

# Social Security (Amendment) (Scotland) Bill

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## 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;
- the text of amendments to be debated on the 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

#### **Childhood assistance**

15, 16, 17, 18, 19, 20, 21, 22, 23, 7

#### **Relaxation of application deadlines**

24, 105, 28

#### **Assistance given in error**

25, 26, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 98

#### **Care experience assistance**

1, 27, 2

#### **Carer support payment**

3, 4

#### **Winter heating assistance**

5

#### **Uprating assistance for inflation**

6

#### **Discretionary housing payments: military compensation**

8

#### **New determination of entitlement after error**

106, 107, 108, 109, 110, 111, 112, 113, 114, 115

**Appeal to First-tier Tribunal against process decisions**

116, 117, 118, 119, 120, 121, 122, 123, 124, 125

**Appointees and representatives**

52, 53, 54, 55, 56, 126, 9, 102

**Information for audit**

57, 10, 58, 99, 103

**Recovery from compensation payments**

59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 100, 101

**Scottish Commission on Social Security**

92, 93, 94, 95, 96, 11, 97

**Key performance indicators for Social Security Scotland and First-tier Tribunal**

12, 13

**First-tier Tribunal: presumption of in-person hearings**

14

**Commencement of provision on procedure for regulation-making powers**

104

**THIS IS NOT THE MARSHALLED LIST**

**Amendments in debating order**

**Childhood assistance**

**Shirley-Anne Somerville**

- 15 In section 1, page 1, line 7, leave out subsection (2) and insert—  
<( ) Section 32 and schedule 6 are repealed.>

**Shirley-Anne Somerville**

- 16 In section 1, page 1, line 19, at end insert—  
<( ) The Early Years Assistance (Best Start Grants) (Scotland) Regulations 2018 (S.S.I. 2018/370) are to be treated for all purposes as if they were made by the Scottish Ministers under subsection (2).”.>

**Shirley-Anne Somerville**

- 17 In section 1, page 2, line 9, leave out <the primary eligibility criterion> and insert <one of the primary eligibility criteria>

**Shirley-Anne Somerville**

- 18 In section 1, page 2, line 9, at end insert—  
<(1A) But the regulations may make provision about giving childhood assistance for a specified period or specified number of occasions, and in specified circumstances, to an individual who previously satisfied one of the primary eligibility criteria but no longer does so.>

**Shirley-Anne Somerville**

- 19 In section 1, page 2, leave out line 10 and insert—  
<(2) The primary eligibility criteria are that the individual—  
(a) is, or has been, pregnant,  
(b) has a relationship of a specified kind to another individual who is, or has been, pregnant,  
(c) is to, or has, become responsible for a child,  
(d) has a relationship of a specified kind to another individual who is to, or has, become responsible for a child.  
(2A) The regulations may make an individual’s eligibility depend on the individual—  
(a) being or having been more than a specified number of weeks pregnant, or  
(b) having or having had a relationship of a specified kind to another individual who is, or has been, a specified number of weeks pregnant.>

**Shirley-Anne Somerville**

- 20 In section 1, page 2, leave out lines 13 to 15 and insert—

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- <(4) The regulations may make provision about giving childhood assistance to someone who meets one of the primary eligibility criteria within a specified period of a specified event occurring in a child’s life.>

### **Shirley-Anne Somerville**

- 21 In section 1, page 2, line 20, leave out <the primary eligibility criterion> and insert <one of the primary eligibility criteria>

### **Shirley-Anne Somerville**

- 22 In section 1, page 2, line 21, after <child> insert <, or the same pregnancy,>

### **Shirley-Anne Somerville**

- 23 In section 1, page 3, line 3, leave out <the primary eligibility criterion> and insert <one of the primary eligibility criteria>

### **Jeremy Balfour**

- 7 After section 2, insert—

#### **<PART**

#### ELIGIBILITY FOR CERTAIN TYPES OF ASSISTANCE

##### **Assistance in relation to a child**

- (1) The Scottish Ministers must by regulations provide for assistance in relation to a child to be provided to the individual who is responsible for the child at any point in time so that the assistance follows the child when responsibility for the child changes.
- (2) Regulations under subsection (1) are to define what being responsible for a child means for the purpose of determining entitlement to assistance.
- (3) Regulations under subsection (1) may make provision about continuing to give assistance for a specified period, and in specified circumstances, to an individual who is no longer responsible for a child.
- (4) In this section, “assistance in relation to a child” means—
  - (a) help towards meeting some of the costs associated with having a child in the family,
  - (b) help with costs associated with a child’s disability.>

##### **Relaxation of application deadlines**

### **Shirley-Anne Somerville**

- 24 In section 1, page 3, line 8, at end insert—

- <6A If the regulations include provision of the kind mentioned in paragraph 6(a), they may make provision about the circumstances in which an application made after the deadline specified in the regulations may be treated as if it had been made by that deadline.>

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### Paul O'Kane

105 In section 3, page 5, line 38, leave out subsection (2) and insert—

<( ) In section 52B (applications for assistance)—

(a) in subsection (2)—

- (i) for the word “may” substitute “must”,
- (ii) for “the reason” substitute “there is a good reason”,
- (iii) the words “is related to coronavirus” are repealed,

(b) subsection (4) is repealed.>

### Shirley-Anne Somerville

28 After section 3, insert—

#### <Power to make provision about late applications for assistance

(1) The 2018 Act is modified as follows.

(2) In schedule 2 (carer’s assistance regulations), after paragraph 9 insert—

“9A If the regulations include provision of the kind mentioned in paragraph 9(a), they may make provision about the circumstances in which an application made after the deadline specified in the regulations may be treated as if it had been made by that deadline.”.

(3) In schedule 3 (cold-spell heating assistance regulations), after paragraph 7 insert—

“7A If the regulations include provision of the kind mentioned in paragraph 7(a), they may make provision about the circumstances in which an application made after the deadline specified in the regulations may be treated as if it had been made by that deadline.”.

(4) In schedule 4 (winter heating assistance regulations), after paragraph 5 insert—

“5A If the regulations include provision of the kind mentioned in paragraph 5(a), they may make provision about the circumstances in which an application made after the deadline specified in the regulations may be treated as if it had been made by that deadline.”.

(5) In schedule 5 (disability assistance regulations), after paragraph 8 insert—

“8A If the regulations include provision of the kind mentioned in paragraph 8(a), they may make provision about the circumstances in which an application made after the deadline specified in the regulations may be treated as if it had been made by that deadline.”.

(6) In schedule 7 (employment-injury assistance regulations), after paragraph 9 insert—

“9A If the regulations include provision of the kind mentioned in paragraph 9(a), they may make provision about the circumstances in which an application made after the deadline specified in the regulations may be treated as if it had been made by that deadline.”.

(7) In schedule 8 (funeral expense assistance regulations), after paragraph 8 insert—

“8A If the regulations include provision of the kind mentioned in paragraph 8(a), they may make provision about the circumstances in which an application made after

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the deadline specified in the regulations may be treated as if it had been made by that deadline.”.

(8) In schedule 9 (housing assistance regulations), after paragraph 8 insert—

“8A If the regulations include provision of the kind mentioned in paragraph 8(a), they may make provision about the circumstances in which an application made after the deadline specified in the regulations may be treated as if it had been made by that deadline.”.>

### **Assistance given in error**

#### **Shirley-Anne Somerville**

25 In section 1, page 3, line 10, at end insert—

<Meeting liabilities

6B Where childhood assistance is given to an individual on the basis that the individual has ongoing entitlement to it, the regulations may provide for the assistance 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—
  - (i) section 63, or
  - (ii) provision corresponding to section 63 made by regulations under section 79.>

#### **Shirley-Anne Somerville**

26 In section 1, page 3, line 18, at end insert—

- <(3) Sub-paragraph (4) applies where childhood assistance is given to an individual on the basis that the individual has ongoing entitlement to it.
- (4) The regulations may provide for the 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 63, or provision corresponding to section 63 made by regulations under section 79, if the individual has unreasonably refused to agree to the assistance being given in that form.
- (5) For the purpose of sub-paragraph (4), “reasonable level” means a level that is reasonable having regard to the financial circumstances of the individual.>

#### **Shirley-Anne Somerville**

29 Before section 9, insert—

##### **<Liability for assistance given in error**

- (1) The 2018 Act is modified as follows.
- (2) In section 63 (liability for assistance given in error)—
  - (a) for subsection (1) substitute—

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“(1) The Scottish Ministers may decide that—

- (a) an individual, or
- (b) an individual’s representative,

is liable to pay the Scottish Ministers some or all of the value of any assistance that was given to or for the benefit of the individual due to an error.”,

(b) after subsection (1) insert—

“(1A) The Scottish Ministers may decide that a person is liable under subsection (1) only—

- (a) if the error is—
  - (i) the fault of the individual or the individual’s representative, or
  - (ii) the kind of error that an individual could reasonably be expected to notice, and
- (b) if and to the extent that—
  - (i) in the case of a decision about an individual’s liability, the individual has benefited from the assistance mentioned in subsection (1), or
  - (ii) in the case of a decision about an individual’s representative’s liability, the individual has not benefited from the assistance mentioned in subsection (1).”,

(c) subsections (2) and (3) are repealed,

(d) in subsection (4), the words “and section 64” are repealed,

(e) after subsection (4) insert—

“(5) For the purpose of subsection (1A)(a)(i), an error is the fault of the individual or the individual’s representative if it is caused or contributed to by the individual or the individual’s representative—

- (a) providing false or misleading information,
- (b) failing to notify the Scottish Ministers about a change in circumstances in breach of a duty to do so under section 56, or
- (c) causing another person to do either of those things.

(6) In subsection (5)(a), the reference to providing information includes making a statement.

(7) In considering for the purposes of subsection (1A)(a)(ii) whether an error is of a kind that an individual could reasonably be expected to notice, the following are amongst the matters to which regard is to be had—

- (a) the extent to which the value of the assistance given in error exceeds the value of the assistance that would have been given (if any) had the error not been made,
- (b) whether any information given to the individual or the individual’s representative by the Scottish Ministers prior to, or immediately after, the assistance being given would have alerted a reasonable person to the fact that a decision had been, or was to be, made on the basis of incorrect information or a wrong assumption.

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- (8) In subsection (7)(b)—
  - (a) the reference to information given to the individual or the individual's representative by the Scottish Ministers does not include information explaining why the Ministers consider the assistance to have been given in error,
  - (b) the reference to information given to the individual's representative includes only information given when that person was the individual's representative.
- (9) For the purpose of subsection (1A)(b), it is to be assumed that the individual has benefited from the assistance mentioned in subsection (1) unless the Scottish Ministers are aware that that is not the case.
- (10) If the Scottish Ministers would be entitled to decide that a person is liable under subsection (1) but for the fact that the person has died since the assistance was given, the Scottish Ministers may decide that the person's estate is liable.
- (11) If the Scottish Ministers make a decision under subsection (10), references in sections 63A and 63B to a person who is liable under this section are to be read as references to the person's estate.
- (12) The Scottish Ministers may by regulations specify the persons, or categories of persons, who are included within the meaning of "the individual's representative" for the purpose of this section."

- (3) After section 63 insert—

### **"63A Amount of liability**

- (1) For the avoidance of doubt, a person's liability under section 63 cannot be greater than the difference in value between—
  - (a) the assistance that was given, and
  - (b) the assistance (if any) that would have been given had the error not been made.
- (2) If the assistance was given in a form other than money, its value for the purposes of this section is what giving it cost the Scottish Ministers (excluding any administration costs).

### **63B Notice of liability**

- (1) Having made a decision that a person is liable under section 63, the Scottish Ministers must inform the person—
  - (a) of the decision,
  - (b) of the reasons for it,
  - (c) of the person's right under section 69A to request that the Scottish Ministers review the decision, and
  - (d) that the person will have the right under section 69F(1)(b) to appeal to the First-tier Tribunal against the decision should the Scottish Ministers fail to deal with a request for a review within the period allowed for review.
- (2) The Scottish Ministers must fulfil their duty under subsection (1) in a way that leaves the person with a record of the information which the person can show to, or otherwise share with, others."



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- (4) Section 64 is repealed.
- (5) In section 65 (consideration for debtor’s circumstances), in subsection (2), for “individual” substitute “person”.>

**Shirley-Anne Somerville**

30 Leave out section 9

**Shirley-Anne Somerville**

31 Leave out section 10

**Shirley-Anne Somerville**

32 Leave out section 11

**Shirley-Anne Somerville**

33 In section 12, page 17, line 10, leave out subsection (2) and insert—

- <(2) In section 69 (liability where assistance given for period after death), in subsection (1), for “under section 24” substitute “, in the performance of a function conferred by virtue of this Part.”.>

**Shirley-Anne Somerville**

34 In section 12, page 17, line 21, leave out subsection (3)

**Shirley-Anne Somerville**

35 In section 13, page 17, line 27, leave out <An individual> and insert <A person>

**Shirley-Anne Somerville**

36 In section 13, page 17, line 28, leave out <63> and insert <63B>

**Shirley-Anne Somerville**

37 In section 13, page 17, line 29, leave out <individual’s> and insert <person’s>

**Shirley-Anne Somerville**

38 In section 13, page 17, leave out lines 30 to 32

**Shirley-Anne Somerville**

39 In section 13, page 17, line 33, leave out <or (2)>

**Shirley-Anne Somerville**

40 In section 13, page 18, line 8, leave out <individual or (as the case may be) the individual’s representative> and insert <person>

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**Shirley-Anne Somerville**

- 41 In section 13, page 18, line 10, leave out <63 or (as the case may be) 64A> and insert <63B>

**Shirley-Anne Somerville**

- 42 In section 13, page 19, line 12, leave out <or 64A>

**Shirley-Anne Somerville**

- 43 In section 13, page 19, line 40, leave out <or 64A>

**Shirley-Anne Somerville**

- 44 In section 13, page 20, line 13, leave out <or 64A>

**Shirley-Anne Somerville**

- 45 In section 13, page 20, line 26, leave out <or 64A>

**Shirley-Anne Somerville**

- 46 In section 13, page 20, line 34, leave out <or 64A>

**Shirley-Anne Somerville**

- 47 In section 13, page 20, line 36, leave out <or 64A>

**Shirley-Anne Somerville**

- 48 In section 13, page 21, line 38, leave out <or 64A>

**Shirley-Anne Somerville**

- 49 In section 13, page 22, line 16, leave out <or 64A>

**Shirley-Anne Somerville**

- 50 In section 13, page 22, line 18, leave out <or 64A>

**Shirley-Anne Somerville**

- 51 After section 13, insert—

**<Assistance given in error: deductions from other assistance**

(1) The 2018 Act is modified as follows.

(2) In schedule 2 (carer’s assistance regulations)—

(a) in paragraph 10(b)—

(i) the words “section 63” become sub-paragraph (i),

(ii) after that sub-paragraph insert—

“(ii) provision corresponding to section 63 made by regulations under section 79.”,

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- (b) in paragraph 11(3), after “63” insert “, or provision corresponding to section 63 made by regulations under section 79.”.
- (3) In schedule 5 (disability assistance regulations)—
  - (a) in paragraph 15(b)—
    - (i) the words “section 63” become sub-paragraph (i),
    - (ii) after that sub-paragraph insert—
      - “(ii) provision corresponding to section 63 made by regulations under section 79.”,
  - (b) in paragraph 17(3), after “63” insert “, or provision corresponding to section 63 made by regulations under section 79.”.
- (4) In schedule 7 (employment-injury assistance regulations)—
  - (a) in paragraph 12(b)—
    - (i) the words “section 63” become sub-paragraph (i),
    - (ii) after that sub-paragraph insert—
      - “(ii) provision corresponding to section 63 made by regulations under section 79.”,
  - (b) in paragraph 13(3), after “63” insert “, or provision corresponding to section 63 made by regulations under section 79.”.
- (5) In schedule 9 (housing assistance regulations)—
  - (a) in paragraph 11(b)—
    - (i) the words “section 63” become sub-paragraph (i),
    - (ii) after that sub-paragraph insert—
      - “(ii) provision corresponding to section 63 made by regulations under section 79.”,
  - (b) in paragraph 12(3), after “63” insert “, or provision corresponding to section 63 made by regulations under section 79.”.>

### **Shirley-Anne Somerville**

- 98** In section 24, page 51, line 16, leave out <64(6)> and insert <63(12)>

### **Care experience assistance**

#### **Jeremy Balfour**

- 1** In section 2, page 4, line 4, leave out <may> and insert <must>

#### **Shirley-Anne Somerville**

- 27** In section 2, page 4, line 19, after <reviews> insert <, re-determinations>

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### **Jeremy Balfour**

2 In section 2, page 5, line 31, at end insert—

- <( ) The Scottish Ministers must lay a draft of a Scottish statutory instrument containing care experience assistance regulations before the Scottish Parliament for approval within two years of the Bill for the Social Security (Amendment) (Scotland) Act 2024 receiving Royal Assent.>

### **Carer support payment**

#### **Jeremy Balfour**

3 After section 2, insert—

##### **<Carer support payment**

- (1) The Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023 are amended as follows.
- (2) In regulation 16(4)(b), for “8” substitute “24”.>

#### **Jeremy Balfour**

4 After section 2, insert—

##### **<Carer’s support payment: power to taper assistance**

- (1) The 2018 Act is modified as follows.
- (2) In schedule 2, in paragraph 1, after sub-paragraph (2) insert—

“(2A) The regulations may provide for the amount of assistance that an individual may receive to progressively reduce where the individual’s earnings exceed a level specified in the regulations.”.>

### **Winter heating assistance**

#### **Jeremy Balfour**

5 After section 2, insert—

##### **<Winter heating assistance**

- (1) The Scottish Ministers must make regulations under section 30 of the 2018 Act to provide for winter heating assistance for individuals in receipt of—
  - (a) the highest rate of Attendance Allowance,
  - (b) the highest rate of Pension Age Disability Allowance.
- (2) In this section—

“Attendance Allowance” means an allowance under section 64 of the Social Security Contributions and Benefits Act 1992,

“Pension Age Disability Allowance” means an allowance under the Disability Assistance for Older People (Scotland) Regulations 2024.>

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**Uprating assistance for inflation**

**Jeremy Balfour**

6 After section 2, insert—

**<PART**

UPRATING FOR INFLATION

**Duty to uprate for inflation**

- (1) The 2018 Act is modified as follows.
- (2) In section 86A(3)(a)—
  - (a) in sub-paragraph (i), the word “or” is repealed,
  - (b) in sub-paragraph (ii), for “but”, substitute “or”,
  - (c) after sub-paragraph (ii), insert—

“(ii) section 93A, but”.
- (3) In section 86B—
  - (a) in sub-section (1)—
    - (i) the words from “prescribed” where it first occurs, to “2020” are repealed,
    - (ii) in the closing words, the word “those” is repealed,
  - (b) in sub-section (4), the words from “— “carer’s”” to “section 34” are repealed.>

**Discretionary housing payments: military compensation**

**Jeremy Balfour**

8 After section 2, insert—

**<PART**

DISCRETIONARY HOUSING PAYMENTS

**Discretionary housing payments: military compensation**

- (1) The 2018 Act is modified as follows.
- (2) After section 89, insert—

**“89A Impact of military compensation**

  - (1) If a local authority is considering income levels as a factor in determining whether to provide financial assistance under section 88, military compensation must not be included in the calculation of income.
  - (2) For the purposes of this section, “military compensation” means a payment awarded under—
    - (a) the Armed Forces and Reserved Forces (Compensation Scheme) Order 2011,
    - (b) the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.”>

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### New determination of entitlement after error

#### **Jeremy Balfour**

106 In section 7, page 9, line 32, leave out subsections (3) and (4)

#### **Jeremy Balfour**

107 In section 7, page 10, line 2, leave out <(b)> and insert <(a)>

#### **Jeremy Balfour**

108 In section 7, page 10, line 2, leave out <37> and insert <43>

#### **Jeremy Balfour**

109 In section 7, page 10, line 12, leave out <due to an error,> and insert <the Scottish Ministers are of the opinion that>

#### **Jeremy Balfour**

110 In section 7, page 10, line 15, leave out <would have been entitled to had the error not been made> and insert <should have been given>

#### **Jeremy Balfour**

111 In section 7, page 10, line 17, leave out <if the error had not been made> and insert <it should have been>

#### **Jeremy Balfour**

112 In section 7, page 10, leave out lines 21 to 31

#### **Jeremy Balfour**

113 In section 7, page 11, leave out lines 1 and 2

#### **Jeremy Balfour**

114 In section 7, page 11, line 3, leave out <that the individual will have the> and insert <of the individual's>

#### **Jeremy Balfour**

115 In section 7, page 11, line 4, leave out from <should> to <re-determination> in line 6

### Appeal to First-tier Tribunal against process decisions

#### **Jeremy Balfour**

116 In section 8, page 12, line 10, after <decisions),> insert <—  
( )>

**THIS IS NOT THE MARSHALLED LIST**

**Jeremy Balfour**

- 117 In section 8, page 12, line 32, at end insert—  
<( ) subsections (4) and (5) are repealed.>

**Jeremy Balfour**

- 118 In section 8, page 13, line 4, leave out <must> and insert <may>

**Jeremy Balfour**

- 119 In section 8, page 13, line 5, leave out <if> and insert <whether or not>

**Jeremy Balfour**

- 120 In section 8, page 13, line 7, after <37> insert <based on such information as is available to them>

**Jeremy Balfour**

- 121 In section 8, page 13, line 7, leave out from <or> to end of line 9

**Jeremy Balfour**

- 122 In section 8, page 13, line 17, leave out <must> and insert <may>

**Jeremy Balfour**

- 123 In section 8, page 13, line 18, leave out <if> and insert <whether or not>

**Jeremy Balfour**

- 124 In section 8, page 13, line 20, after <43> insert <based on such information as is available to them>

**Jeremy Balfour**

- 125 In section 8, page 13, line 20, leave out from <or> to end of line 22

**Appointees and representatives**

**Shirley-Anne Somerville**

- 52 In section 14, page 24, line 33, after <is> insert <or may be eligible>

**Shirley-Anne Somerville**

- 53 In section 14, page 25, line 3, after <is> insert <or may be eligible>

**Shirley-Anne Somerville**

- 54 In section 15, page 25, line 20, leave out <they are> and insert <the person is>

## THIS IS NOT THE MARSHALLED LIST

### Shirley-Anne Somerville

- 55 In section 15, page 25, line 21, leave out <their> and insert <the person's>

### Shirley-Anne Somerville

- 56 In section 15, page 25, line 23, leave out <their> and insert <the person's>

### Jeremy Balfour

- 126 After section 15, insert—

#### <Appointees for children

- (1) The 2018 Act is modified as follows.
- (2) Section 85A(3) is repealed.>

### Jeremy Balfour

- 9 After section 15, insert—

#### <PART

#### THIRD PARTY REPRESENTATIVES

#### Third party representatives

- (1) The 2018 Act is modified as follows.
- (2) After section 11, insert—

#### *“Third party representatives*

#### 11A Third party representatives

- (1) An individual may appoint a person to be a third party representative for matters relating to assistance under this Act, including, for example—
  - (a) applications for assistance,
  - (b) management of assistance,
  - (c) appeals to the First-tier Tribunal.
- (2) Where an individual appoints a third party representative under subsection (1), they must provide notice to the Scottish Ministers of the appointment, which must include—
  - (a) permission to share relevant information with the third party representative,
  - (b) contact details for the third party representative,
  - (c) which form or forms of assistance the third party representative is appointed in relation to,
  - (d) the duration of the appointment, which may be for a specified period of time or for the duration of a specified process.
- (3) The Scottish Ministers may by regulations make provision about third party representatives including—
  - (a) the form and content of a notice under subsection (2),
  - (b) information sharing.”.



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- (3) In section 96(2), after “11” insert “, 11A”.>

### **Shirley-Anne Somerville**

- 102 In section 24, page 51, line 21, after <69C(6),> insert <85B(5),>

### **Information for audit**

### **Shirley-Anne Somerville**

- 57 In section 16, page 26, line 24, at end insert—  
<(5A) Before making regulations under subsection (5), the Scottish Ministers must consult publicly on the categories of individuals who are not to be requested to provide information under subsection (1).>

### **Jeremy Balfour**

- 10 In section 16, page 26, leave out lines 25 to 34.

### **Maggie Chapman**

- 58 Leave out section 16

### **Maggie Chapman**

- 99 In section 24, page 51, line 17, leave out <87B(5),>

### **Maggie Chapman**

- 103 In section 24, page 51, line 22, leave out <87B(4)(c), 87B(4)(d), 87C(1), 87C(4),>

### **Recovery from compensation payments**

### **Shirley-Anne Somerville**

- 59 In section 17, page 29, line 26, leave out <their> and insert <that other person>

### **Shirley-Anne Somerville**

- 60 In section 17, page 29, line 27, leave out <injured person> and insert <individual who suffered the accident, injury or disease>

### **Shirley-Anne Somerville**

- 61 In section 17, page 30, line 1, leave out <any> and insert <a>

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- 62 In section 17, page 30, line 19, leave out <any>

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63 In section 17, page 30, line 32, leave out <any> and insert <a>

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64 In section 17, page 34, line 24, after <94E> insert <to the same extent as referred to in paragraph (b)>

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65 In section 17, page 34, line 34, leave out <make provision about> and insert <limit>

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66 In section 17, page 34, line 38, leave out <reference to>

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67 In section 17, page 34, line 38, leave out <and its making> and insert <made at any time>

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68 In section 17, page 37, line 9, leave out <their> and insert <the>

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69 In section 17, page 37, line 26, leave out <condition set out in subsection (6) is> and insert <requirements prescribed in regulations made under subsection (5) are>

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70 In section 17, page 38, line 1, leave out <condition set out in subsection (6) is> and insert <requirements prescribed in regulations made under subsection (5) are>

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71 In section 17, page 38, leave out lines 8 to 11

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72 In section 17, page 38, line 13, leave out <condition set out in subsection (6) is> and insert <requirements prescribed in regulations made under subsection (5) are>

**Shirley-Anne Somerville**

73 In section 17, page 40, leave out lines 28 to 33

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74 In section 17, page 41, leave out lines 8 to 13

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75 In section 17, page 41, line 14, leave out <any> and insert <an>

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76 In section 17, page 41, leave out lines 30 to 32

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77 In section 17, page 42, line 38, leave out from <with> to <94K> in line 40

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78 In section 17, page 44, line 37, leave out <, this Part is modified so that>

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79 In section 17, page 45, line 4, leave out <any> and insert <a>

**Shirley-Anne Somerville**

80 In section 17, page 45, line 5, leave out <this Part applies to that payment and>

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81 In section 17, page 45, line 6, leave out <therefore>

**Shirley-Anne Somerville**

82 In section 17, page 45, line 32, leave out <any person> and insert <an individual>

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83 In section 17, page 45, line 33, leave out <are to> and insert <may in particular>

**Shirley-Anne Somerville**

84 In section 17, page 45, line 41, leave out <any person providing services to> and insert <anyone acting on behalf of>

**Shirley-Anne Somerville**

85 In section 17, page 46, line 6, leave out <require> and insert <allow the Scottish Ministers to request>

**Shirley-Anne Somerville**

86 In section 17, page 46, line 16, leave out first <any> and insert <an>

**Shirley-Anne Somerville**

87 In section 17, page 47, line 1, leave out first <any> and insert <an>

**Shirley-Anne Somerville**

88 In section 17, page 47, line 16, leave out <Any> and insert <A>

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**89** In section 17, page 47, line 27, leave out <any> and insert <an>

**Shirley-Anne Somerville**

**90** In section 17, page 47, line 36, leave out <any reference in this section> and insert <a reference>

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**91** In section 17, page 48, line 22, leave out second <any> and insert <a>

**Shirley-Anne Somerville**

**100** In section 24, page 51, line 18, leave out <94O(6),>

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**101** In section 24, page 51, line 18, leave out <94O(11),>

**Scottish Commission on Social Security**

**Shirley-Anne Somerville**

**92** In section 18, page 49, line 26, at end insert—  
<(ga) section 63(12),>

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**93** In section 18, page 49, line 32, leave out <and> and insert—  
<(ma) section 85B(5),  
(mb) section 85F(1),  
(mc) section 87B(4)(c),  
(md) section 87B(4)(d),  
(me) section 87B(5),  
(mf) section 87C(1),  
(mg) section 87C(4),  
(mh) section 93A(1), and>

**Shirley-Anne Somerville**

**94** In section 18, page 50, line 3, leave out <(m)> and insert <(mh)>

**Shirley-Anne Somerville**

**95** In section 18, page 50, line 8, at end insert—

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<( ) in subsection (2)—

- (i) for “Where the Scottish Ministers propose to make” substitute “Before the Scottish Ministers finalise”,
- (ii) the words “(before laying a draft Scottish statutory instrument containing such regulations before the Scottish Parliament for approval by resolution)” are repealed,

( ) in subsection (9)—

- (i) in the opening words, for “laying a draft Scottish statutory instrument containing regulations to which this section applies before the Scottish Parliament for approval by resolution, the Scottish Ministers” substitute “the Scottish Ministers finalise regulations to which this section applies, they”,
- (ii) in paragraph (b), for “lay the draft instrument before the Parliament” substitute “finalise the regulations”,>

### **Shirley-Anne Somerville**

**96** In section 18, page 50, line 12, at end insert—

<(13) In this section, “finalise” means—

- (a) in the case of regulations subject to the affirmative procedure, laying the draft Scottish statutory instrument containing the regulations before the Scottish Parliament for approval by resolution,
- (b) in the case of regulations subject to the negative procedure, making the regulations.”.>

### **Jeremy Balfour**

**11** After section 18, insert—

#### **<Scrutiny of legislation by the Commission**

- (1) The 2018 Act is modified as follows.
- (2) After section 97, insert—

#### **“97A Scrutiny of legislation**

- (1) This section applies to—
  - (a) regulations under this Act, which are not regulations to which section 97 applies,
  - (b) Acts of the Scottish Parliament which relate to social security.
- (2) Where Scottish Ministers propose to make legislation to which this section applies, they must (before laying a draft Scottish statutory instrument before or introducing a Bill to the Scottish Parliament)—
  - (a) inform the Scottish Commission on Social Security of their proposals,
  - (b) provide the Scottish Commission on Social Security with an opportunity to provide comments on the proposals in such manner as the Commission considers appropriate.

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- (3) When laying a draft Scottish statutory instrument before or introducing a Bill to the Scottish Parliament to which this section applies, the Scottish Ministers must also lay a statement confirming—
  - (a) that the Scottish Commission on Social Security had been provided with the opportunity to provide comments on the draft legislation,
  - (b) whether or not the Commission had provided comments,
  - (c) what changes, if any, were made to the draft legislation in response to any comments provided by the Commission.
- (4) This section does not apply to legislation to the extent that it relates to social security for employment injury.”.>

**Shirley-Anne Somerville**

- 97 In section 21, page 50, leave out line 29

### **Key performance indicators for Social Security Scotland and First-tier Tribunal**

**Jeremy Balfour**

- 12 After section 21, insert—

#### <PART

#### KEY PERFORMANCE INDICATORS

##### **Key performance indicators for Social Security Scotland**

- (1) The 2018 Act is modified as follows.
- (2) Before section 20, insert—

**“20ZA Key performance indicators**

The Scottish Ministers may, by regulations, specify key performance indicators for the Scottish social security system.”.
- (3) After section 20(2)(a), insert—

“(aa) performance against key performance indicators,”.
- (4) After section 20(3), insert—

“(4) For the purposes of this section, “key performance indicators” are indicators specified by Scottish Ministers by regulations under section 20ZA.”.
- (5) In section 96(2), after “13” insert “, 20ZA”.>

**Jeremy Balfour**

- 13 After section 21, insert—

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### <PART

#### KEY PERFORMANCE INDICATORS

##### **Key performance indicators for First-tier Tribunal for Scotland Social Security Chamber**

- (1) The 2018 Act is modified as follows.
- (2) After section 87(1), insert—
  - “(1A) A report under subsection (1) must include such information on the First-tier Tribunal’s performance against key performance indicators as the Scottish Ministers consider appropriate.”.
- (3) After section 87(3), insert—
  - “(4) For the purposes of this section, “key performance indicators” are indicators specified by Scottish Ministers by regulations under section 87ZA.”.
- (4) After section 87, insert—

**“87ZA Key performance indicators**

The Scottish Ministers may, by regulations, specify key performance indicators for the First-tier Tribunal in relation to the right to appeal under section 46.”.
- (5) In section 96(2), after “86” insert “, 87ZA”.>

##### **First-tier Tribunal: presumption of in-person hearings**

###### **Jeremy Balfour**

- 14 After section 21, insert—

### <PART

#### FIRST-TIER TRIBUNAL FOR SCOTLAND SOCIAL SECURITY CHAMBER

##### **Presumption of in person hearings**

- (1) The First-tier Tribunal for Scotland Social Security Chamber (Procedure) Regulations 2018 are modified as follows.
- (2) In rule 4 of schedule 1, after paragraph (3), insert—
  - “(4) The powers in this rule are subject to the restriction that a hearing must take place in person unless the appellant has indicated that they do not require it to be in person.”.>

##### **Commencement of provision on procedure for regulation-making powers**

###### **Shirley-Anne Somerville**

- 104 In section 25, page 51, line 24, after <23> insert <, 24>





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