

# Social Security (Scotland) Bill

## Stage 2 Consideration, Day 4

1 March 2018

### Written briefing from Citizens Advice Scotland

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*Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Advice for Scotland provides information on rights and helps people solve their problems.*

*In 2016/17 the Citizens Advice network in Scotland helped over 310,000 clients in Scotland alone and dealt with over one million advice issues. With support from the network clients had financial gains of over £120 million and our Scottish self-help website Advice for Scotland received over 4 million unique page views.*

#### Summary

Citizens Advice Scotland (CAS) supports the following amendments (in Marshalled List order):

**94; 95; 96; 97; 98; 99; 100; 101; 133; 134; 135; 136; 162; 163; 164; 2; 3; 131; 131B; 132.**

#### Introduction

In 2016/17, Scotland's CAB network provided advice on 94,301 new issues relating to the benefits being devolved, representing 37% of benefits advice given by Scotland's citizens advice bureaux in that year. CAS has provided a substantial body of evidence based on CAB clients and advisers' daily experiences of engaging with the current system, together with their priorities for the new Scottish system.<sup>1</sup> We look forward to continuing to work with the Scottish Parliament and Scottish Government to ensure the new system is fair, equal and responsive with Scotland's citizens at the heart of it.

This briefing covers the remaining amendments to the Bill, which will be considered by the Committee on 1 March.

## Offences

It is important to draw a distinction between intentional fraud and unintentional error, such as not reporting a change of circumstances. As it stands, the Bill applies similar levels of offence and penalties to both. CAS would recommend that changes are made in this area, to ensure an appropriate distinction between actions committed with criminal intent to obtain money fraudulently, and failures to notify changes in circumstances which were not committed with malicious intent.

CAS agrees with the approach suggested by Justice Scotland<sup>ii</sup>, and the amendments proposed by them which would ensure that no-one would be criminalised for an unintentional error.

### **CAS supports amendments 94 to 101 (in the name of Pauline McNeill).**

## Uprating

A common system for uprating the values of devolved benefits may be an area more suitable for the face of the Bill than in regulations. CAS would recommend all devolved benefits are uprated annually in line with the cost of living. Possible methods of doing so include inflation, with the potential for further adjustment in line with benefit related increased costs. Specific benefits are designed to provide support for costs such as energy bills, costs of funerals, fuel costs and average public transport costs all of which have increased by more than inflation in recent years, but could be used as a basis to trigger additional uprating.

CAS welcomes the amendments lodged by Alison Johnstone and by Mark Griffin both of which would provide a statutory process to annually uprate the values of all benefits created in the new system. Whilst the process outlined in the Scottish Government's amendments is acceptable, CAS would recommend that all payments in the new system are uprated annually, not just disability and employment-injury assistance.

**CAS supports amendments 2 and 3 (in the name of Alison Johnstone) or amendments 133 to 136 (in the name of Mark Griffin).** Either of these blocs of amendments would have a positive effect.

## Discretionary housing payments

CAS agrees that the Discretionary Housing Payment (DHP) scheme should largely continue in its present form. The Bill broadly transfers the legislative underpinning for the present scheme into the new Scottish system, and appears to be acceptable. However, to ensure that a DHP system exists in every local authority as long as there is still a need for it, CAS would recommend adding a requirement for local authorities to operate a scheme as long as funding continues to be provided.

**CAS supports amendments 162 to 164 (in the name of the Minister),** which would make provision for this.

## Procedure for regulations for assistance

CAS has recommended a robust scrutiny process for social security regulations in the new system. In addition to welcome amendments establishing a Scottish Commission on Social Security, CAS also welcomes the proposed introduction of a 'super-affirmative procedure' for regulations setting out key features of the new benefits, such as eligibility criteria. This would require a public consultation to be held on the regulations.

**CAS supports amendments 131 and 132 (in the name of the Minister),** which would make provision for this, **together with 131B (in the name of Pauline McNeill),** that extends the procedure to regulations related to all regulations made under the Bill, as well as the Scottish Welfare Fund.

## For more information or CAB cases, contact:

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<sup>i</sup> A New Future for Social Security: Consultation on Social Security in Scotland – Response from Citizens Advice Scotland, October 2016 <http://www.cas.org.uk/publications/designing-social-security-system-scotland-consultation-new-powers>

<sup>ii</sup> Social Security (Scotland) Bill: Committee briefing – Justice Scotland, August 2017 <https://2bqk8cdew6192tsu41lay8t-wpengine.netdna-ssl.com/wp-content/uploads/2017/09/JUSTICE-Scotland-Social-Security-Scotland-Bill.pdf>