

SOCIAL SECURITY ADMINISTRATION AND TRIBUNAL MEMBERSHIP (SCOTLAND) ACT 2020

EXPLANATORY NOTES

OVERVIEW

Part 1: Social Security Administration

Section 12: Suspension of assistance

74. Section 51 of the 2018 Act confers powers on the Scottish Ministers to make regulations providing for entitlement to specified types of assistance to be determined on an ongoing basis. Such regulations may provide for any exceptions to this, and are to 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.
75. Section 12(2) of the Act inserts new paragraph (aa) after section 51(2)(a) of the 2018 Act, which (in accordance with new schedule 11, inserted by section 12(4)) enables the Scottish Ministers to make provision in regulations about:
- the circumstances in which an individual who has an entitlement to assistance in respect of a period under a determination made on the basis that an individual has ongoing entitlement to assistance in respect of a period is not to become entitled to be given some or all of that assistance at the time at which the individual otherwise would in accordance with provision under paragraph (a), and
 - in that event, how and when the individual is to become entitled to be given that assistance.
76. Section 54 of the 2018 Act provides that when the Scottish Ministers are determining an individual's entitlement to assistance (whether under section 37 or 43), and they require further information in order to satisfy themselves about any matter material to making that determination, they may request the individual to provide that information within a specified time period. If the individual fails to provide the information by the end of that period, the Scottish Ministers may (without further consideration) proceed to make a determination on the basis that the individual does not satisfy the eligibility rules.
77. Section 12(3)(a) of the Act substitutes section 54(1)(a) and (b) of the 2018 Act, so that it also applies in circumstances in which the Scottish Ministers are considering whether regulations under section 52 require them to make a determination of an individual's entitlement to assistance without receiving an application. In these circumstances, Ministers will be entitled to request from the individual information which they require in order to satisfy themselves about any matter material to their consideration of whether they are required to make a determination without application in the individual's case.

These notes relate to the Social Security Administration and Tribunal Membership (Scotland) Act 2020 (asp 18) which received Royal Assent on 10 November 2020

78. Section 12(3)(b) inserts new subsection (1A) into section 54 after subsection (1), that provides that where the Scottish Ministers are either determining the individual's entitlement to a type of ongoing assistance, or are considering whether to make a determination of the individual's entitlement without receiving an application, and individual fails to supply the information requested under subsection (1) by the end of the period specified by Ministers, they may issue a decision to suspend assistance in accordance with regulations made under section 51(2)(aa) (provided it is the first time in connection with the process that the individual has failed to supply the information).
79. Section 12(3)(b) also inserts new subsection (1B) that provides that, where the Scottish Ministers issue such a decision, they must also request that the individual provide them with the information within such further period as they specify.
80. Section 12(4) introduces new schedule 11 (Suspension of assistance) into the 2018 Act and makes provision about matters that must or may be included in regulations under section 51 in relation to:
- circumstances in which assistance may be suspended (paragraph 1);
 - the requirement to consider the financial circumstances of the individual before suspending (paragraph 2);
 - the right of the individual to require Ministers to review a decision to suspend assistance (paragraph 3);
 - information to be given to the individual following a suspension decision (paragraph 4); and
 - the effect of suspension ending (paragraph 5).