

Island Screening Assessment

Funeral Expense Assistance (Scotland) Regulations 2019

January 2019

FUNERAL EXPENSE ASSISTANCE (SCOTLAND) REGULATIONS 2019

ISLAND SCREENING ASSESSMENT

Introduction

1. The Islands (Scotland) Act 2018¹ provides for a new duty on the Scottish Ministers and other relevant public bodies that they must have regard to islands communities in exercising their functions and in the development of legislation.

Background – Funeral Expense Assistance (FEA)

2. The Social Security (Scotland) Act 2018² (the Act) was brought forward following the changes to the devolution settlement enacted in the Scotland Act 2016.
3. Sections 34, and Schedule 8 of the Act make provision for the Funeral Expense Assistance (FEA) and require that Scottish Ministers in making regulations must: -
 - base eligibility for entitlement on one or more of the seven primary eligibility criteria (i.e. location of the funeral; relationship with the deceased; value of the deceased's estate; residence and presence; financial circumstances; receipt of, or eligibility for, other types of State assistance; and application within specified period);
 - define the meaning of “funeral” for the purpose of determining entitlement to FEA; and
 - set out the assistance to be given.
4. FEA will provide a one-off payment to support people on certain benefits or tax credits who may be struggling with funeral costs by providing a contribution towards these. FEA is intended to help improve the outcomes for bereaved families or friends by reducing the burden of debt they may face when paying for a funeral.
5. The FEA payment provides support towards:
 - **Burial or Cremation costs.** This may also include the cost of any documents that are required to allow the burial and cremation to take place.
 - **Certain travel costs;**
and
 - **A flat rate payment for other expenses.** This may be used towards any other funeral expenses such as funeral director fees, a coffin, and flowers. The amount of other expenses will either be –
 - £700 for the majority of eligible applicants where the deceased had no funeral provision in place (this payment amount will apply for all FEA payments for child funerals); or
 - £120 to eligible applicants where the deceased had made provision for their funeral through a funeral plan.
6. The regulations provide detailed rules relating to the FEA benefit, and provision for timescales for the processing of redeterminations and certain issues of process relating to application dates. Further rules will be set out in operational guidance.

¹ Islands (Scotland) Act 2018 - <http://www.legislation.gov.uk/asp/2018/12/enacted>

² Social Security (Scotland) Act 2018 - <http://www.legislation.gov.uk/asp/2018/9/contents/enacted>

7. The Scottish Fiscal Commission (SFC) is responsible for producing independent forecasts for devolved social security expenditure. For FEA, the SFC published forecasts alongside the Budget on 12 December 2018³.
8. FEA represents an additional investment by the Scottish Government in comparison to current DWP Funeral Expenses Payment (FEP). Based on SFC forecasts, it is estimated that around 4,400 people will receive an FEA payment during the first full year of operation. This will result in expenditure of over £6 million each year, around £2 million more than for FEP. Administration costs for FEA form part of wider financial planning for Social Security Scotland.
9. The SFC forecasts that the number of people who will be eligible for FEA will be around 40% higher than those eligible under FEP at present and initially expects that 53% of those eligible will receive an FEA payment (based on average take-up rates for FEP over the last three years).
10. Building on the Act's framework for a social security system that is founded on dignity, fairness and respect, Scottish Ministers are committed to supporting people to access their full entitlement. The Act requires Scottish Ministers to prepare a strategy to promote take up of the benefits it is administering, including FEA.

Public consultation & Approach to the Regulations

11. FEA has been developed based on extensive engagement with a wide range of organisations and people, and people with lived experience which has been underway for over two years. Involving a wide range of organisations and people with experience of the current system from the outset has developed a policy which draws on their wealth of knowledge and experience, and at the same time is in keeping with the social security principles. Further details on this engagement are set out in the analysis report⁴ for our consultation on draft FEA regulations and on our FEA & Funeral Poverty Reference group page⁵.
12. This engagement and the responses to the consultation have helped us to finalise policy. Views were sought from organisations and people in relation to whether the draft regulations would meet the policy aims.
13. Issues raised by stakeholders that may affect people living in remote and island communities were in relation to accessibility, choice, and transport.
14. It was recognised from wider stakeholder engagement that Skype and other forms of video conferencing can improve accessibility and avoid the need to travel distances which can be time consuming, expensive and difficult for people living in rural and island communities. However, digital will not always be the best delivery model for everyone (particularly given the digital connectivity challenges in rural and island communities) and therefore other

³ The Scottish Fiscal Commission Budget published 12 December 2018 -

<http://www.fiscalcommission.scot/publications/scotlands-economic-and-fiscal-forecasts/scotlands-economic-and-fiscal-forecasts-december-2018/>

⁴ Funeral Expense Assistance Regulations: consultation analysis - <https://www.gov.scot/publications/funeral-expense-assistance-regulations-analysis-consultation-responses/>

⁵ FEA & Funeral Poverty Reference Group - <https://www.gov.scot/groups/funeral-poverty-and-funeral-expense-assistance-reference-group/>

engagement and application channels will be available. There will always be some people who need face to face contact, due to digital exclusion, disability, or difficulty in communicating.

15. In response to the consultation question which asked if any potentially unintended consequences of the regulations could be identified, differing views were offered on the issue of additional transport costs. One respondent suggesting that uncapped additional travel could be open to mis-use, while another suggested these travel costs may help those living in rural areas.
16. Where eligibility is established for additional travel costs to transport the deceased over 80 kms, we will continue to provide that support. The Scottish Government had considered replacing this element of the policy with a flat rate for additional transport costs but lack of available data on the current payment meant that it was not clear whether this would disadvantage certain groups for example people living in rural, remote, or island communities.
17. The specific needs of island communities in transporting a person who has died is something that is delivered in partnership with ferry services. For example, we understand that:
 - Serco NorthLink (East Coast) - coffins are transported free of charge on all routes. Coffins are transported in a specific coffin bay and are picked up at either end of the journey by the funeral director or family members. On the Lerwick-Kirkwall-Aberdeen routes, it is only coffins which travel, i.e. no vehicles. On the shorter subsidised route across the Pentland Firth (Scrabster-Stromness) vehicles transporting coffins are charged at normal car fare rates.
 - CalMac Ferries Limited (West Coast) – coffins are again transported free of charge. However, vehicles are charged at the normal 6m car fare. The car fare will vary by route given Road Equivalent Tariff structure.
18. FEA will support burial or cremation choices made by an applicant and the additional transport costs element is an important step in addressing the accessibility of achieving that choice in services, particularly for island communities. This is because while burial charges are currently below the Scottish average in the six local authority areas⁶ (i.e. Argyll and Bute Council; Comhairle nan Eilean Siar / Western Isles Council; Highland Council; North Ayrshire Council; Orkney Islands Council; and Shetland Islands Council) there is no provision of cremation services on the islands.

Experience Panels

19. The Scottish Government will continue to engage with stakeholders through a range of advisory groups and the establishment of 'Experience Panels'. The guiding principles for social security in Scotland made a commitment to put people with lived experience first, and that the new system would be designed with people who have direct, personal experience of using the current system. By participating in a panel, people can share their experience of the benefit system and help to build a social security system that works for the people of Scotland when they need it.
20. The Scottish Government led an extensive campaign to recruit volunteers from across all of Scotland. The campaign was undertaken in partnership with local authorities and key partner organisations to make sure that people living on the islands were aware of the opportunity and

⁶ CAS The Cost of Saying Goodbye 2017 - www.cas.org.uk/system/files/publications/cost_of_saying_goodbye_2017.pdf

knew how to get involved. As part of the registration process, the Scottish Government asked all Experience Panel members about their contact preferences, and additional support needs to ensure that those living in rural and island communities have a choice in how they participate in Experience Panels, and that they are supported to take part. For example, whether that be support with travelling to a Panel, or by enabling people to participate through digital means. We also hold panel events across Scotland to minimise the amount of travel needed for people to participate. This includes events which have been held in Shetland and Orkney.

21. The initial recruitment drive came to an end in June 2017, and over 2,400 people across Scotland have signed up to participate in the panels. Although the majority of the volunteers live in the central belt, there is widespread representation across Scotland, including panel members located in all local authority areas, including Orkney, Shetland and Comhairle nan Eilean Siar, Highland, Argyll and Bute, and North Ayrshire. We have received, and are continuing to take views, from Experience Panel members on their lived experience and on the service that will deliver FEA. A summary of the initial research findings and user research for FEA will be published in spring 2019.

Social Security Scotland

22. Delivery of FEA will be through Social Security Scotland, an Executive Agency, with operational staff based in the Dundee Headquarters and Glasgow office. In time, Social Security Scotland will also have a nationwide local presence providing face to face advice and support.

23. In April 2018, the first stage of recruitment for the 400 locally based jobs with Social Security Scotland was launched. As a result, 19 Local Delivery Relationship Leads are now in place and are working as part of a national team at the forefront of preparing and shaping the agency's local presence across Scotland.

24. The Scottish Government is committed to ensuring that Social Security Scotland will be accessible to everyone across Scotland, including those living in the islands. When exploring options for the agency's local presence the Scottish Government will ensure that it complements and is joined up with existing services, and is located in places people already visit, where possible. This may include considering co-location with third sector and other organisations, depending on the area and people's needs.

25. Social Security Scotland will work with COSLA and other stakeholders to explore possible co-location opportunities for the Agency and to understand the different needs of communities, including island communities, when delivering local services across Scotland.

26. Social Security Scotland is keen to ensure that as much information as possible will be online, as well as allowing for the electronic submission of applications. However, it is aware that some remote and island communities may not have access to digital services nor is it everyone's preferred choice of communication.

27. Social Security Scotland is aware that people want tailored solutions to suit their different preferences and need, and will therefore work to ensure the availability of digital, telephone and face to face communication channels where possible. Ahead of local services becoming fully operational the Local Delivery Relationship Leads will also be responsible for the recruitment of the teams who will provide people with face-to-face support to help them

understand what devolved benefits they are entitled to, help complete applications, support people through the process and any follow up actions relating to their case.

Reporting

28. The Act proposes a duty on the Scottish Ministers to publish an annual report on the performance of the Scottish social security system, which will include information on the impact of island-proofing.
29. The Scottish Ministers have also committed to engaging with, and reporting regular progress to, the Islands Strategic Group to ensure that those representing the interests of island communities and others with experience of the current system, are fairly represented in the development and delivery of the Scottish social security system.

Scottish Government
January 2019