

# Social Security (Scotland) Bill

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## 2nd Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- a list of any amendments already debated;
- the text of amendments to be debated on the second day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

### Groupings of amendments

#### **Consultation on charter**

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#### **Effect of charter**

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#### **Right to social security**

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#### **Annual report and other accountability mechanisms**

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#### **Scottish Commission on Social Security**

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#### **Creation of new benefits**

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With 8 - 39, 75

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**Amendments in debating order**

**Consultation on charter**

**Jeremy Balfour**

**145** In section 3, page 2, line 9, at end insert—

<( ) The Scottish Ministers must ensure, as far as is reasonably practicable, that the persons consulted include, in particular, a representative proportion of persons such as are mentioned in paragraphs (a), (b) and (d) of subsection (3) who have—

(a) a physical impairment,

(b) a mental impairment.>

**Mark Griffin**

**103** In section 3, page 2, line 10, after <include> insert <—

(a)>

**Mark Griffin**

**104** In section 3, page 2, line 18, at end insert—

<( ) child benefit under section 141 of the Social Security Contributions and Benefits Act 1992,>

**Mark Griffin**

**105** In section 3, page 2, line 23, at end insert <and

(b) persons and organisations who work with or represent individuals living in households whose income is adversely affected, or whose expenditure is increased, because a member of the household has one or more protected characteristics (within the meaning of section 4 of the Equality Act 2010).>

**Jeane Freeman**

**12** In section 3, page 2, line 23, at end insert—

<( ) For the purpose of subsection (2), it is immaterial that anything done by way of consultation was done before the Bill for this Act was passed or after that but before this section comes into force.>

**Jeane Freeman**

**13** In section 5, page 2, line 32, leave out from <such> to end of line 33 and insert—

<( ) the Scottish Commission on Social Security, and

( ) any other persons they consider appropriate.>

**Mark Griffin**

**106** In section 5, page 2, line 34, after <include> insert <—

(a)>

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### Mark Griffin

- 107 In section 5, page 2, line 35, at end insert <and  
(b) persons and organisations who work with or represent individuals living in households whose income is adversely affected, or whose expenditure is increased, because a member of the household has one or more protected characteristics (within the meaning of section 4 of the Equality Act 2010).>

### Effect of charter

#### Adam Tomkins

- 61 After section 5, insert—  
<Effect of the charter  
(1) A court or tribunal in civil or criminal proceedings may take the charter into account when determining any question arising in the proceedings to which the charter is relevant.  
(2) Breach of the charter does not of itself give rise to grounds for any legal action.>

#### Jeane Freeman

- 18 After section 6, insert—  
<Charter-based complaints  
(1) The Scottish Ministers are to make regulations conferring on a person the function described in subsection (2).  
(2) The function is investigating any complaint alleging a failure by the Scottish Ministers, in dealing with an individual's case, to meet the expectations of them set out in the Scottish social security charter.  
(3) Regulations under this section may modify any enactment (including this Act).>

#### Adam Tomkins

- 18A As an amendment to amendment 18, line 3, leave out <a person> and insert <the Scottish Public Services Ombudsman>

#### Jeane Freeman

- 50 In section 55, page 21, line 25, after <procedure:> insert <section (*Charter-based complaints*).>

### Right to social security

#### Mark Griffin

- 116 After section 5, insert—

<*Right to social security*

**Due regard to right to social security**

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- (1) The persons mentioned in subsection (2) must have due regard to the right to social security when—
  - (a) exercising functions under this Act,
  - (b) exercising functions under any other enactment which contains provisions exercising the powers provided for in Part 3 of the Scotland Act 2016.
- (2) The persons are—
  - (a) the Scottish Ministers,
  - (b) any other Scottish public authority.
- (3) A court or tribunal must have due regard to the right to social security when—
  - (a) interpreting the provisions of this Act,
  - (b) interpreting the scope of any other enactment which contains provisions exercising the powers provided for in Part 3 of the Scotland Act 2016,
  - (c) called to determine any question relevant to the application of the duty in subsection (1).
- (4) In this section and section (*Interpreting the right to social security*), the right to social security is to be interpreted consistently with the right to social security protected by the Covenant on Economic, Social and Cultural Rights.
- (5) For the purposes of this section and section (*Interpreting the right to social security*), the Covenant on Economic, Social and Cultural Rights is the International Covenant on Economic, Social and Cultural Rights adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.
- (6) The Scottish Ministers may by regulations modify subsection (5) to take account of any optional protocol to the Covenant on Economic, Social and Cultural Rights which the United Kingdom—
  - (a) has ratified, or
  - (b) has signed with a view to ratification.>

### Mark Griffin

117 After section 5, insert—

#### <Interpreting the right to social security

- (1) Where a person mentioned in section (*Due regard to right to social security*)(2) is exercising the duty under subsection (1) of that section, the person must take account of—
  - (a) the General Comments of the Committee on Economic, Social and Cultural Rights, including General Comment 19 (“The right to social security”), adopted on 23 November 2007, and
  - (b) any concluding observations of the Committee on Economic, Social and Cultural Rights in respect of the United Kingdom’s compliance with the Covenant on Economic, Social and Cultural Rights.
- (2) A court or tribunal determining a question which has arisen in connection with the duty under section (*Due regard to right to social security*)(1) must take into account—

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- (a) the General Comments of the Committee on Economic, Social and Cultural Rights, including General Comment 19 (“The right to social security”), adopted on 23 November 2007, and
  - (b) any concluding observations of the Committee on Economic, Social and Cultural Rights in respect of the United Kingdom’s compliance with the Covenant on Economic, Social and Cultural Rights,
- so far as, in the opinion of the court or tribunal, it is relevant to the proceedings in which that question has arisen.
- (3) In considering whether the duty in section (*Due regard to right to social security*)(1) has been discharged, a court or tribunal must have regard to—
    - (a) the right to progressive realisation of the right to social security consistent with the maximum resources available to the Scottish Ministers,
    - (b) the core elements of the right to social security identified by General Comment 19 (“The right to social security”),
    - (c) that the right to social security should be enjoyed without discrimination.
  - (4) In considering whether the duty in section (*Due regard to right to social security*)(1) has been discharged, any court or tribunal may have regard to—
    - (a) any international obligation of the United Kingdom relevant to the right to social security,
    - (b) any comparative case law on the right to social security.>

### **Annual report and other accountability mechanisms**

#### **Jeremy Balfour**

- 62** In section 6, page 3, line 19, at end insert—
- <( ) information about the performance of any body established by the Scottish Ministers for the purpose of exercising functions in the Scottish social security system, and
  - ( ) a description of what any such body has done in that year to meet the expectations of that body set out in the Scottish social security charter.>

#### **Mark Griffin**

- 79** In section 6, page 3, line 19, at end insert—
- <( ) information on how assistance provided under this Act has reduced the number of disabled people living in poverty, and
  - ( ) information on the extent to which assistance provided under this Act has reduced the number of disabled people living in poverty.
  - ( ) For the purposes of this Act, a disabled person is considered to be living in poverty if the person’s household’s equivalised net income for the year is less than 60% of median equivalised net household income for the year.
  - ( ) In this Act—

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- ( ) “equivalised”, in relation to household income, means adjusted to take account of variations in household size and composition,
- ( ) “median equivalised net household income” means the median equivalised net household income for the United Kingdom.>

### Mark Griffin

108 In section 6, page 3, line 19, at end insert—

- <( ) an assessment of how the Scottish social security system has affected the circumstances of persons living in households whose income is adversely affected, or whose expenditure is increased, because a member of the household has one or more protected characteristics (within the meaning of section 4 of the Equality Act 2010), and
- ( ) a description of the data for the purpose of monitoring equality of opportunity used in preparing the report.
- ( ) The first report under this section is to include a plan setting out the Scottish Ministers’ intentions to collect and publish data for the purpose of monitoring equality of opportunity where existing data sources are not sufficient for the preparation of the report.>

### Mark Griffin

148 After section 6, insert—

#### <Annual feedback survey

- (1) The Scottish Ministers must, as soon as practicable after the end of each financial year, carry out a survey of individuals who have applied for assistance through the Scottish social security system in that financial year.
- (2) The survey is to seek information about—
  - (a) the extent to which the determination of the individual’s entitlement to assistance met the expectations set out in—
    - (i) the Scottish social security principles,
    - (ii) the Scottish social security charter,
  - (b) the individual’s experience of the process of determining the individual’s entitlement to assistance,
  - (c) the effectiveness and appropriateness of the assistance received (where relevant),
  - (d) the quality and effectiveness of the advice and information received in support—
    - (i) of the individual’s application for assistance, and
    - (ii) at all stages of the determination of the individual’s entitlement to assistance, and
  - (e) any other matters relevant to the individual’s application for assistance.
- (3) The Scottish Ministers must, as soon as practicable after completing the carrying out of the survey under subsection (1)—
  - (a) lay the survey before the Scottish Parliament, and
  - (b) make the survey publicly available by such means as they consider appropriate.>

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### Mark Griffin

80 After section 6, insert—

#### <Independent review of the Act

- (1) The Scottish Ministers must make provision for an independent review of this Act to be carried out—
  - (a) not later than 3 years after the day on which Part 1 of this Act comes into force, and
  - (b) thereafter, at least once in each subsequent period of 5 years.
- (2) Not later than 1 year after the day on which a review under subsection (1) has been completed, the person carrying out the review must lay a report on the conclusions of the review before the Scottish Parliament.
- (3) A report under subsection (2) must—
  - (a) include an assessment of the effectiveness of the provisions of this Act,
  - (b) recommend—
    - (i) whether the provisions of this Act should be retained or repealed,
    - (ii) what steps are to be taken by the Scottish Ministers as a result of the review.
- (4) Not later than 30 days after a report under subsection (2) has been laid before the Scottish Parliament, the Scottish Ministers must lay a response to that report before the Scottish Parliament.
- (5) In responding to a report under subsection (2), the Scottish Ministers must have regard to the provisions of subsection (3).>

### Scottish Commission on Social Security

#### Jeane Freeman

15 After section 6, insert—

#### <Scottish Commission on Social Security

- (1) The Scottish Commission on Social Security is established.
- (2) The Commission is a body corporate.
- (3) Schedule (*Scottish Commission on Social Security*) makes further provision about the Commission.>

#### Jeane Freeman

16 Before schedule 1, insert—

#### <SCHEDULE

(*introduced by section (Scottish Commission on Social Security)*)

SCOTTISH COMMISSION ON SOCIAL SECURITY

#### PART 1

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## OPERATION AND COMPOSITION OF THE COMMISSION

### CHAPTER 1

#### STATUS

##### *Independence*

- 1 (1) In performing its functions, the Scottish Commission on Social Security is not subject to the direction or control of any member of the Scottish Government.
- (2) This paragraph is subject to any contrary provision in this or any other enactment.

##### *Exclusion of Crown status*

- 2 The Commission—
  - (a) is not a servant or agent of the Crown, and
  - (b) does not enjoy any status, immunity or privilege of the Crown.

### CHAPTER 2

#### POWERS

##### *General powers*

- 3 The Commission may do anything which appears to it—
  - (a) to be necessary or expedient for the purposes of, or in connection with, the performance of its functions, or
  - (b) to be otherwise conducive to the performance of its functions.

##### *Access to information*

- 4 (1) The Commission—
  - (a) has a right of access at reasonable times to any relevant information that it may reasonably require for the purpose of performing its functions, and
  - (b) may require any person who holds or is accountable for relevant information to provide at reasonable times any assistance or explanation that the Commission may reasonably require for the purpose of—
    - (i) performing its functions, or
    - (ii) exercising the right conferred by paragraph (a).
- (2) In sub-paragraph (1), “relevant information” means information in the possession or under the control of—
  - (a) any member of the Scottish Government,
  - (b) a local authority,
  - (c) any person, or person of such description, as is specified by the Scottish Ministers in regulations.
- (3) Sub-paragraph (1) is subject to any enactment or rule of law that prohibits or restricts—
  - (a) the disclosure of any information, or
  - (b) the giving of any assistance or explanation.

### CHAPTER 3

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### PROCEDURE

#### *Committees*

- 5 (1) The Commission may establish committees and sub-committees.
- (2) The membership of the Commission's committees and sub-committees may include (but may not consist entirely of) persons who are not members of the Commission but those persons are not entitled to vote at meetings.

#### *Regulation of procedure*

- 6 The Commission may regulate its own procedure (including quorum) and that of its committees and sub-committees.

#### *Authority to perform functions*

- 7 (1) The Commission may authorise—
- (a) any of its members, or
  - (b) any of its committees or sub-committees,
- to perform such of its functions (and to such extent) as it may determine.
- (2) The giving of authority under sub-paragraph (1) does not—
- (a) affect the Commission's responsibility for the performance of the function, or
  - (b) prevent the Commission from performing the function itself.

#### *Validity of things done*

- 8 The validity of anything done by the Commission, its committees or sub-committees is not affected by—
- (a) a vacancy in its membership,
  - (b) a defect in the appointment of a member,
  - (c) the disqualification of a person as a member after appointment.

## CHAPTER 4

### FINANCE

#### *Remuneration and expenses of members*

- 9 (1) The Commission's members are entitled to be paid by the Scottish Ministers such—
- (a) remuneration, and
  - (b) sums in respect of expenses incurred in performing their functions as members of the Commission,
- as the Ministers determine.
- (2) In sub-paragraph (1)—
- (a) the reference to the Commission's members includes a person who is not a member of the Commission but is a member of one of the Commission's committees or sub-committees, and
  - (b) the reference to performing functions as a member of the Commission, in the case of a person described in paragraph (a), is to be read as though it were a reference to performing the person's functions as a member of the committee or (as the case may be) sub-committee.

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### *Expenses of non-members*

- 10 (1) A person who attends a meeting of the Commission at its request is entitled to be paid by the Scottish Ministers such travelling and other allowances (including compensation for loss of time) as the Ministers determine.
- (2) In sub-paragraph (1) the reference to the Commission includes any of its committees or sub-committees.

### *Resources*

- 11 The Scottish Ministers are to provide the Commission with such staff and other resources as it requires to carry out its functions.

### *Accounts and audit*

- 12 (1) The Commission must—
- (a) keep proper accounts and accounting records,
  - (b) prepare in respect of each financial year a statement of accounts, and
  - (c) send a copy of the statement to the Auditor General for Scotland for auditing.
- (2) The Commission must comply with any directions which the Scottish Ministers give it in relation to the matters mentioned in sub-paragraph (1)(a) and (b).

## **CHAPTER 5**

### **MEMBERSHIP OF THE COMMISSION**

#### *Number of members*

- 13 (1) The Commission is to consist of—
- (a) a member to chair the Commission, and
  - (b) at least 2 but no more than 4 other members.
- (2) The Scottish Ministers may by regulations amend sub-paragraph (1)(b) by substituting a different number for any number for the time being specified there.

#### *Appointment of members*

- 14 (1) The Scottish Ministers are to appoint the Commission's members.
- (2) The Scottish Ministers may not appoint a person who is disqualified from being a member (see paragraph 17).
- (3) When appointing members the Scottish Ministers must have regard to the desirability of—
- (a) securing that the Commission (taken as a whole) has experience in or knowledge of—
    - (i) the formulation, implementation and evaluation of social security policies in Scotland and elsewhere in the United Kingdom,
    - (ii) research in connection with social security, and
    - (iii) the effect of disability, arising from a physical or mental impairment, on daily life,
  - (b) having a member with personal experience of having a disability arising from a physical or mental impairment, and

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- (c) having as members people who have not previously been members.

### *Tenure and other terms and conditions*

- 15 (1) A person's membership of the Commission continues until the end of the period of appointment (subject to paragraph 16(1) and (2)).
  - (2) In sub-paragraph (1), "the period of appointment" means the period specified by the Scottish Ministers on appointing the person as a member.
  - (3) The Scottish Ministers may not specify a period of appointment that is longer than 4 years, beginning with the day that the appointment takes effect.
  - (4) Nothing in this paragraph prevents a person from being a member of the Commission for two or more consecutive periods of appointment.
  - (5) The Scottish Ministers may determine other terms and conditions of membership, in relation to matters not covered by this schedule.

### *Early termination*

- 16 (1) A member of the Commission may resign by giving notice in writing to the Scottish Ministers.
  - (2) A person's membership of the Commission ends if—
    - (a) the person becomes disqualified from being a member (see paragraph 17), or
    - (b) the Scottish Ministers give the person written notice that the person is removed from the Commission.
  - (3) The Scottish Ministers may remove a member of the Commission by virtue of sub-paragraph (2)(b) only if they consider that the member is—
    - (a) unfit to continue to be a member, or
    - (b) unable to perform the member's functions.

### *Disqualification grounds*

- 17 (1) A person is disqualified from being a member of the Commission if sub-paragraph (2) or (3) applies to the person.
  - (2) This sub-paragraph applies to a person who is—
    - (a) a member of the—
      - (i) Scottish Parliament,
      - (ii) House of Commons,
      - (iii) National Assembly for Wales,
      - (iv) Northern Ireland Assembly, or
      - (v) European Parliament,
    - (b) a councillor of any local authority,
    - (c) a member of the Scottish Government,
    - (d) a Minister of the Crown,
    - (e) an office-holder of the Crown in right of Her Majesty's Government in the United Kingdom,
    - (f) an office-holder in the Scottish Administration,

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- (g) a civil servant.
- (3) This sub-paragraph applies to a person (subject to sub-paragraph (4)) who is or has been—
  - (a) disqualified as a company director under the Company Directors Disqualification Act 1986,
  - (b) disqualified as a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005,
  - (c) the subject of a disqualification under a disqualification provision analogous to either of those mentioned in paragraph (a) or (b) anywhere in the world.
- (4) Sub-paragraph (3) does not apply to a person who is or has been disqualified as mentioned in that sub-paragraph only by—
  - (a) section 11 of the Company Directors Disqualification Act 1986 (undischarged bankrupts),
  - (b) section 69(2)(b) of the Charities and Trustee Investment (Scotland) Act 2005 (which disqualifies undischarged bankrupts from being charity trustees), or
  - (c) a provision analogous to either of those mentioned in paragraph (a) or (b) anywhere in the world.

### PART 2

#### APPLICATION OF LEGISLATION RELATING TO PUBLIC BODIES

##### *Ethical Standards in Public Life etc. (Scotland) Act 2000*

- 18 In schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, after the entry relating to the Scottish Children’s Reporter Administration insert—  
“The Scottish Commission on Social Security”.

##### *Freedom of Information (Scotland) Act 2002*

- 19 In schedule 1 of the Freedom of Information (Scotland) Act 2002, after paragraph 80B insert—  
“80C The Scottish Commission on Social Security.”.

##### *Public Appointments and Public Bodies etc. (Scotland) Act 2003*

- 20 In schedule 2 of the Public Appointments and Public Bodies etc. (Scotland) Act 2003, under the heading “Other Public Bodies”, in the appropriate place alphabetically, insert—  
“Scottish Commission on Social Security”.

##### *Public Services Reform (Scotland) Act 2010*

- 21 In schedule 5 of the Public Services Reform (Scotland) Act 2010, after the entry relating to the Scottish Commission for Human Rights insert—  
“The Scottish Commission on Social Security”.>

### **Jeremy Balfour**

- 16A** As an amendment to amendment 16, line 150, at end insert—

<( ) House of Lords,>

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### Jeremy Balfour

**16B** As an amendment to amendment 16, line 160, at end insert—

- <( ) a member of the—
- (i) First-tier Tribunal,
  - (ii) Upper Tribunal.>

### Jeane Freeman

**118** After section 6, insert—

#### <Commission functions

- (1) The Scottish Commission on Social Security has the following functions—
  - (a) to scrutinise legislative proposals in accordance with section (*Further procedure for regulations about assistance*),
  - (b) to prepare and submit to the Scottish Ministers a report on any matter, relevant to social security, that the Ministers request the Commission to report on,
  - (c) to prepare and submit to the Scottish Parliament a report on any matter, relevant to social security, that the Commission is requested to report on by the Parliament after the Parliament has resolved that the request should be made,
  - (d) to prepare and submit to the Ministers and the Parliament, from time to time, a report containing—
    - (i) an assessment of the extent to which any or all of the expectations set out in the Scottish social security charter are being fulfilled, and
    - (ii) recommendations for improvement where the assessment is that those expectations are not being fulfilled,
  - (e) any functions the Ministers confer on the Commission by regulations.
- (2) In performing any of the functions mentioned in subsection (1), the Commission may have regard to any relevant international human rights instruments (see also section (*Further procedure for regulations about assistance*)(4)).
- (3) The Commission must make publicly available by such means as it considers appropriate any report that it prepares in pursuance of a function mentioned in subsection (1).
- (4) The Commission must consider preparing a report under subsection (1)(d) if it receives evidence which suggests that expectations set out in the charter are frequently not being fulfilled.
- (5) In subsection (2), “international human rights instruments”—
  - (a) means any international convention, treaty or other international instrument ratified by the United Kingdom, subject to—
    - (i) any amendments in force in relation to the United Kingdom for the time being, and
    - (ii) any reservations, objections or interpretative declarations by the United Kingdom for the time being in force, and

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- (b) includes, in particular, the International Covenant on Economic, Social and Cultural Rights adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.>

### **Jeane Freeman**

- 49 In section 55, page 21, line 25, after <procedure:> insert <section (*Commission functions*)(1)(e),>

### **Jeane Freeman**

- 53 In section 55, page 21, line 28, after <24(5)> insert <and paragraphs 4(2)(c) and 13(2) of schedule (*Scottish Commission on Social Security*)>

### **Jeane Freeman**

- 54 In section 55, page 21, line 32, at end insert—  
<( ) Regulations under section (*Commission functions*)(1)(e), which modify the functions of the Scottish Commission on Social Security, may not be made after the Commission is established unless the Scottish Ministers have consulted the Commission about the modification.>

## **Creation of new benefits**

### **Adam Tomkins**

- 119 In section 7, page 3, line 24, at end insert—  
<( ) by virtue of regulations made under section (*Power to create new benefits*), and>

### **Adam Tomkins**

- 63 In section 7, page 3, line 25, at end insert <and  
( ) under any enactment which contains provision exercising the power provided for in section 28 of the Scotland Act 2016 to create new benefits.>

### **Adam Tomkins**

- 121 In section 8, page 3, line 32, after <in> insert <—  
(a)>

### **Adam Tomkins**

- 122 In section 8, page 3, line 32, after <2> insert <, and  
(b) regulations made under section (*Power to create new benefits*),>

### **Adam Tomkins**

- 123 After section 18, insert—

## <CHAPTER

## NEW BENEFITS

### **Power to create new benefits**

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- (1) The Scottish Ministers may by regulations make further provision for a scheme which provides assistance for social security purposes to be given to or in respect of individuals providing that the conditions in subsection (2) are met.
- (2) The conditions are that the scheme—
  - (a) is supported from sums paid out of the Scottish Consolidated Fund,
  - (b) does not fall within exceptions 1 to 9 of Section F1 of Part 2 of schedule 5 of the Scotland Act 1998, and
  - (c) is not connected with reserved matters.
- (3) In subsection (2)(a), the reference to a scheme “supported from sums paid out of the Scottish Consolidated Fund” does not include a scheme—
  - (a) in respect of which sums are at some time paid out of the Scottish Consolidated Fund, but
  - (b) which is directly supported from payments out of the Consolidated Fund, the National Insurance Fund or the Social Fund, or out of money provided by Parliament.
- (4) In this section, “reserved matters” means matters falling within schedule 5 of the Scotland Act 1998.>

### Adam Tomkins

124 After section 18, insert—

#### <Restrictions on power

- (1) Regulations under section (*Power to create new benefits*) may not provide for assistance to be given by way of pensions to or in respect of individuals who qualify by reason of old age.
- (2) Regulations under section (*Power to create new benefits*) may not provide for assistance to be given where the need for it arises solely from reduction, non-payability or suspension of a reserved benefit as a result of an individual’s conduct (for example, non-compliance with work-related requirements relating to the benefit).
- (3) But subsection (2) does not prevent assistance from being given where the need for the assistance in question—
  - (a) also arises from some exceptional event or exceptional circumstances, and
  - (b) is immediate.
- (4) In this section, “reserved benefit” means a benefit which is to any extent a reserved matter within the meaning of schedule 5 of the Scotland Act 1998.>

### Adam Tomkins

125 In section 19, page 7, line 24, after <2> insert <or prescribed in regulations made under section (*Power to create new benefits*)>

### Adam Tomkins

130 In section 55, page 21, line 25, after <sections> insert <(Power to create new benefits),>

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### Definition of “Scottish social security system”

**Mark Griffin**

**120** In section 7, page 3, line 25, at end insert—

- <( ) under Part 4,
- ( ) by virtue of provision by the Scottish Ministers—
  - (i) under section 29 of the Scotland Act 2016,
  - (ii) under section 30 of the Scotland Act 2016,
- ( ) under sections 53 and 54 of the Education (Scotland) Act 1980,
- ( ) by virtue of regulations made under section 73(f) of the Education (Scotland) Act 1980 to make provision for the payment of allowances or loans to or in respect of persons undertaking, or who have undertaken, courses of education,
- ( ) by virtue of regulations made under section 80 of the Local Government Finance Act 1992,
- ( ) under section 47 of the Children and Young People (Scotland) Act 2014, and
- ( ) under section 2 of the Welfare Funds (Scotland) Act 2015.>

### Scottish Social Security Agency

**Pauline McNeill**

**149** After section 7, insert—

#### <PART

#### SCOTTISH SOCIAL SECURITY AGENCY

##### **Scottish Social Security Agency**

- (1) The Scottish Social Security Agency is established.
- (2) The Agency is to carry out the functions related to social security conferred on the Scottish Ministers by this Act and any other enactment.
- (3) The Agency must, in exercising its functions under this Act and any other enactment, have regard to the Scottish social security principles.
- (4) The Scottish Ministers may by regulations make provision about—
  - (a) the functions of the Agency,
  - (b) the status and structure of the Agency,
  - (c) any such further provision as the Scottish Ministers may consider necessary and expedient to establish the Agency,
  - (d) any such further provision as the Scottish Ministers may consider necessary and expedient to support the management and operation of the Agency.
- (5) The Agency must, as soon as practicable after the end of each financial year—
  - (a) prepare and publish a report on its activities during the year,
  - (b) lay the report before the Scottish Parliament, and

**THIS IS NOT THE MARSHALLED LIST**

(c) send the report to the Scottish Ministers.>

**Pauline McNeill**

**151** In section 55, page 21, line 25, after <procedure:> insert <section (*Scottish Social Security Agency*),>

**Residence conditions**

**Jeremy Balfour**

**64** Before section 8, insert—

<CHAPTER  
RESIDENCE CONDITIONS

**Residence conditions**

- (1) An individual is not entitled to assistance of a type described in Chapter 2 unless the individual meets the conditions relating to residence and presence.
- (2) The conditions mentioned in subsection (1) are that on the day on which an individual applies for assistance, the individual—
  - (a) is present in Scotland,
  - (b) has been present in Scotland for a period of, or periods amounting in aggregate to, not less than 104 weeks out of the 156 weeks immediately preceding that day, and
  - (c) is habitually resident in Scotland.
- (3) The Scottish Ministers may by regulations make further provision about the conditions mentioned in subsection (1).
- (4) Regulations under subsection (3) may in particular make provision for transitional arrangements where an individual receiving assistance is moving to another part of the United Kingdom.>

**Jeremy Balfour**

**65** In schedule 1, page 24, line 17, leave out from <either> to end of line 18

**Jeremy Balfour**

**66** In schedule 3, page 28, line 7, leave out paragraph 1

**Jeremy Balfour**

**70** In schedule 4, page 30, line 20, leave out paragraph 4

**Jeremy Balfour**

**71** In schedule 5, page 33, line 8, leave out paragraph 3

**Jeremy Balfour**

**72** In schedule 6, page 35, line 2, leave out paragraph 5

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### **Jeremy Balfour**

73 In schedule 7, page 37, line 27, leave out from <either> to end of line 28

### **Jeremy Balfour**

153A As an amendment to amendment 153, line 68, leave out paragraph 4

### **Jeremy Balfour**

76 In section 55, page 21, line 25, after <procedure:> insert <section (*Residence conditions*),>

## **Determination by supreme court**

### **Jeane Freeman**

19 In section 9, page 4, line 15, at end insert <or

( ) by the Supreme Court of the United Kingdom—

- (i) in an appeal under section 40 of the Court of Session Act 1988 against a decision of the Court of Session, or
- (ii) on a reference made by the Court of Session under schedule 6 of the Scotland Act 1998.>

## **More than one cared-for person**

### **Alison Johnstone**

173 In section 11, page 4, line 31, leave out <another individual who has> and insert <one or more other individuals who have>

### **Alison Johnstone**

174 In schedule 1, page 23, line 10, leave out <another individual> and insert <one or more other individuals>

### **Alison Johnstone**

175 In schedule 1, page 23, line 14, leave out <another individual> and insert <one or more other individuals>

### **Alison Johnstone**

176 In schedule 1, page 23, line 17, at end insert—

<( ) Where regulations make reference to a specified number of hours of care provided in determining whether an individual has provided regular and substantial care as described in sub-paragraph (2)(b), the regulations must provide that where an individual is caring for more than one other individual, in calculating the number of hours of care provided, account must be taken of the total number of hours of care provided to both or all of the individuals (as the case may be).>

## THIS IS NOT THE MARSHALLED LIST

### **Alison Johnstone**

- 177 In schedule 1, page 23, line 26, leave out <another individual who has> and insert <one or more individuals who have>

### **Alison Johnstone**

- 178 In schedule 1, page 24, line 15, after <person> insert <or persons>

### **Alison Johnstone**

- 179 In schedule 1, page 24, line 19, after <person> insert <or persons>

### **Alison Johnstone**

- 180 In schedule 1, page 24, line 25, after <person> insert <or persons>

### **Alison Johnstone**

- 181 In schedule 1, page 25, line 9, at end insert—

**<CHAPTER**

VALUE

The regulations may make the value of the carer's assistance that is to be given to an individual depend on the number of individuals to whom the individual is providing care.>

### **Alison Johnstone**

- 183 In schedule 1, page 25, line 26, leave out first <the> and insert <an>

## **Form of assistance**

### **Jeane Freeman**

- 20 In schedule 1, page 25, line 16, at end insert—

*<Restriction on giving assistance in a form other than money*

- (1) The regulations may allow carer's assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given carer's assistance in a form other than money at any time.
- (3) Despite sub-paragraph (1), the regulations may provide for carer's assistance to be given (in whole or in part) by way of deduction, at a reasonable level, from any liability the individual has to the Scottish Ministers under section 36 if the individual has unreasonably refused to agree to the assistance being given in that form.
- (4) For the purpose of sub-paragraph (3), "reasonable level" means a level that is reasonable having regard to the financial circumstances of the individual.>

**THIS IS NOT THE MARSHALLED LIST**

**Mark Griffin**

**20A** As an amendment to amendment 20, line 2, at end insert—

<( ) Subject to sub-paragraphs (1) and (3), the regulations must provide for carer's assistance to be given in money.>

**Mark Griffin**

**20B** As an amendment to amendment 20, line 4, after <behalf> insert <—

(a) has first been offered the assistance in money, and

(b)>

**Mark Griffin**

**20C** As amendment to amendment 20, line 5, leave out <that> and insert <another>

**Jeane Freeman**

**21** In schedule 1, page 25, line 22, at the beginning insert <paragraph 10 in>

**Jeane Freeman**

**22** In schedule 2, page 27, line 22, at end insert—

*<Restriction on giving assistance in a form other than money*

(1) The regulations may allow cold-spell heating assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.

(2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given cold-spell heating assistance in a form other than money at any time.>

**Mark Griffin**

**22A** As an amendment to amendment 22, line 2, at end insert—

<( ) Subject to sub-paragraph (1), the regulations must provide for cold-spell heating assistance to be given in money.>

**Mark Griffin**

**22B** As an amendment to amendment 22, line 5, after <behalf> insert <—

(a) has first been offered the assistance in money, and

(b)>

**Mark Griffin**

**22C** As amendment to amendment 22, line 5, leave out <that> and insert <another>

**Jeane Freeman**

**23** In schedule 2, page 27, line 28, at the beginning insert <paragraph 8 in>

## THIS IS NOT THE MARSHALLED LIST

### Jeane Freeman

24 In schedule 3, page 29, line 11, at end insert—

*<Restriction on giving assistance in a form other than money*

6A(1) The regulations may allow winter heating assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.

(2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given winter heating assistance in a form other than money at any time.>

### Mark Griffin

24A As an amendment to amendment 24, line 2, at end insert—

<( ) Subject to sub-paragraph (1), the regulations must provide for winter heating assistance to be given in money.>

### Mark Griffin

24B As an amendment to amendment 24, line 5, after <behalf> insert <—

(a) has first been offered the assistance in money, and

(b)>

### Mark Griffin

24C As amendment to amendment 24, line 5, leave out <that> and insert <another>

### Jeane Freeman

25 In schedule 3, page 29, line 15, after <schedule> insert <, apart from paragraph 6A,>

### Jeane Freeman

26 In schedule 4, page 31, line 26, at end insert—

*<Restriction on giving assistance in a form other than money*

11A(1) The regulations may allow disability assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.

(2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given disability assistance in a form other than money at any time.

(3) Despite sub-paragraph (1), the regulations may provide for disability assistance to be given (in whole or in part) by way of deduction, at a reasonable level, from any liability the individual has to the Scottish Ministers under section 36 if the individual has unreasonably refused to agree to the assistance being given in that form.

(4) For the purpose of sub-paragraph (3), “reasonable level” means a level that is reasonable having regard to the financial circumstances of the individual.>

### Mark Griffin

26A As an amendment to amendment 26, line 2, at end insert—

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<( ) Subject to sub-paragraphs (1) and (3), the regulations must provide for disability assistance to be given in money.>

**Mark Griffin**

**26B** As an amendment to amendment 26, line 4, after <behalf> insert <—

(a) has first been offered the assistance in money, and

(b)>

**Mark Griffin**

**26C** As amendment to amendment 26, line 5, leave out <that> and insert <another>

**Jeane Freeman**

**27** In schedule 4, page 32, line 8, leave out <paragraph> and insert <paragraphs 11A and>

**Jeane Freeman**

**28** In schedule 5, page 33, line 24, at end insert—

**<PART**

**ASSISTANCE TO BE GIVEN**

*Restriction on giving assistance in a form other than money*

(1) The regulations may allow early years assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.

(2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given early years assistance in a form other than money at any time.>

**Mark Griffin**

**28A** As an amendment to amendment 28, line 4, at end insert—

<( ) Subject to sub-paragraph (1), the regulations must provide for early years assistance to be given in money.>

**Mark Griffin**

**28B** As an amendment to amendment 28, line 6, after <behalf> insert <—

(a) has first been offered the assistance in money, and

(b)>

**Mark Griffin**

**28C** As amendment to amendment 28, line 7, leave out <that> and insert <another>

**Jeane Freeman**

## THIS IS NOT THE MARSHALLED LIST

**29** In schedule 6, page 36, line 9, at end insert—

*<Restriction on giving assistance in a form other than money*

12A(1) The regulations may allow employment-injury assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.

(2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given employment-injury assistance in a form other than money at any time.

(3) Despite sub-paragraph (1), the regulations may provide for employment-injury assistance to be given (in whole or in part) by way of deduction, at a reasonable level, from any liability the individual has to the Scottish Ministers under section 36 if the individual has unreasonably refused to agree to the assistance being given in that form.

(4) For the purpose of sub-paragraph (3), "reasonable level" means a level that is reasonable having regard to the financial circumstances of the individual.>

**Mark Griffin**

**29A** As an amendment to amendment 29, line 2, at end insert—

<( ) Subject to sub-paragraphs (1) and (3), the regulations must provide for employment-injury assistance to be given in money.>

**Mark Griffin**

**29B** As an amendment to amendment 29, line 5, after <behalf> insert <—

(a) has first been offered the assistance in money, and

(b)>

**Mark Griffin**

**29C** As amendment to amendment 29, line 5, leave out <that> and insert <another>

**Jeane Freeman**

**30** In schedule 6, page 36, line 27, leave out <paragraph> and insert <paragraphs 12A and>

**Jeane Freeman**

**31** In schedule 7, page 38, line 25, at end insert—

*<Restriction on giving assistance in a form other than money*

12A(1) The regulations may allow funeral expense assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.

(2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given funeral expense assistance in a form other than money at any time.>

**Mark Griffin**

**31A** As an amendment to amendment 31, line 2, at end insert—

## THIS IS NOT THE MARSHALLED LIST

<( ) Subject to sub-paragraph (1), the regulations must provide for funeral expense assistance to be given in money.>

### Mark Griffin

- 31B** As an amendment to amendment 31, line 5, after <behalf> insert <—  
(a) has first been offered the assistance in money, and  
(b)>

### Mark Griffin

- 31C** As amendment to amendment 31, line 5, leave out <that> and insert <another>

### Jeane Freeman

- 32** In schedule 7, page 38, line 31, after <2> insert <(apart from paragraph 12A)>

## Terminal illness

### Mark Griffin

- 182** In schedule 1, page 25, line 16, at end insert—

*<Payment where cared-for person has a terminal illness*

The regulations may provide for the carer's assistance that is to be given to an individual to be given by way of a particular payment arrangement where the individual's entitlement arises on account of the cared-for person having a terminal illness.>

### Jeremy Balfour

- 67** In section 14, page 5, line 24, at end insert—

<( ) For the purposes of this section and schedule 4, a person is “terminally ill” at any time if at that time the person suffers from a progressive disease and the person's death in consequence of that disease can reasonably be expected within 2 years.>

### Jeremy Balfour

- 68** In schedule 4, page 30, leave out lines 3 and 4

### Jeremy Balfour

- 69** In schedule 4, page 30, line 11, at end insert—

<( ) The regulations may provide that—

- (a) where an individual's eligibility depends on the individual having a terminal illness under paragraph 1(1)(b), and
- (b) at the end of a period of 3 years beginning with the day on which the individual applied for such assistance, the individual is still living,

the Scottish Ministers must review the individual's entitlement to assistance under paragraph 1(1)(b).>

## THIS IS NOT THE MARSHALLED LIST

### Mark Griffin

189 In schedule 4, page 32, line 2, at end insert—

*<Payment where individual has a terminal illness*

The regulations may provide for the disability assistance that is to be given to an individual to be given by way of a particular payment arrangement where the individual's entitlement arises on account of the individual having a terminal illness.>

### Mark Griffin

191 After section 35, insert—

#### **<Determination: individuals having a terminal illness**

- (1) The Scottish Ministers must by regulations make provision about the determination of an application for assistance under section 8 where an individual has applied for—
  - (a) disability assistance on account of the individual having a terminal illness,
  - (b) carer's assistance on account of the cared-for person applying for disability assistance on account of having a terminal illness.
- (2) Regulations may in particular make provision about—
  - (a) the form in which an application for assistance is to be made,
  - (b) the period within which—
    - (i) a determination,
    - (ii) a re-determination,of an individual's entitlement to assistance is to be made,
  - (c) any assessment that the individual or the cared-for person (as the case may be) may be required to undergo.>

### Mark Griffin

192 In section 55, page 21, line 25, after <35,> insert *<(Determination: individuals having a terminal illness),>*

### Means-testing

#### Mark Griffin

184 In schedule 3, page 28, line 15, at beginning insert <Subject to paragraph 4,>

#### Mark Griffin

185 In schedule 3, page 28, line 15, leave out <may> and insert <must not>

#### Mark Griffin

186 In schedule 3, page 29, line 8, at end insert—

*<Financial circumstances*

6ZA Subject to paragraph 6ZB, the regulations must not make the value of the winter heating assistance that is to be given to an individual depend on>

**THIS IS NOT THE MARSHALLED LIST**

**Mark Griffin**

**187** In schedule 3, page 29, line 11, at end insert—

*<Receipt of, or eligibility for, other types of State assistance*

6ZB The regulations may make the value of assistance depend on either or both the individual and anyone who lives with the individual—

(a) being, or not being, in receipt of another type of assistance (whether under this Act or another enactment),

(b) being, or not being, eligible to receive such assistance.>

**Mark Griffin**

**25A** As an amendment to amendment 25, leave out <paragraph> and insert <paragraphs 3, 6ZA and>

**Mark Griffin**

**188** In schedule 4, page 30, line 23, at end insert—

*<Financial circumstances*

5A Subject to paragraph 6, the regulations must not make an individual's eligibility depend on the financial circumstances of either or both—

(a) the individual, and

(b) anyone who lives with the individual.>

**Mark Griffin**

**27A** As an amendment to amendment 27, after <paragraphs> insert <5A,>

**Mark Griffin**

**190** In schedule 6, page 35, line 7, leave out paragraph 7 and insert—

<7A Subject to paragraph 8, the regulations must not make an individual's eligibility depend on the financial circumstances of either or both—

(a) the individual, and

(b) anyone who lives with the individual.>

**Mark Griffin**

**30A** As an amendment to amendment 30, after <paragraphs> insert <7A,>

**Equal consideration of different impairments**

**Mark Griffin**

**166** In schedule 4, page 30, line 11, at end insert—

**<CHAPTER**

**EQUAL CONSIDERATION TO BE GIVEN TO EFFECTS OF DIFFERENT IMPAIRMENTS**

(1) The regulations must be framed so as to provide that eligibility depends solely on the effect that an individual's impairment has on—

## THIS IS NOT THE MARSHALLED LIST

- (a) the individual's ability to carry out normal day-to-day activities, or
  - (b) whether the individual has a significant and not short-term need.
- (2) The regulations must not be framed in any way that differentiates (whether in terms of eligibility for assistance, value of assistance or any other matter) between individuals on the basis of whether their impairment is physical or mental.>

### Housing assistance

#### Jeane Freeman

152 After section 17, insert—

#### <Housing assistance

- (1) Housing assistance is assistance (which may or may not take the form of money) given by the Scottish Ministers under section 8 to an individual to meet, or help towards meeting, housing costs.
- (2) The Scottish Ministers are to make regulations prescribing—
  - (a) the eligibility rules that are to be applied to determine whether an individual is entitled to housing assistance, and
  - (b) what housing assistance an individual who is entitled to it is to be given.
- (3) Schedule (*Housing assistance regulations*) makes provision about the exercise of the power conferred by subsection (2).>

#### Jeane Freeman

153 After schedule 7, insert—

#### <SCHEDULE

(*introduced by section (Housing assistance)*)

#### HOUSING ASSISTANCE REGULATIONS

#### PART 1

#### ELIGIBILITY

#### CHAPTER 1

ELIGIBILITY IS TO DEPEND ON BEING TREATED IN CERTAIN WAYS UNDER THE WELFARE REFORM ACT 2012 OR OTHERWISE NEEDING ASSISTANCE WITH HOUSING COSTS

- 1 (1) The regulations must be framed so that (subject to any provision of the kind described in paragraph 2) an individual's eligibility in respect of a given period depends on meeting the conditions described in either—
  - (a) sub-paragraph (2), or
  - (b) sub-paragraph (3).
- (2) The conditions referred to in sub-paragraph (1)(a) are—
  - (a) the individual is entitled to an award of universal credit in respect of the period in question,

## **THIS IS NOT THE MARSHALLED LIST**

- (b) an amount under section 11 of the Welfare Reform Act 2012 (housing costs) is to be included in the calculation of that award,
  - (c) the amount relates to the individual's liability to make payments in respect of accommodation in the social rented sector other than temporary accommodation,
  - (d) were it not for regulations made by the Scottish Ministers by virtue of section 29(2) of the Scotland Act 2016, the amount would be lower on account of its being reduced due to the number of bedrooms in the property that the individual lives in,
  - (e) as a result of being entitled to more than would otherwise be the case because of the regulations referred to in paragraph (d), the value of the assistance to which the individual is entitled under an enactment is reduced in accordance with regulations under section 96 of the Welfare Reform Act 2012 (benefit cap).
- (3) The conditions referred to in sub-paragraph (1)(b) are—
- (a) the individual is entitled to an award of universal credit in respect of the period in question,
  - (b) during that period, the individual is—
    - (i) 18 years of age or over, but
    - (ii) not more than 21 years of age,
  - (c) no amount under section 11 of the Welfare Reform Act 2012 is to be included in the calculation of the award, and
  - (d) an amount under that section would fall to be included in the calculation if the individual were older.
- (4) The regulations are to define “accommodation in the social rented sector” and “temporary accommodation” for the purpose of determining entitlement to housing assistance under provision made in accordance with paragraph 1(2).
- 2 (1) The regulations may be framed so that, despite the conditions described in paragraph 1 not being met in relation to a given period, an individual may nevertheless be eligible in respect of that period.
- (2) Where the regulations allow an individual to be eligible in respect of a period in relation to which the conditions described in paragraph 1 are not met, they must be framed so that the individual's eligibility depends on the individual needing assistance to meet housing costs in a connection with a property that is not owned (wholly or partly) by the individual.
- (3) For the purpose of sub-paragraph (2), an individual is not an owner of property if, in relation to the property, the individual is party to a shared ownership agreement within the meaning of section 83(3) of the Housing (Scotland) Act 2001.
- (4) If provision of the kind described in this paragraph is made, the regulations are to set out, for the purpose of determining entitlement to housing assistance—
- (a) a definition of “housing costs”,
  - (b) the circumstances in which an individual is to be regarded as needing assistance to meet housing costs.

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## CHAPTER 2

### FURTHER CRITERIA

#### *Participation in education*

- 3 The regulations may make an individual's eligibility depend on—
- (a) whether or not the individual, or anyone who lives with the individual, is in education, and
  - (b) the length of time the individual, or someone who lives with the individual, spends over a given period in education.

#### *Residence and presence*

- 4 The regulations may make an individual's eligibility depend on the individual being resident and present in a particular place.

#### *Age*

- 5 The regulations may make an individual's eligibility depend on the age of either or both—
- (a) the individual, and
  - (b) anyone who lives with the individual.

#### *Financial circumstances*

- 6 The regulations may make an individual's eligibility depend on the financial circumstances of either or both—
- (a) the individual, and
  - (b) anyone who lives with the individual.

#### *Receipt of, or eligibility for, other types of State assistance*

- 7 The regulations may make an individual's eligibility depend on either or both the individual and anyone who lives with the individual—
- (a) being, or not being, in receipt of another type of assistance (whether under this Act or another enactment),
  - (b) being, or not being, eligible or entitled to receive such assistance.

#### *Application within specified period*

- 8 The regulations may provide that an individual ceases to be eligible in respect of a given period unless, by a deadline specified in the regulations—
- (a) the individual has applied for housing assistance in respect of the period, or
  - (b) the Scottish Ministers have become required to make a determination of the individual's entitlement to housing assistance in respect of the period by regulations under section 35.

## PART 2

### ASSISTANCE TO BE GIVEN

## CHAPTER 1

### VALUE

#### *Cases where paragraph 1(2) conditions met*

## **THIS IS NOT THE MARSHALLED LIST**

- 9 (1) The regulations must provide for the value of housing assistance to be given in a case to which this paragraph applies to be the amount described in sub-paragraph (3).
- (2) This paragraph applies to a case in which an individual is entitled to housing assistance in respect of a given period by virtue of meeting the conditions described in paragraph 1(2).
- (3) The amount referred to in sub-paragraph (1) is the lower of—
- (a) the difference between—
    - (i) the amount under section 11 of the Welfare Reform Act 2012 included in the calculation of the individual's universal credit award for the period in question, and
    - (ii) the amount that would have been included under that section in the calculation were it not for the regulations referred to in paragraph 1(2)(c), or
  - (b) the amount by which the value of the assistance to which the individual is entitled from the Secretary of State in respect of the period in question is reduced in accordance with regulations under section 96 of the Welfare Reform Act 2012.

### *Cases where paragraph 1(2) conditions not met*

- 10 In a case to which paragraph 9 does not apply, the regulations may make the value of housing assistance that is to be given to an individual depend on—
- (a) the age of either or both—
    - (i) the individual, and
    - (ii) anyone who lives with the individual,
  - (b) the financial circumstances of either or both—
    - (i) the individual, and
    - (ii) anyone who lives with the individual.

## **CHAPTER 2**

### FORM

### *Meeting liabilities*

- 11 The regulations may provide for housing assistance that is to be given to an individual to be given (in whole or in part) by way of—
- (a) payment to another person in order to meet, or contribute towards meeting, any liability the individual has to that person,
  - (b) deduction from any liability the individual has to the Scottish Ministers under section 36.

### *Restriction on giving assistance in a form other than money*

- 12 (1) The regulations may allow housing assistance to be given to an individual in a form other than money only if the individual (or a person acting on the individual's behalf) has agreed to the assistance being given in that form.
- (2) If the regulations include provision of the kind mentioned in sub-paragraph (1), they must allow an individual (or a person acting on the individual's behalf) to withdraw agreement to being given housing assistance in a form other than money at any time.

## THIS IS NOT THE MARSHALLED LIST

- (3) Despite sub-paragraph (1), the regulations may provide for housing assistance to be given (in whole or in part) by way of deduction, at a reasonable level, from any liability the individual has to the Scottish Ministers under section 36 if the individual has unreasonably refused to agree to the assistance being given in that form.
- (4) For the purpose of sub-paragraph (3), “reasonable level” means a level that is reasonable having regard to the financial circumstances of the individual.

### PART 3

#### FINAL PROVISIONS

##### *Generality of enabling power unaffected*

- 13 Nothing in this schedule, apart from the following provisions, is to be taken to limit what may be prescribed in the regulations—
- (a) Chapter 1 of Part 1,
  - (b) in Part 2, paragraphs 9 and 12.

##### *Interpretation*

- 14 In this schedule (unless stated otherwise)—
- “eligibility” means eligibility for housing assistance and “eligible” means eligible for housing assistance,
- “the regulations” means regulations under section (*Housing assistance*)(2).>

##### **Jeane Freeman**

- 161 After section 48, insert—

##### **<Agency arrangements for housing assistance**

- (1) The Scottish Ministers may by regulations provide for the functions conferred on them by virtue of Part 2 to be exercised on their behalf by local authorities, but only in relation to housing assistance.
- (2) Regulations under this section may in particular—
  - (a) specify the functions that local authorities are to exercise on the Scottish Ministers’ behalf,
  - (b) make provision identifying the persons in relation to whom a local authority is to exercise those functions, and
  - (c) provide for any enactment (including this Act) to apply subject to such modifications as the Ministers consider appropriate in consequence of functions falling to be exercised by a local authority on the Ministers’ behalf.
- (3) Regulations under this section do not affect the Scottish Ministers’ responsibility for the exercise of their functions.
- (4) In subsection (1), “functions” does not include regulation-making functions.>

**THIS IS NOT THE MARSHALLED LIST**

**Jeane Freeman**

- 165 In section 55, page 21, line 25, after <48> insert <, (*Agency arrangements for housing assistance*)>

**Short-term assistance**

**Section 18**

**Jeane Freeman**

- 154 In section 18, page 6, line 29, leave out subsections (3) to (5) and insert—  
<( ) Schedule (*Short-term assistance regulations*) makes provision about the exercise of the power conferred by subsection (2).>

**Jeane Freeman**

- 155 After schedule 7, insert—

<SCHEDULE  
(*introduced by section 18*)  
SHORT-TERM ASSISTANCE REGULATIONS

**PART 1**

ELIGIBILITY

*Entitlement to other assistance being reviewed*

- 1 (1) The regulations must be framed so that an individual is eligible for short-term assistance if—
- (a) the individual is, or was, entitled to a particular type of assistance (other than short-term assistance) under a determination made on the basis that the individual has ongoing entitlement,
  - (b) that determination has been superseded by a determination under section 19 with the result that the individual—
    - (i) is no longer entitled to the type of assistance in question, or
    - (ii) is entitled to less assistance of the type in question,
  - (c) the individual's entitlement to the type of assistance in question is under review, and
  - (d) any further eligibility rules prescribed in the regulations are satisfied in the individual's case.
- (2) An individual's entitlement to a particular type of assistance is under review within the meaning of sub-paragraph (1)(c) if—
- (a) the individual has, under section 23, requested a re-determination of the individual's entitlement to the type of assistance in question and—
    - (i) the Scottish Ministers have yet to make a determination of the individual's entitlement under section 24, and

## THIS IS NOT THE MARSHALLED LIST

- (ii) the individual has not, since requesting the re-determination, made an appeal to the First-tier Tribunal against a determination of the individual's entitlement, or
- (b) the individual has, under section 27, appealed to the First-tier Tribunal against a determination of the individual's entitlement to the type of assistance in question and the First-tier Tribunal has yet to make a decision under section 29, or
- (c) the First-tier Tribunal is considering, under section 28(1)(b), whether to give permission for the individual to bring an appeal against a determination of the individual's entitlement to the type of assistance in question.

### PART 2

#### ASSISTANCE TO BE GIVEN

##### *Value and form of assistance where entitlement to other assistance under review*

- 2 (1) This paragraph applies to any case in which an individual is eligible for short-term assistance by virtue of provision made in accordance with paragraph 1(1).
- (2) In this paragraph, "the superseded determination" means the determination that has been superseded with one of the results mentioned in paragraph 1(1)(b), as a consequence of which the individual in question is eligible for short-term assistance.
- (3) In relation to a case to which this paragraph applies, the regulations must provide for the value of the short-term assistance given to an individual in respect of any period to be equal to—

$$V1 - V2$$

where—

*V1* is the value of the assistance that the individual would have been given in respect of the period under the superseded determination had it not been superseded, and

*V2* is the value of the assistance that the individual is to be given in respect of the period under what is, at the time the individual becomes eligible for short-term assistance in respect of the period, the most recent determination of the individual's entitlement to the type of assistance to which the superseded determination relates.

- (4) In relation to a case to which this paragraph applies, the regulations must provide for the rules regarding the form in which short-term assistance is given to an individual to be the same as the rules governing the form in which the type of assistance to which the superseded determination relates may be given.

### PART 3

#### FINAL PROVISIONS

##### *Generality of enabling power unaffected*

- 3 Nothing in this schedule is to be taken to preclude the regulations from providing for an individual to be eligible for short-term assistance in circumstances other than those described in paragraph 1.

##### *Interpretation*

- 4 In this schedule, "the regulations" means regulations under section 18(2).>

**THIS IS NOT THE MARSHALLED LIST**

**Jeremy Balfour**

**155A** As an amendment to amendment 155, line 35, at end insert—

*<Individual moving to other part of the United Kingdom*

- 1A(1) The regulations may be framed so that an individual is eligible for short-term assistance where—
- (a) an individual is receiving a particular type of assistance in accordance with or under this Act (other than short-term assistance),
  - (b) the individual is leaving Scotland to take up permanent residence (the “new place of residence”) in another part of the United Kingdom, and
  - (c) the individual may be entitled to assistance of a similar type to the assistance referred to in sub-sub-paragraph (a) in the individual’s new place of residence.
- (2) Regulations may make provision about—
- (a) the eligibility rules that are to be applied to determine whether an individual is entitled to short-term assistance under sub-paragraph (1),
  - (b) the maximum period for which short-term assistance under sub-paragraph (1) may be given in these circumstances, which may not be for a period exceeding 3 months.>

**Jeremy Balfour**

**155B** As an amendment to amendment 155, line 66, leave out <paragraph 1> and insert <paragraphs 1 and 1A>

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