
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2027 No.

SOCIAL SECURITY

**The Social Security (Information for Audit) (Scotland)
Regulations 2027**

Laid before the Scottish Parliament

2027

Coming into force - -

2027

The Scottish Ministers make the following regulations in exercise of the powers conferred by sections 51(2)(aa), 52, 79(1), 87B(4)(c), 87B(5) and 87C(1), (4) and (5) of the Social Security (Scotland) Act 2018^(a) and all other powers enabling them to do so.

In accordance with section 87B(6) of the Social Security (Scotland) Act 2018, the Scottish Ministers have consulted publicly on the categories of individuals who are not to be requested to provide information.

In accordance with section 96(2) of the Social Security (Scotland) Act 2018, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 97(2) of the Social Security (Scotland) Act 2018, the Scottish Ministers have informed the Scottish Commission on Social Security of their proposals, notified the Scottish Parliament that they have done so and made their proposals publicly available by such means as they consider appropriate.

Citation and commencement

1. These Regulations may be cited as the Social Security (Information for Audit) (Scotland) Regulations 2027 and come into force on xxx May 2027.

Interpretation

2. In these Regulations—

“the 2018 Act” means the Social Security (Scotland) Act 2018,

“audit request” means a request for information under section 87B(1) of the 2018 Act,

“date of an audit request” means the date the request for information under section 87B(1) of the 2018 Act is made, and cognate expressions are to be construed accordingly.

(a) 2018 asp 9. The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) and the Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

Requirement to provide a written response

3. The Scottish Ministers may require an individual to respond to an audit request in writing where—

- (a) a written response is the only form of response the individual can reasonably provide, or
- (b) a written response is the only form of response by which the Scottish Ministers can reasonably verify the accuracy of the information.

Categories of exempt individuals

4. Schedule 1 prescribes a category of individuals who may not be the subject of an audit request.

Periods in respect of an audit request withdrawal

5.—(1) Except where paragraph (2) applies, for the purposes of section 87C(1) (right to seek withdrawal of information request) the period for asking for withdrawal of an audit request is 15 working days beginning with the first working day following the date of the audit request.

(2) This paragraph applies where—

- (a) an individual receives an audit request under section 87C(1),
- (b) the Scottish Ministers are made aware that the individual has good reason for not being able to respond within the 15 working day period in paragraph (1), and
- (c) the Scottish Ministers agree that the individual has good reason.

(3) Where paragraph (2) applies, for the purposes of section 87C(1) (right to seek withdrawal of information request) the period for asking for withdrawal of an audit request is 25 working days beginning with the first working day following the date of the audit request.

(4) For the purposes of section 87C(3) (decision on whether an individual has good cause for the audit request to be withdrawn), the period in which the Scottish Ministers must make a decision is 20 working days beginning with the first working day after the day that the request for withdrawal is received by the Scottish Ministers.

(5) Where, for the purposes of section 87C(3), the Scottish Ministers fail to make a decision before the end of the period prescribed in paragraph (4), the Scottish Ministers must—

- (a) withdraw the audit request,
- (b) inform the individual that—
 - (i) the individual's request for withdrawal has not been dealt with within the period prescribed, and
 - (ii) the Scottish Ministers therefore withdraw the audit request.

(6) The Scottish Ministers must fulfil their duty under paragraph (5) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

(7) In this regulation, references to “section” are to a section of the 2018 Act.

(8) In this regulation, a “working day” is a day other than—

- (a) a Saturday,
- (b) a Sunday, or
- (c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(a).

(a) 1971 c.80. Schedule 1, paragraph 2 sets out the Scottish bank holidays; it was amended by the St Andrew's Day Bank Holiday (Scotland) Act 2007 (asp 2), section 1.

Ancillary provision

6. Schedule 2 contains consequential amendments.

A member of the Scottish Government
St Andrew's House,
Edinburgh

2027

SCHEDULE 1

Regulation 4

Category of exempt individuals

Individuals with a terminal illness

- 1.—(1) An individual who has a terminal illness and, on the date of an audit request, is—
- (a) residing in a hospice, or
 - (b) receiving palliative care in any other setting for that terminal illness in its final stages.
- (2) In this paragraph, “hospice” means a hospital or other institution whose primary function is to provide palliative care for persons resident there who are suffering from a progressive disease in its final stages, other than—
- (a) a health service hospital (within the meaning of section 108(1) of the National Health Service (Scotland) Act 1978) in Scotland,
 - (b) a health service hospital (within the meaning of section 275(1) of the National Health Service Act 2006^(a)) in England,
 - (c) a hospital in Wales vested in—
 - (i) an NHS Trust,
 - (ii) a Local Health Board, or
 - (iii) the Welsh Ministers,for the purpose of functions under the National Health Service (Wales) Act 2006^(b),
 - (d) a hospital or similar institution under the Health and Personal Social Services (Northern Ireland) Order 1972 or the Health and Personal Social Services (Northern Ireland) Order 1991,
 - (e) a hospital maintained or administered by the Defence Council, or
 - (f) an institution similar to a hospital mentioned in any of the preceding sub-paragraphs.
- (3) In this paragraph—
- (a) “NHS Trust” means a body established under section 18 of the National Health Service (Wales) Act 2006, and
 - (b) “Local Health Board” means a body established under section 11 of that Act.
- (4) For the purposes of this paragraph an individual is to be regarded as having a terminal illness if it is the clinical judgment of an appropriate healthcare professional that the individual has a progressive disease that can reasonably be expected to cause the individual’s death.
- (5) In this paragraph, “an appropriate healthcare professional” means—
- (a) a registered medical practitioner or a registered nurse who is—
 - (i) involved in the diagnosis or care of the individual, and
 - (ii) acting in their professional capacity, or
 - (b) where the individual is habitually resident in an EEA State, Gibraltar or Switzerland, a person who—
 - (i) has equivalent qualifications to a registered medical practitioner or a registered nurse in that EEA state, Gibraltar or Switzerland,

^(a) 2006 c.41. Section 275 was relevantly amended by paragraph 138(2)(b) of schedule 4(12) of the Health and Social Care Act 2012 (c.7).

^(b) 2006 c.42.

- (ii) is a member of the professional body equivalent to the General Medical Council or Nursing and Midwifery Council in that EEA state, Gibraltar or Switzerland, and
 - (iii) meets the requirements of head (a)(i) and (ii).
- (6) In this paragraph, “EEA State” means—
 - (a) any member state of the European Union, or
 - (b) any other state that is party to the agreement on the European Economic Area signed at Oporto on 2 May 1992^(a), together with the Protocol adjusting that Agreement signed at Brussels on 17 March 1993^(b), as modified or supplemented from time to time.

^(a) Command Paper 2073 and OJ L 1, 3.1.1994, p.3.
^(b) Command Paper 2183 and OJ L 1, 3.1.1994, p.572.

SCHEDULE 2

Regulation 6

Ancillary provision

The Scottish Child Payment Regulations 2020

1.—(1) The Scottish Child Payment Regulations 2020^(a) are amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 19A(3) (circumstances in which assistance may be suspended)—

(a) in sub-paragraph (a), omit “or”,

(b) after sub-paragraph (a) insert—

“(aa) section 87B(7) of the 2018 Act^(b) applies and the Scottish Ministers are not considering a request to withdraw the request for information under section 87C(1) of that Act, or”.

(3) In regulation 19E (ending a suspension) after paragraph (b) insert—

“(ba) regulation 19A(3)(aa) applies and—

(i) the individual provides the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application,

(ii) the Scottish Ministers make a determination without application under paragraph 6 (determination following official error resulting in underpayment), 7 (determination following error resulting in overpayment), 8 (determination following backdated award of assistance), 10 (determination following change of circumstances, etc.), 11 (determination following award of a Scottish child payment in respect of another child), 12 (determination following cessation of award of a Scottish child payment) or 13 (determination to effect a deduction decision) of the schedule, or

(iii) the individual does not provide the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application.”.

The Disability Assistance for Children and Young People (Scotland) Regulations 2021

2.—(1) The Disability Assistance for Children and Young People (Scotland) Regulations 2021^(c) are amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 26A(3) (circumstances in which assistance may be suspended), after sub-paragraph (a) insert—

“(aa) section 87B(7) of the 2018 Act^(d) applies and the Scottish Ministers are not considering a request to withdraw the request for information under section 87C(1) of that Act.”.

(3) In regulation 26E (ending a suspension) after paragraph (b) insert—

“(ba) regulation 26A(3)(aa) applies and—

(i) the individual provides the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application,

(a) S.S.I 2020/351, amended by S.S.I. 2021/41.

(b) 2018 asp 9. Section 87B was inserted by section 18(2) of the Social Security (Amendment) (Scotland) Act 2025 (asp 2).

(c) S.S.I 2021/174, amended by S.S.I. 2022/41 and S.S.I. 2025/336.

(d) 2018 asp 9. Section 87B was inserted by section 18(2) of the Social Security (Amendment) (Scotland) Act 2025 (asp 2).

- (ii) the Scottish Ministers make a determination without application under regulation 30 (consideration of entitlement after specified period), 31 (determination following change of circumstances, etc.), 32 (determination following official error – underpayments), 33 (determination following error – overpayments) or 34 (determination to effect a deduction decision), or
- (iii) the individual does not provide the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application.”.

The Disability Assistance for Working Age People (Scotland) Regulations 2022

3.—(1) The Disability Assistance for Working Age People (Scotland) Regulations 2022(a) are amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 38(3) (circumstances in which assistance may be suspended)—

- (a) in sub-paragraph (a), omit “or”,
- (b) after sub-paragraph (a) insert—

“(aa) section 87B(7) of the 2018 Act(b) applies and the Scottish Ministers are not considering a request to withdraw the request for information under section 87C(1) of that Act, or”.

(3) In regulation 42 (ending a suspension) after paragraph (b) insert—

“(ba) regulation 38(3)(aa) applies and—

- (i) the individual provides the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application,
- (ii) the Scottish Ministers make a determination without application under regulation 47 (consideration of entitlement after specified period), 48 (determination following change of circumstances, etc.), 49 (determination following official error – underpayments), 50 (determination following error – overpayments) or 51 (determination to effect a deduction decision), or
- (iii) the individual does not provide the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application.”.

The Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023

4.—(1) The Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023(c) are amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 29(3) (circumstances in which assistance may be suspended)—

- (a) in sub-paragraph (a), omit “or”,
- (b) after sub-paragraph (a) insert—

“(aa) section 87B(7) of the 2018 Act(d) applies and the Scottish Ministers are not considering a request to withdraw the request for information under section 87C(1) of that Act, or”.

(3) In regulation 33 (ending a suspension) after paragraph (b) insert—

“(ba) regulation 29(3)(aa) applies and—

(a) S.S.I 2022/54, amended by S.S.I. 2025/336.
 (b) 2018 asp 9. Section 87B was inserted by section 18(2) of the Social Security (Amendment) (Scotland) Act 2025 (asp 2).
 (c) S.S.I 2023/302, amended by S.S.I. 2025/340.
 (d) 2018 asp 9. Section 87B was inserted by section 18(2) of the Social Security (Amendment) (Scotland) Act 2025 (asp 2).

- (i) the individual provides the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application,
- (ii) the Scottish Ministers make a determination without application under regulation 35 (consideration of entitlement after specified period), 36 (determination following change of circumstances, etc.), 37 (determination following official error – underpayments), 38 (determination following error – overpayments) or 39 (determination to effect a deduction decision), or
- (iii) the individual does not provide the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application.”.

The Disability Assistance for Older People (Scotland) Regulations 2024

5.—(1) The Disability Assistance for Older People (Scotland) Regulations 2024(a) are amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 30(3) (circumstances in which assistance may be suspended)—

- (a) in sub-paragraph (a), omit “or”,
- (b) after sub-paragraph (a) insert—

“(aa) section 87B(7) of the 2018 Act(b) applies and the Scottish Ministers are not considering a request to withdraw the request for information under section 87C(1) of that Act, or”.

(3) In regulation 34 (ending a suspension) after paragraph (b) insert—

“(ba) regulation 30(3)(aa) applies and—

- (i) the individual provides the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application,
- (ii) the Scottish Ministers make a determination without application under regulation 39 (consideration of entitlement after specified period), 40 (determination following change of circumstances etc.), 41 (determination following official error – underpayments), 42 (determination following error – overpayments) or 43 (determination to effect a deduction decision), or
- (iii) the individual does not provide the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application.”.

The Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025

6.—(1) The Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025(c) are amended in accordance with sub-paragraphs (2) and (3).

(2) In regulation 33(3) (circumstances in which assistance may be suspended)—

- (a) in sub-paragraph (a), omit “or”,
- (b) after sub-paragraph (a) insert—

“(aa) section 87B(7) of the 2018 Act(d) applies and the Scottish Ministers are not considering a request to withdraw the request for information under section 87C(1) of that Act, or”.

(a) S.S.I 2024/166, amended by S.S.I. 2025/336.

(b) 2018 asp 9. Section 87B was inserted by section 18(2) of the Social Security (Amendment) (Scotland) Act 2025 (asp 2).

(c) S.S.I 2025/3, amended by S.S.I. 2025/336.

(d) 2018 asp 9. Section 87B was inserted by section 18(2) of the Social Security (Amendment) (Scotland) Act 2025 (asp 2).

(3) In regulation 37 (ending a suspension) after paragraph (b) insert—

“(ba) regulation 33(3)(aa) applies and—

- (i) the individual provides the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application,
- (ii) the Scottish Ministers make a determination without application under regulation 42 (consideration of entitlement after specified period), 43 (determination following change of circumstance etc.), 44 (determination following official error – underpayments), 45 (determination following error – overpayments) or 46 (determination to effect a deduction decision), or
- (iii) the individual does not provide the information requested under section 87B(1) of the 2018 Act and the Scottish Ministers consider that they do not require to make a determination without application,”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision regarding the requirement of individuals to provide information in order to audit the Scottish social security system in accordance with sections 87B to 87E of the Social Security (Scotland) Act 2018.

Regulation 3 prescribes the circumstances where written responses to requests for audit information can be required.

Regulation 4 and schedule 1 prescribe the categories of individuals who are not to be requested to provide information for audit.

Regulation 5 sets out the time periods relating to withdrawal of a request for audit information and provides for cases where the Scottish Ministers fail to make a withdrawal decision within those time periods.

Regulation 6 and schedule 2 provide for associated amendments to the Scottish Child Payment Regulations 2020, the Disability Assistance for Children and Young People (Scotland) Regulations 2021, the Disability Assistance for Working Age People (Scotland) Regulations 2022, the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023, the Disability Assistance for Older People (Scotland) Regulations 2024 and the Disability Assistance (Scottish Adult Disability Living Allowance) Regulations 2025 respectively to provide for an additional circumstance for suspension, and for ending that suspension, in relation to information for audit requests.