



# 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.

#### **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—
  - (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,

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*Status: This is the original version (as it was originally enacted).*

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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.

### **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).

### **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,
  - (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.