

SOCIAL SECURITY ADMINISTRATION AND TRIBUNAL MEMBERSHIP (SCOTLAND) ACT 2020

EXPLANATORY NOTES

OVERVIEW

Part 1: Social Security Administration

Section 3: Determination of entitlement to assistance: non-disclosure of information

42. Section 3 modifies the 2018 Act, to insert a new section 62A in relation to non-disclosure of harmful health information about an individual's health.
43. New section 62A(1) provides that the section applies in relation to certain duties of the Scottish Ministers under the 2018 Act, to inform an individual of certain things in relation to the determination of the individual's entitlement to assistance. The duties are those under the following sections of the 2018 Act:
 - section 38(5) (duty to inform an individual of matters relating to a decision to reject something purporting to be an application for assistance);
 - sections 40(1) (duty to inform an individual of matters relating to a determination of the individual's entitlement to assistance) and 41(6) (duty to inform an individual of matters relating to a decision to reject something purporting to be a request for a re-determination);
 - section 42(2) (duty to inform an individual of matters relating to a decision as to whether an individual has good reason for not requesting a re-determination sooner); and
 - sections 44(1) (duty to inform an individual of matters relating to a re-determination of the individual's entitlement to assistance) and 53(2) (duty to inform about possible eligibility for other assistance).
44. New section 62A(2) and (3) provide that nothing in these duties requires the Scottish Ministers to disclose information relating to an individual's physical or mental health where a registered medical practitioner or registered nurse has informed the Scottish Ministers that disclosure of the information would be likely to cause serious harm to the physical or mental health of the recipient.