Social Security (Scotland) Act 2018

2018 asp 9

PART 2

GIVING OF ASSISTANCE BY SCOTTISH MINISTERS

CHAPTER 3

DETERMINING ENTITLEMENT

Determination by the Scottish Ministers

37 Duty to make determination

The Scottish Ministers are to make a determination of an individual's entitlement to a type of assistance described in Chapter 2—

(a) on receiving an application for that type of assistance from the individual, or

(b) when required to do so by regulations under section 52.

Commencement Information

I1 S. 37 in force at 22.10.2018 by S.S.I. 2018/298, **reg. 2(1)(g)** (with reg. 3) (as amended (10.12.2019) by S.S.I. 2019/406, regs. 1, **2(2)**)

38 Application for assistance

(1) An application for assistance must be—

(a) made to the Scottish Ministers in such form, and

(b) accompanied by such evidence,

as the Scottish Ministers require.

(2) The Scottish Ministers must publicise any requirements for the time being set under subsection (1).

(3) Once—

Changes to legislation: *Social Security (Scotland) Act 2018, Cross Heading: Determination by the Scottish Ministers is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(a) an individual has applied for a particular type of assistance in respect of a period or (as the case may be) event, and

(b) the Scottish Ministers have made a determination of the individual's entitlement to that type of assistance in respect of the period or event,

the individual cannot make another application for that type of assistance in respect of the period or event.

(4) Despite subsection (3), an individual may make another application for a particular type of assistance in respect of an event if the latest determination of the individual's entitlement to that type of assistance in respect of the event states that the individual may make another application.

(5) If the Scottish Ministers reject something purporting to be an application for assistance, they must inform the individual concerned of—

(a) the decision to do that,

(b) the reasons for it, and

(c) the individual's right to appeal under section 61.

Commencement Information

I2 S. 38 in force at 22.10.2018 by S.S.I. 2018/298, **reg. 2(1)(g)** (with reg. 3) (as amended (10.12.2019) by S.S.I. 2019/406, regs. 1, **2(2)**)

39 Withdrawal of application

(1) An individual who has made an application for assistance may request that the Scottish Ministers disregard it.

(2) If an individual requests that an application be disregarded—

(a) the Scottish Ministers are not to make a determination of the individual's entitlement to any type of assistance on the basis of the application, and

(b) accordingly, their duty to do so under section 37 ceases to apply.

(3) A request under subsection (1) must be made in such form as the Scottish Ministers require.

(4) The Scottish Ministers must publicise any requirements for the time being set under subsection (3).

Commencement Information

I3 S. 39 in force at 22.10.2018 by S.S.I. 2018/298, **reg. 2(1)(g)** (with reg. 3) (as amended (10.12.2019) by S.S.I. 2019/406, regs. 1, **2(2)**)

40 Notice of determination

(1) Having made a determination under section 37 of an individual's entitlement to assistance, the Scottish Ministers must inform the individual—

(a) of the determination,

(b) of the reasons for it,

Changes to legislation: *Social Security (Scotland) Act 2018, Cross Heading: Determination by the Scottish Ministers is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(c) of the individual's right under section 41 to request that the Scottish Ministers re-determine the individual's entitlement to the assistance,

(d) that the individual will have the right under section 46 to appeal to the First-tier Tribunal against the determination should the Scottish Ministers fail to deal with a request for a re-determination within the period allowed for re-determination, and

(e) if relevant, that the individual has the right to request a copy of an assessment report under section 60.

(2) The Scottish Ministers must fulfil their duty under subsection (1) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

Commencement Information

I4 S. 40 in force at 22.10.2018 by S.S.I. 2018/298, **reg. 2(1)(g)** (with reg. 3) (as amended (10.12.2019) by S.S.I. 2019/406, regs. 1, **2(2)**)

Changes to legislation:
Social Security (Scotland) Act 2018, Cross Heading: Determination by the Scottish Ministers is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 81(4C) inserted by 2021 asp 20 s. 2(a)
- s. 85D inserted by 2020 asp 18 s. 2(6)