

Scottish Women's Convention

Social Security (Scotland) Bill Briefing Paper

The Social Security (Scotland) Bill is a landmark piece of legislation. It focuses on the enactment by the Scottish Parliament of a number of powers over social security which are in the process of being transferred over from the UK Parliament.

The proportion of the social security budget that will devolve to Scotland amounts to £2.7 billion, or 15%, of the total £17.5 billion allocated to Scotland annually. The Scottish Government has set forth their legislative framework in the form of the new Bill, with a universal emphasis on respect and dignity.

The majority of recipients of social security here in Scotland are overwhelmingly women. This is due to a number of persisting inequalities faced across all levels of society such as childcare costs, gender streaming and discrimination. It is vital that their voices continue to be heard in order for Scottish Social Security to strive for equality.

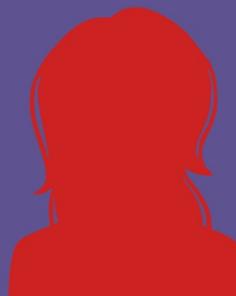
Flexible



Accessible



Equalities



Respect

Background

In November 2014, the cross-party Smith Commission published a set of recommendations that specifically called for devolution of a number of powers to the Scottish Parliament (SP) from the UK. This was subsequently enacted into law with the passing of The Scotland Act in March 2016.

In terms of social security, this means transferral of certain aspects of the current UK-wide social security system to Scotland, alongside the power to make certain discretionary payments on benefits that are currently still reserved to Westminster. Included within this are provisions for greater powers by the SP in regards to the implementation of the social security system, including the remit to create new forms of assistance for the country.

11 benefits are due to come under the power of the Scottish Parliament in one form or another. These include:

- Disability Living Allowance
- Personal Independence Payment
- Attendance Allowance
- Severe Disablement Allowance
- The Industrial Injuries Scheme
- Carer's Allowance
- Sure Start Maternity Grants
- Funeral Payments
- Cold Weather Payments
- Winter Fuel Payments
- Discretionary Housing Payments

The majority of these current provisions will be administered by a newly-created Social Security Agency. The devolved payments will be made via the new agency with the exception of discretionary housing payments. These will continue to be dealt with by Local Authorities. The Scottish Welfare Fund will also remain separate and continue to be administered at a local level. The Scottish Government (SG) has pledged that within the new arrangements there will be no contracting with the private sector in regards to assessing eligibility for individuals.

In order to form the Bill around citizens, the SG has proposed to be guided by personal knowledge of the system. Experience panels are currently being set up and consultation will be undertaken with the Expert Advisory Group on Disability and Carer's Benefits. Outlines are also in place within the new system for the creation of a Social Security Charter. This will be unique to Scotland and will lay out the main principles for a human rights approach by the responsible Scottish Ministers.

The first social security payments will "go live" as of Summer 2018, starting with a "top up" to the current Carer's Allowance. This will be followed by the Best Start Grant for families with young children and the Funeral Expenses Assistance from Summer 2019.

Part One: Principles, Charter and Accountability

The introduction to the Bill lays out the fundamental principles at the heart of the Scottish Social Security agenda. It also makes provisions for the implementation of a Charter concerning the defining principles, with specific reference for this to be reviewed at least once every five years and to be created only after extensive consultation with those with experience of the system.

Within these principles, there is guidance which details procedures to ensure all individuals are given what they are rightly entitled to. Those who are eligible for social security but do not currently claim will be encouraged to do so. There is also a requirement that social security is treated as a basic human right, coordinating the Scottish system with the stance adopted by the United Nations on these grounds.

The Seven Principles to be laid out are:

- Social security is an investment in the people of Scotland.
- Social security is a human right, essential to the realisation of other human rights.
- Respect for the dignity of individuals is to be at the heart.
- Scottish Ministers have a role in ensuring that individuals are given what they are entitled to under the Scottish social security system.
- The system is to be designed with the support of the people of Scotland on the basis of evidence.
- Opportunities are to be sought to continuously improve the system in ways which put the needs of those who require assistance first.
- Services are efficient and value for money.

Part Two: Giving of Assistance by Scottish Ministers

This is the main part of the new Bill. Not only does it lay out the duties Scottish Ministers have in delivering social security, it also details the different forms of assistance that are to be formed under devolution. This section also describes the processes for appeals, fraud and recovery of any assistance given in error.

For example, in the event of a mistaken payment, the individual is liable to pay back money. However, the Bill makes the provision that the amount to be paid back is limited to only the difference in what should have been awarded and what was actually given rather than the full amount.

A person's right to appeal decisions is also detailed within this section. If dissatisfied, individuals can appeal and, if still unsuccessful, have the right to take their case further to the first tier Scottish tribunal. Mandatory timescales for these appeals are also laid out.

Under the devolved powers, there will be a removal of the need for continuous assessments for those with long-term disabilities. Information will also not be needed from individuals where there is already sufficient information available.

Types of Assistance to be Given:

Carer's Assistance

Carers make up a huge undervalued group within our society, the overwhelming majority of which are women. Unpaid care saves the economy billions of pounds every year. At present, Carer's Allowance (CA) is provided under a specific set of requirements.

Until the full transition of CA to the Scottish Government takes place, there is provision within the Bill giving a supplementary payment to claimants in order to increase CA to the same financial level as Jobseeker's Allowance. This will be in the form of two payments made annually. The top up will see those on the assistance better off by around £600 a year. This will deliver enhanced financial support more quickly and in advance of the devolved system going live.

Crucially, when this increase does come into effect, carers will not lose access to other aspects of social security entitlements as a result of the extra income. This will also include a commitment to increase CA's for those caring for more than one disabled child at a time. In addition, the SG has identified the extremely low uptake of CA by young carers. A campaign has been launched to highlight the support these young carers are entitled to.

Early Year's Assistance

Once devolved, this benefit will take the form of the newly created Best Start Grant (BSG) which will replace the current Sure Start Maternity Grant (SSMG) and will be one of the first claims to be rolled out across Scotland.

The BSG will provide qualifying families with £600 on the birth of their first child and £300 on the birth of every subsequent one. The support is geared towards a different focus at different times in early years, giving children the best start in life. At present, SSMG is a one-off payment of £500, only allowed for the first child within a household and has seen no increase in value for a number of years despite the rising cost of living.

Qualifying families under the new system will further receive two "staggered" payments of £250 around the time the child starts nursery, and a further £250 when starting primary school. For a single mother with two children, the BSG will provide £1900 of support over the period of their early years, compared to £500 that is currently available from the UK Government. Given that lone parent, low-income households are overwhelmingly women this is a positive step forward for equality rights, recognising the importance of mothers.

Cold Spell and Winter Heating Assistance

These benefits will cover the current Cold Weather and Winter Fuel Payments. Eligibility may depend on age, location and other types of social security an individual is in receipt of.

Having these as two similar but separate forms of assistance is extremely important within the context of Scotland. This ensures that not only are provisions made for the winter months, but also for periods of cold weather outwith the season. It is hoped that this will help tackle fuel poverty, especially in rural areas of the country.

Disability Assistance

Assistance covers physical and mental disabilities as well as terminal illness. Benefits under this include: Disability Living Allowance; Personal Independent Payment; Attendance Allowance and Severe Disablement Allowance. They will remain non-means tested, with the exception of the latter.

Under the new powers, the SG has pledged to reform the present assessment procedures. This will include removal of unnecessary reassessments which more often than not lead to undue stress and can be disrespectful for those with conditions that are unlikely to change.

The SG has committed to make the new system more fair and transparent with people at the heart of the process. A commitment has been made to ensure that disability advisory services and those who are entitled to this assistance will be consulted at every stage.

Employment-Injury Assistance

This specific assistance is to be provided to those employees' who have received an injury or contracted a disease through the workplace. This will cover the current Industrial Injuries Scheme. Alongside the transition of this assistance, the SG has commented that it intends to place more emphasis on health and safety in the workplace.

Funeral Expense Assistance

Under the Bill, assistance will be given to those claiming certain benefits for help with the cost of funeral expenses. Eligibility may depend on the relationship to the individual and the value of the deceased's estate. The SG has stated that it will aim to process all applications within ten working days of receipt under the new system. This will also include making it easier for people to see whether they are eligible or not.

Short-term Assistance

This is a new feature defined as assistance on a short-term basis. This power will support an individual who is being reassessed for benefit and who is challenging the decision. The intention is to ensure that the individual suffers no financial hardship during the process.

For example, if it is decided entitlement to a certain payment should be less, short term assistance may be given whilst awaiting appeal. At present, the Scottish Welfare Fund administers discretionary hardship assistance. This will continue as a separate entity and continue to be carried out by Local Authorities.

Part Three: Supplementing Assistance

This part of the Bill focuses on citizen's rights to social security. With the enactment of the 2016 Scotland Act, provisions are included within legislation which allow the Scottish Parliament to top up any reserved benefits.

This will allow Scottish Ministers to administer top up payments for those forms of assistance that are still under the remit of the UK Government.

This particular type of financial assistance is currently being used by the Scottish Government to mitigate the UK Government's Under Occupancy Penalty, also known as the "Bedroom Tax".

Part Four: Discretionary Housing Payments

This section gives the majority of its focus onto the powers that can be exercised by local authorities. It lays the foundation for the administration of payments to assist individuals with the likes of housing costs.

There will be little impact on payments by the Bill to local authorities. Provision is made within it however around simplifying legislation for the transferral of funds to Councils from the Scottish Government for aid and assistance to citizens.

Part Five: Final Provisions

The final section lays out the parliamentary procedures for the Bill. It also gives some information about when it will come into force. This will most likely be during this Scottish Parliamentary term, set to run until 2021.

The SG has made a deliberate choice not to lay out the physical rules around Social Security within the Bill as these will have to change continuously to reflect economic and social conditions within Scotland.

Furthermore, there are no provisions made in the Bill around Universal Credit (UC). Under the Scotland Act, 2016, the SG can provide some flexibility around administration of UC assistance. However, due to this element of social security being delivered by different regulations and given that the Bill is providing a legislative framework, this is not included.

The SG has recently laid out plans to aid citizens by making UC payments more flexible than the present system. This will allow UC to be paid twice a month rather than once and direct payment to landlords. This will come in to force on 4 October 2017 and will be delivered by the DWP on behalf of the Scottish Government as it is still a reserved matter.