



National Carer Organisations

A briefing on the Social Security (Scotland) Bill

June 2017

1. Introduction

The Social Security (Scotland) Bill was introduced on 21 June 2017, following an initial consultation on the creation of a new social security system in Scotland which ran from July to October 2016. The Bill's progress can be followed on the Scottish Parliament's website at:

<http://www.parliament.scot/parliamentarybusiness/Bills/105267.aspx>.

In May 2017, the Cabinet Secretary for Social Security, Angela Constance, announced that the increase to Carers Allowance will take place from summer 2018. Amongst other provisions, this Bill provides the mechanism for that increase to happen, through payment of a supplement twice a year before full operation of carer benefits comes to Scotland.

The Social Security Committee in the Scottish Parliament are accepting written submissions of evidence on this Bill until **23 August**. You can contact the Committee directly or feed into the National Carer Organisations' response. Further information is available here

<http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/105193.aspx> and the National Carer Organisations have developed an online survey where you can respond to the questions here: <https://www.surveymonkey.co.uk/r/MHHMS5C>

Over the summer, the National Carer Organisations will be hosting consultation events where the Bill and its provisions will be discussed. In the autumn, the Scottish Parliament's Social Security Committee will begin to look at the evidence submitted and will have further discussion about the potential to change aspects of the Bill. For more information about when consultation events are taking place, please contact the National Carer Organisations:

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2. An overview of the Bill

Principles

The Bill outlines the Scottish Government's view that social security is an investment in people and, whilst it is a human right, it also contributes to achieving other human rights. The Bill notes that the new social security system will be designed by the people of Scotland with continuous improvement as one of its central elements.

Social Security Charter

A Scottish social security charter is to be prepared and published. The first charter will be produced within 6 months of the new legislation being enacted. The charter must be reviewed at least every five years. There must be consultation on the detail of the charter with people who receive social security payments.

Annual Report

An annual report will be published at the end of each financial year, which will include information on the performance of the social security system during that year and what the Scottish Government has done to meet the expectations set out in the social security charter.

Assistance

The Bill introduces a duty to 'give assistance' relating to each of the social security payments which have been devolved. It notes that applications for assistance must be accompanied by such evidence as Scottish Ministers require. Further regulations will set out eligibility for the assistance.

The Bill sets out the following criteria for each type of assistance:

- **Carers assistance** is to be provided to 'an individual who provides, or has provided, care to another individual who has a disability'¹.
- **Disability assistance** will be given to people who have 'a disability arising from a physical or mental impairment' or 'a terminal illness'.
- **Cold heating assistance** will be given to help meet heating costs during a period of cold weather.
- **Winter heating assistance** will be given to help people to meet heating costs during the winter months.
- **Early years assistance** will be given to help meeting costs of having, or expecting to have, a child.
- **Employment-injury assistance** will be given for someone having had an injury, or contracted a disease, during the course of their employment.
- **Funeral expense assistance** will be given to meet, or help towards meeting, funeral expenses.

The Bill also sets out that 'short term assistance' can be made available in other circumstances which will be determined later in regulations.

Determining entitlement

The Bill outlines Scottish Ministers' duties in relation to determining entitlement to these payments. It states that Ministers must publicise timescales for determining entitlement. Once determined, the Scottish Government must inform the applicant of:

¹ We do have concerns at the definition of who is to receive carers assistance currently only referring to people with disabilities, and will raise this with the Social Security Committee.

- Their decision
- The reasons for its decision
- The right to re-assess entitlement
- The right to appeal

The Bill also sets out a series of duties to request information from people which will assist the Scottish Government to determine eligibility for the assistance. There is also the power to put in place a duty to notify the Scottish Government of a change in circumstances of people receiving assistance.

Assistance given in error

The Bill states that where payments are mistakenly given, the individual may be liable to pay the full value back to the Scottish Government. Payments are considered 'mistaken' if an error was made, incorrect information was given, or an assumption was made which proves to be wrong.

Offences

The Bill outlines the creation of an offence if a person provides information which is false or misleading with the intent of being given assistance. The Scottish Government can make provision for investigations of such offences.

On summary conviction (by magistrates) person may be liable to imprisonment for up to 12 months, a fine or both. On conviction on indictment (by a jury) the person may be liable to imprisonment for up to 5 years, a fine or both. Similar convictions may be extended to people who fail to notify the Scottish Government about a change in circumstances.

Top-up benefits

The Bill makes provisions for financial assistance to people who are entitled to reserved (UK Government) assistance and who, in the view of Scottish Ministers, require further financial assistance. The Scottish Government can make provisions about how people will be determined as eligible for top up payments, the amount of assistance given, application processes, how information will be obtained, appeals and what will happen if assistance is given in error. Top up benefits cannot be given to meet or help with housing costs or where a reserved benefit has been suspended or reduced.

Carers Allowance Supplement

There will be two payments a year to people who receive Carers Allowance and live in Scotland, equivalent to 26 times the difference between weekly amounts of Jobseekers Allowance and Carers' Allowance. Currently, Carers Allowance is £62.70 and Jobseekers Allowance is £73.10 (2017-18 rates).

This supplementary payment will continue until responsibility for the carer benefit passes from the Department for Work and Pensions to the new Scottish Social Security Agency.

Discretionary Housing Payments

Local authorities will have the power to give financial assistance to help towards housing costs. This will be available to people who either currently receive housing benefit or universal credit which includes an amount for rent. Local authorities must make information available to their local communities on:

- How to apply for Discretionary Housing Payments.
- Which housing costs could be covered.
- The rules for determining whether someone gets support.
- How much support is available.
- How to challenge a decision.

3. Next steps

Most of the detail about the new social security system will be in regulations and guidance that accompany the Bill. During the Bill's Parliamentary process, we expect to hear further information on:

- How to ensure recipients have a choice between cash assistance or benefits in kind – recipients should be able to choose a method which suits them best
- The Scottish Government's accountability arrangements. The current Bill notes obligations regarding people using the system – but not much on what the State's obligations are to people and the consequences if they do not comply with their obligations
- Independent advocacy and support during eligibility assessments
- Advice and information support ahead of eligibility assessments
- Reference to who can, and who cannot, be involved in carrying out eligibility assessments, particularly after an assurance from the Cabinet Secretary that assessments would not be carried out by organisations for profit
- A mechanism to uprate social security, and how payments will keep pace with increases in the cost of living
- How social security will interact with other parts of the system affecting people who use support and services, including social care
- How the devolved social security will interact with reserved benefits such as Employment Support Allowance, Income Support and the Carer Premium, particularly around how data will be shared between agencies

It is vitally important for unpaid carers and their families, as well as the organisations which represent them, to have their say on this Bill's provisions and how the Scottish social security system should look in the future. The key questions that the Social Security Committee want to hear your views on are in this survey: <https://www.surveymonkey.co.uk/r/MHHMS5C>. The National Carer Organisations will use these survey responses in their own evidence submission to the evidence enquiry.

The National Carer Organisations

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