

SOCIAL SECURITY (AMENDMENT) (SCOTLAND) BILL

AMENDMENT TO BE MOVED AT STAGE 2

In Section 4, page 6, line 4

leave out Section 4

Effect

This amendment removes Section 4 from the Bill.

Reason

The various provisions in Part 3 concern the deadlines for re-determination and appeal in 'exceptional circumstances', in order to prescribe the circumstances under which the existing deadline of one year may be extended, either by social security decision-makers or on appeal by an appeal tribunal. It is proposed that 'exceptional circumstances' will be defined in guidance, which would appear to be a sensible and flexible approach.

Whilst on the face of it these provisions appear to be beneficial, they run the risk of unnecessarily complicating the review and appeal provisions of the Scottish welfare system, the relative simplicity of which was one of its key advantages when it was first introduced.

Some might take the view that the existing deadline of a year to request a re-determination or an appeal is already generous enough, and that trying to over-prescribe the circumstances in which an extension might be allowed will over-complicate the system to the extent that it will become difficult to administer and for customers to understand. Neither the explanatory notes to the Bill nor the policy memorandum provides any estimate of how many cases will be likely to benefit from this change, but it would not be unreasonable to assume that there are unlikely to be many in light of the already generous one year deadline. The question then is whether these provisions will in fact improve the overall client experience as intended, which we would suggest they will not. Accordingly Section 4 and its supporting provisions Sections 5 and 6 should be deleted.

SOCIAL SECURITY (AMENDMENT) (SCOTLAND) BILL
AMENDMENT TO BE MOVED AT STAGE 2

In Section 5, page 8, line 8

leave out Section 5

Effect

This amendment removes Section 5 from the Bill.

Reason

This amendment is consequential to the amendment of Section 4.

SOCIAL SECURITY (AMENDMENT) (SCOTLAND) BILL
AMENDMENT TO BE MOVED AT STAGE 2

In Section 6, page 8, line 23

leave out Section 6

Effect

This amendment removes Section 6 from the Bill.

Reason

This amendment is consequential to the amendment of Section 4.

SOCIAL SECURITY (AMENDMENT) (SCOTLAND) BILL

AMENDMENT TO BE MOVED AT STAGE 2

In Section 16, page 26, line 9

leave out <and fraud>

Effect

This amendment removes the references to 'fraud' in the section.

Reason

Part 6 of the Bill concerns the provision of information for audit and provides that Ministers may request an individual to provide information about their entitlement to assistance and the payment of assistance. It also provides that a request for information under these provisions may only be made for the purposes of auditing the monetary value of error and fraud in the system and to correct apparent errors and carry out investigations into fraud (and other auditing activities). Information can be provided by interview, by telephone or video call, in writing or in such other form as prescribed by Ministers.

These are unusual and rather confusing provisions, which appear to conflate audit and fraud, despite these being two entirely separate issues. We take the view that there should be a clear differentiation between 'auditing' and 'fraud investigation'. The withdrawal of benefits from vulnerable people for an 'audit' is draconian and undermines the dignity of the claimant and should be rethought.

Neither the explanatory notes to the Bill nor the policy memorandum explains why these provisions are thought to be necessary, other than as stated 'for the purpose of auditing the monetary value of error and fraud in the system'. The policy memorandum states that 'this provision aligns with the practice of other government departments', though falls short of specifying which departments. No public consultation took place around this provision because of its 'high priority and it being fundamental to the functioning of the system'. Being of such high priority and so fundamental would suggest there is even greater reason for consultation.

It is not clear why individuals should need to be involved in auditing the system in this way, or indeed, why Ministers could not obtain the information they need through other channels. On the other hand, if fraud is suspected in an individual case Ministers already have the power to seek information in connection with an individual's entitlement to assistance.

SOCIAL SECURITY (AMENDMENT) (SCOTLAND) BILL

AMENDMENT TO BE MOVED AT STAGE 2

In Section 16, page 26, line 11

leave out <and investigations into potential fraud>

Effect

This amendment removes the words 'and investigations into potential fraud'.

Reason

Part 6 of the Bill concerns the provision of information for audit and provides that Ministers may request an individual to provide information about their entitlement to assistance and the payment of assistance. It also provides that a request for information under these provisions may only be made for the purposes of auditing the monetary value of error and fraud in the system and to correct apparent errors and carry out investigations into fraud (and other auditing activities). Information can be provided by interview, by telephone or video call, in writing or in such other form as prescribed by Ministers.

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SOCIAL SECURITY (AMENDMENT) (SCOTLAND) BILL

AMENDMENT TO BE MOVED AT STAGE 2

In Section 16, page 26, line 25

leave out subsection (6), subsection (7) and
subsection (8)

Effect

This amendment removes subsection (6), subsection (7) and subsection (8) from the Bill.

Reason

Section 87B is particularly concerning in that it gives Ministers the power to suspend assistance to an individual who fails to provide the required information by a particular deadline. Thereafter, there follows a procedure between Ministers and individuals around the reason for delay in providing the required information and whether there might be good reason why a request should be withdrawn, e.g. because of illness or bereavement.