
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

The Funeral Expense Assistance (Scotland) Regulations 2019

PART 3

Procedural matters

Determinations without application

4.—(1) The Scottish Ministers are to make a determination of an individual's entitlement to funeral expense assistance without receiving an application where—

- (a) they have previously made a determination of the individual's entitlement to that assistance (“the original determination”),
- (b) they establish that due to an official error the original determination was wrongly made resulting in the individual—
 - (i) not being given funeral expense assistance for which the individual was eligible, or
 - (ii) being given less such assistance than that to which the individual was entitled,
- (c) the Scottish Ministers are not considering a request for re-determination of the individual's entitlement to such assistance, and
- (d) the individual has not appealed to the First-tier Tribunal for Scotland against the Scottish Ministers' determination of the individual's entitlement to such assistance.

(2) The Scottish Ministers are also to determine an individual's entitlement to funeral expense assistance without receiving an application where—

- (a) a determination has previously been made that the individual is not entitled to that assistance (“the original determination”), and
- (b) the Scottish Ministers establish that—
 - (i) following an appeal, a backdated award of assistance described in regulation 10(1) has been made, and
 - (ii) had that award been made before the original determination, a determination that the individual is entitled to funeral expense assistance would have been made instead.

(3) In making a determination required by paragraph (1) or (2) the Scottish Ministers are to use—

- (a) the information provided in the application that led to the original determination, and
- (b) any other information they obtained in connection with that application.

(4) Where a determination is to be, or has been, made without an application by virtue of this regulation, references in these Regulations to the day the application is made are to be read as references to the day the application that led to the original determination was made.

(5) In paragraph (1) “official error” means an error made by someone acting on behalf of the Scottish Ministers or on behalf of a Minister of the Crown that was not materially contributed to by anyone not so acting.