POLICY NOTE

THE SOCIAL SECURITY (SCOTLAND) ACT 2018 (COMMENCEMENT NO. 9) REGULATIONS 2021

SSI 2021/474 (C. 35)

The above instrument was made in exercise of the powers conferred by section 99(2) of the Social Security (Scotland) Act 2018. The instrument is to be laid only.

Summary
This instrument will commence sections 12, 13, 14, 55 and 60 of the Social Security (Scotland) Act 2018.

Policy Objectives

The Social Security (Scotland) Act 2018 ("the 2018 Act") creates the legal framework under which social security assistance is delivered in Scotland.

This instrument commences section 12 of the 2018 Act, which prevents individuals from being required to undergo an assessment of their physical condition or mental health in order to be given assistance through the Scottish social security system, where that assessment is carried out by a person who is not employed by a public body.

It commences section 13, which places a duty on the Scottish Ministers, when arranging an assessment of an individual's physical condition or mental health, to ensure that the assessor is suitably qualified. It also gives a power to the Scottish Ministers to specify in regulations who is to be regarded as a suitably qualified person to carry out assessments.

Section 14 is also commenced by this instrument, which provides that an individual should only be required to undergo an assessment if it is the only practicable way to obtain the information that is needed to make a decision about the assistance they are eligible for. If an individual states any wishes about where and how they would like an assessment to be undertaken, the Scottish Ministers must consider their wishes.

This instrument also commences section 55, which places a duty on the Scottish Ministers, when they have made a request for information from an individual which would require them to undergo an assessment, to inform the individual of the reasons why the assessment is considered necessary. It requires further information to be provided to the individual, where a face-to-face assessment will be needed.

It finally commences section 60 which makes provision for individuals to request access to reports used in making a determination of their entitlement. If a person requests a copy of the report, the Scottish Ministers must comply with the request, except where doing so would breach data protection rules.

Consultation

As these regulations only bring into force provisions of the 2018 Act, no specific consultation has been carried out in relation to this instrument.

Impact Assessments

No specific Impact Assessments have been prepared for these Regulations. There are no equalities or rights impacts that require further consideration in relation to the commencement of these regulations.

A Business and Regulatory Impact Assessment, Child Rights and Wellbeing Impact Assessment, and Equality Impact Assessment were completed for the 2018 Act.

Financial Effects

No significant financial impacts are foreseen as a result of these regulations.

The Minister for Social Security and Local Government confirms that no BRIA is necessary as the instrument has no significant financial effects on the Scottish Government, local government or on business.

Scottish Government
Social Security Directorate

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