)(a) is that the eligibility rules prescribed in the applicable regulations are not satisfied in the individual's case, and

    (b)   it is possible that circumstances may change so that, in relation to the event in question, those rules will be satisfied in the individual's case.

(4) In this section, "the applicable regulations" means the regulations made under the section in Chapter 2 that describes the type of assistance in question.

51   Determination on basis of ongoing entitlement

(1) The Scottish Ministers may by regulations—

    (a)   provide that a determination of an individual's entitlement to a specified type of assistance is to be made on the basis that the individual has ongoing entitlement to that type of assistance, and

    (b)   provide for exceptions to any provision made by virtue of paragraph (a).

(2) Regulations making provision by virtue of subsection (1)(a) are also to—

    (a)   prescribe the time, or times, at which an individual is to become entitled to be given assistance under a determination made on the basis that the individual has ongoing entitlement, and

    (b)   provide that a decision about what assistance the individual is to become entitled to be given under such a determination in respect of any future period is to be taken in accordance with the applicable regulations on the strength of such assumptions as are specified.

(3) Without prejudice to the generality of subsection (2)(b), the assumptions that may be specified include an assumption that the eligibility rules prescribed in the applicable regulations will continue to be satisfied in an individual's case for a specified duration or indefinitely.

(4) In this section—

    "the applicable regulations" means the regulations made under the section in Chapter 2 that describes the type of assistance in question,

    "specified" means specified by regulations under this section.

52   Determination without application

(1) The Scottish Ministers may by regulations provide that, in such circumstances as the regulations specify, the Scottish Ministers are to make a determination of an individual's entitlement to a particular type of assistance without receiving an application.

(2) The Scottish Ministers may by regulations make provision about the information that is to be used, and the assumptions that are to be made, in making a determination when required to do so by regulations under subsection (1).