

<b>What</b>	Ministerial round-table session with stakeholders on the Bill
<b>Where</b>	Atlantic Quay Room Fleming B
<b>When</b>	<b>Date:</b> Wednesday, 31 May <b>Time:</b> 11:00 to 12:00
<b>Key Message(s)</b>	The purpose of this meeting is to discuss:- <ul style="list-style-type: none"> <li>• Discuss the Bill, with a view to getting an informed response from a group of people with some practical knowledge of how social security legislation works in practice;</li> <li>• Officials will have walked attendees through the draft Bill provisions prior to your joining the meeting.</li> </ul>
<b>Who</b>	[REDACTED]
<b>Why</b>	<ul style="list-style-type: none"> <li>• The round-table will give you an opportunity to hear some responses from informed stakeholders on how they think our proposals for the Bill will operate;</li> <li>• This should help to sign-post any issues or areas of particular stakeholder interest ahead of introduction, which will help us to develop our handling plans.</li> </ul>
<b>Supporting officials</b>	<ul style="list-style-type: none"> <li>• <b>Chris Boyland, Legislation Team Leader (07724176551)</b></li> <li>• <b>Trudy Nicolson, Legislation and Operational Policy Unit Head (07771 916457)</b></li> </ul>
<b>Briefing</b>	<p>We have set out the briefing in this pack as follows:-</p> <p><b>Topics for discussion</b></p> <p><b>Annex A.1:</b> Draft speaking points [REDACTED]</p> <p><b>Annex A.3:</b> Social Security (Scotland) Bill</p>

	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>						
<b>Agenda</b>	<p>[REDACTED] the agenda for the Round-table session will be as follows:</p> <table border="1"><tr><td data-bbox="395 987 689 1081"><b>10.00 – 11.0am</b></td><td data-bbox="689 987 1449 1081">Officials welcome attendees and walk them through the Bill.</td></tr><tr><td data-bbox="395 1081 689 1176"><b>11.00 – 11.10am</b></td><td data-bbox="689 1081 1449 1176">Minister arrives, speaks to attendees and invites questions/comments</td></tr><tr><td data-bbox="395 1176 689 1281"><b>11.10 – 12.00pm</b></td><td data-bbox="689 1176 1449 1281">Round-table discussion/Q&amp;A with attendees and the Minister.</td></tr></table>	<b>10.00 – 11.0am</b>	Officials welcome attendees and walk them through the Bill.	<b>11.00 – 11.10am</b>	Minister arrives, speaks to attendees and invites questions/comments	<b>11.10 – 12.00pm</b>	Round-table discussion/Q&A with attendees and the Minister.
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Bullet points for you to consider using as part of your opening remarks:

### Bill Approach

- The Scottish Government brings this Bill to Parliament with a track record of positive engagement with stakeholders and all those with an interest in ensuring that our future Scottish social security system works well.
- It is with the interests of those who will use the system, advise on the system and operate the system that has led us to take the approach we have taken in our Bill.
- The UK Government's approach has been to put their benefit rules partly in primary legislation while, at the same time, also requiring that their primary legislation has to be read alongside further rules in subordinate legislation.
- In our view, this makes the UK legislation confusing, difficult to follow and open to different interpretations. **We have provided an example of this, in relation to the existing Carer's Allowance legislation to demonstrate just how confusing this is;**
- In our Bill, we have the opportunity to start from a blank page for the types of social security powers being transferred, and have therefore taken a deliberate approach to ensure that our legislation is both coherent, yet flexible to deal with changing circumstances.
- The Bill will transpose the eleven social security benefits onto a Scottish legislative platform, allowing Scottish Ministers to shape a distinctly Scottish benefits system, with dignity and respect being core to its approach.
- The Bill will also set out an over-arching legislative framework for the administration of social security in Scotland making provision for operational functions such as overpayments, fraud, error, re-determinations and appeals.
- A significant body of secondary legislation, that will provide the detail, will then be required once the Bill enters into law.
- Putting the detailed rules for the operation of our devolved benefits into subordinate legislation will allow us to make both our primary and our secondary legislation as clear and accessible as possible;
- During Stage 1 of the Bill's passage, we will produce illustrative drafts of some of the regulations, which we intend to make under the powers in the Bill. This will

demonstrate to Parliament and stakeholders exactly how we intend to use these new powers;

- I have also been mindful - given the emphasis that we intend to place on co-production and developing all of the constituent parts of the overall system in collaboration with others - of the need for the Bill to ensure that regulations are considered and agreed in an open and transparent way, that allows stakeholders to provide evidence and feed in their views.
- **That is why, in all but a small number of areas which mostly deal with administrative matters - regulations made under the Bill will be subject to the affirmative procedure, to allow for full scrutiny by Committee.**
- I meant what I said to Mark Griffin, at the meeting of the Social Security Committee on 2 March, when I told him that **"I am not very keen on the negative procedure."**
- The effective working of our social security system will depend on the involvement of those best placed to advise on how an effective social security system should work - and I intend that the Bill will reflect this need for Parliament and stakeholders to be fully involved.
- More than happy to take questions.

ANNEX A.2

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## SOCIAL SECURITY (SCOTLAND) BILL

**ISSUE:** We have committed to introducing the Bill before Summer recess (i.e. before the end of June, 2017). The Bill will embed in legislation the principles of the Scottish social security system, including a commitment to a human-rights based approach. It will require the production of a charter which is informed by the principles.

### General Approach - Designing for clarity and accessibility

At the heart of the Scottish Government's approach is a desire to make the legislation as clear and accessible as possible. Partly because of the way it has evolved over time, clear and accessible are not words often used to describe the UK social security legislation.

### Freestanding legislation

We have an opportunity to start with a blank page for the types of social security powers being transferred. Rather than amend the existing UK legislation, which would add to it yet another layer of complexity, the Scottish social security Bill will stand on its own.

### General outline of Bill

The first thing the Bill will do is embed in legislation the principles of the Scottish social security system, including a commitment to a human-rights based approach. It will require the production of a charter which is informed by the principles. And it will require the Government to report to the Parliament on their delivery against the charter. The Bill will also set out the basic machinery through which the Government will provide social security dealing with everything from applications through to appeals.

The Bill will then define the types of social security assistance which the Government will give (e.g. assistance for people with disabilities, carers, maternity and funeral expenses, heating costs and so forth). This part of the Bill will give a brief description of each of type of assistance, and confer powers on Scottish Ministers to set out the rules for eligibility and entitlement in subordinate legislation.

### Proposed Structure/Content of the Bill

The Bill is set out in 5 parts and 7 Schedules as follows-

Part 1 - The first thing the Bill will do is embed in legislation the principles of the Scottish social security system, including a commitment to a human-rights based approach:

- It will require the production of a charter which is informed by the principles; and
- It will require the Government to report to the Parliament on their delivery against the charter. The Bill will also set out the basic machinery through which the Government will provide social security dealing with everything from applications through to appeals.

Part 2 - A significant amount of the existing, UK legislation provides an administrative background to delivery of individual benefits, and we think that some of this should be replicated, with amendments where appropriate. Work to develop operational policy is ongoing but we currently anticipate that we will need provision for: -

- General benefits administration - e.g. a requirement to apply and powers to prescribe how applications are to be made and what is to happen to them, and how payments are to be made. Also the ability of the delivery agency to revisit awards that have been made and about length of awards. Powers will be needed to investigate suspected fraud.
- The short term assistance power will allow the agency to continue to make payments pending a re-determination or appeal, or where a reduction or termination of a determination will result in hardship to the individual.
- Appeals and complaints handling within and from the benefit system. We anticipate that this will mostly be in regulations and similar to existing provision, using existing tribunal machinery and its legislative structure.
- Recovery of overpayments which will inevitably arise. Although this can mostly be effected through existing debt recovery legislation, we will need to provide powers to recover from ongoing benefits.
- The Bill will then define the types of social security assistance which the Government will give (i.e. benefits in the areas being devolved by sections 22, 23 and 25 of the SA 2016). This part of the Bill will give a brief description of each of type of assistance, and confer powers on the Government to set out the rules for eligibility and entitlement in subordinate legislation. They are:-
  - Ill Health and Disability Benefits. Currently these are Disability Living Allowance (DLA) and Personal Independence Payment (PIP), Attendance Allowance (AA), Severe Disablement Allowance (SDA) and Industrial Injuries Disablement Benefit (IIDB).
  - Benefits for carers, currently Carer's Allowance (CA).
  - Benefits for maternity expenses, currently the Social Fund Sure Start Maternity Grants.
  - Benefits for funeral expenses, currently provided as a Social Fund payment.
  - Assistance with heating costs in cold weather, currently provided as Cold Weather Payments to benefit recipients for weeks of exceptionally cold weather and annual Winter Fuel Payments to older persons.

#### Part 3 –

- Carer's allowance supplement (temporary provision)
- Top up of reserved benefits

#### Part 4 –

- Discretionary Housing Payments

#### Part 5 –

- Contains final provisions, including, subordinate legislation, ancillary and commencement powers.



### Schedules - 1 to 7

- Set out what any subordinate legislation made under the power may, must or must not contain.

If we wanted, we could operate all these benefits under existing legislative provision, but for at least some of them, it may be better to replace current provision through the Bill. This will re-base existing benefits onto a Scottish legislative platform, allowing modernisation of provision and some adjustment - to reflect the changes that you wish to make. Most provisions in the Bill relating to specific benefits are likely to be a combination of a description of a benefit, plus powers to make subordinate legislation.

### Bill Timetable

- **We have committed to introducing the Bill before Summer recess (i.e. before the end of June, 2017).**
- **By convention, the earliest commencement of provisions in the Bill would normally be from April/May 2018 – however, commencement from March 2018 will be possible if needed (with the consent of the Cabinet Sub-Committee on Legislation).**

