

The Social Security (Scotland) Bill

Introduction

The Social Security (Scotland) Bill is brought forward because of changes to the devolution settlement enacted in the Scotland Act 2016. As a result of these changes, the Scottish Parliament is now responsible several types of social security benefits. These include: disability, industrial injuries and carer's benefits, benefits for maternity, funeral and heating expenses, and Discretionary Housing Payments.

The Bill establishes a framework for a new, Scottish social security system. It transposes the eleven existing social security benefits that are becoming devolved onto a Scottish legislative platform, allowing the Scottish Parliament to shape a distinctly Scottish social security system with dignity and respect at its heart. There are approx. 1.4 million people in Scotland in receipt of the existing benefits that are being devolved. The benefits that will be administered by the new Scottish social security agency include those supporting disabled people, older people, children, young people and families.

Outline of the Bill

Part 1 of the Bill sets out the seven Scottish social security principles, and reflects the need for the Scottish Government to make those principles meaningful by translating them from statements of aspiration into more focussed aims. It places a statutory duty on the Scottish Government to prepare and publish a social security charter. Taking this approach will enable the principles to be embedded in a way that is open to monitoring, reporting and scrutiny, and available in a format that can be easily understood. It will also support the Scottish Government's clear commitment that key information will be available in ways that are accessible to all.

Part 2 sets out an over-arching legislative framework for the administration of social security in Scotland, making provision for operational functions such as determination of entitlement, re-determinations, appeals, overpayments, fraud and error. It places a duty on the Scottish Ministers to give assistance to persons who are entitled to it and provides a brief description of each type of assistance (which will in time replace current DWP benefits as shown):

- **Carer's assistance**, which will be provided to an individual who cares for another individual with a disability (DWP Carer's Allowance).
- **Cold-spell heating assistance**, which will be provided to an individual to help meet heating costs in periods of cold weather (DWP Cold Weather Payments).
- **Winter heating assistance**, which will be provided to an individual to help meet heating costs in winter (DWP Winter Fuel Payments).
- **Disability assistance**, which will be provided to a disabled individual on account of the impact of a physical or mental disability or terminal illness) (DWP Disability Living Allowance, Personal Independence Payments and Attendance Allowance).
- **Early years assistance**, which will be assistance to an individual who has costs related to having a child in their family. This includes people who are expecting to have a child (DWP Sure Start Maternity Grant).
- **Employment-injury assistance**, which will be provided to an individual who has had an injury or contracted a disease through employment (DWP Industrial Injuries Scheme).
- **Funeral expense assistance**, which will be assistance to an individual to help meet funeral costs (DWP Funeral Payment).
- **Short-term assistance**, which Scottish Ministers will provide on a short-term basis. For example to maintain payments to an individual, in certain circumstances, if they decide to make an appeal against a decision to reduce their ongoing entitlement to assistance (no DWP equivalent).

The Bill confers powers on the Government to set out detailed rules for assistance in regulations, including their rules for eligibility and entitlement. A significant body of secondary legislation that provides detail on each type of assistance and on the operation of the social security system will be required once the Bill enters into law, and it is anticipated that this legislation will come into force within the current Parliamentary term. The Scottish Government is committed to co-production and developing all of the constituent parts of the overall system in collaboration with others and will therefore ensure the regulations are considered and agreed in an open and transparent way, that allows stakeholders to provide evidence and feed in their views. During Stage 1 of the Bill's passage through the parliamentary process, the Scottish Government will produce illustrative regulations to demonstrate to Parliament and stakeholders how these new powers will be used.

Part 3 allows the Scottish Ministers to make regulations to top up benefits that are reserved to the UK Parliament. It also provides a mechanism to pay a Carer's Allowance supplement at the earliest possible opportunity. The intention is that those living in Scotland and in receipt of Carer's Allowance on qualifying dates will receive a supplement that will take their payments to the same level as Jobseeker's Allowance.

Part 4 allows local authorities to continue to make payments to people to help them with their housing costs, known as Discretionary Housing Payments (DHPs), but with greater local discretion to determine appropriate arrangements. Responsibility for DHPs was devolved to the Scottish Parliament on 1 April 2017 and the Bill presents an opportunity to simplify the relevant legislation and recast it in a Scottish context.

Part 5 deals with the technical matters normally dealt with at the end of Bills.

Next steps

The Bill will now undergo a Parliamentary scrutiny process, where members of the Scottish Parliament and stakeholders will have the opportunity to review and consider the Bill, and provide evidence and feed in their views. Commencement is expected from May 2018 at the earliest.

Once the Bill is enacted, the Scottish Government plans to introduce a phased approach to the delivery of the individual benefits, starting with the Carer's Allowance supplement from summer 2018, and a new Best Start Grant and Funeral expense assistance from summer 2019. The overriding priority is to ensure the safe and secure transfer of benefits to those who receive them and to ensure that no-one who depends on this vital support fails to receive a payment. Achieving a successful transition of the ten benefits currently delivered by DWP requires the biggest and most complex programme of change which the Scottish Government has undertaken since devolution in 1999.

The Bill will enable the Scottish Government to improve the way benefits, such as disability benefits, are delivered. For example, the Scottish Government intends to reduce face to face assessments for disability benefits, and has also committed to introducing longer term or lifetime awards. However, improvements will have to be gradual, with the priority being to ensure safe and secure transfer of existing benefits.