

# Social Security Administration and Tribunal Membership (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

#### Appointees

6, 7, 18

#### Determination of entitlement to assistance

22

#### Assistance given in error

8, 17, 19, 21

#### Identifying possible eligibility

9, 10, 20

#### Diagnosing terminal illness

11, 5, 12, 13, 14

#### Suspension

15, 16

## THIS IS NOT THE MARSHALLED LIST

### Amendments in debating order

#### Appointees

#### Shirley-Anne Somerville

6 Leave out section 1 and insert—

#### <Appointment of person to act on behalf of child

- (1) The Social Security (Scotland) Act 2018 is modified as follows.
- (2) After section 85 insert—

#### *“Appointees*

#### **85A Appointment of person to act on behalf of child**

- (1) The Scottish Ministers may appoint a person (an “appointee”) to act on behalf of a child in connection with the determination of the child’s entitlement to assistance under section 24 or regulations under section 79.
- (2) An appointment under subsection (1) may, if the Scottish Ministers consider it appropriate, include an appointment of the person to receive such assistance on the child’s behalf.
- (3) The Scottish Ministers may only appoint an appointee if it appears to them that there is no person who—
  - (a) has authority to act on behalf of the child,
  - (b) resides with, and has care of, the child, and
  - (c) is willing, and practicably able, to act on the child’s behalf in relation to the matter mentioned in subsection (1).
- (4) An individual who is under 16 years may not be appointed as an appointee.
- (5) Where an appointee is appointed under subsection (1) to act on behalf of a child—
  - (a) the appointee can do anything that a person with authority (however arising) to act on behalf of the child in relation to the determination of the child’s entitlement to assistance could do in connection with the determination of the child’s entitlement to assistance (including making an application for assistance),
  - (b) the Scottish Ministers may request that the appointee provide them with information that the Ministers may otherwise request under section 54 or, as the case may be, the regulations under section 79 (and in the case of section 54, subsections (2) and (3) of that section apply to that request as they apply to a request made to the child),
  - (c) any information that would be given to the child under or by virtue of Part 2 or, as the case may be, the regulations, must be given to the appointee instead.
- (6) The Scottish Ministers may terminate an appointment under subsection (1) at any time.
- (7) In this section, “child” means an individual who is under 16 years.”.>

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### Shirley-Anne Somerville

7 After section 1, insert—

#### <Appointment of person to act on behalf of individual

- (1) The Social Security (Scotland) Act 2018 is modified as follows.
- (2) Section 58 is repealed.
- (3) In section 85A (as inserted by section (*Appointment of person to act on behalf of child*)), after subsection (5) insert—
  - “(5A) The Scottish Ministers must consider whether to make an appointment under subsection (1), or to terminate such an appointment, if requested to do so by—
    - (a) the child, or
    - (b) anyone else who appears to the Ministers to—
      - (i) have authority to act on behalf of the child,
      - (ii) reside with, and have care of, the child, or
      - (iii) have an interest in the welfare or financial affairs of the child.
  - (5B) Subsection (5C) applies where the Scottish Ministers are deciding whether to make or terminate an appointment under subsection (1).
  - (5C) In making the decision the Scottish Ministers must, insofar as practicable, have regard to the views of—
    - (a) the child,
    - (b) anyone who is a relevant person in relation to the child within the meaning of section 200 of the Children’s Hearings (Scotland) Act 2011, and
    - (c) anyone else who appears to the Ministers to have an interest in the welfare or financial affairs of the child.”.
- (4) After section 85A insert—

#### “85B Appointment of person to act in other circumstances

- (1) The Scottish Ministers may appoint a person (an “appointee”) to act on behalf of an individual in connection with the determination of the individual’s entitlement to assistance under section 24 or regulations under section 79.
- (2) An appointment under subsection (1) may, if the Scottish Ministers consider it appropriate, include an appointment of the person to receive such assistance on the individual’s behalf.
- (3) The Scottish Ministers may only appoint an appointee if—
  - (a) the individual is 16 years or over and the conditions in subsection (4) are met, or
  - (b) it appears to them that subsection (6) or (7) applies.
- (4) The conditions are—
  - (a) the individual indicates (in such form as the Scottish Ministers require) that the individual agrees to the appointment, and
  - (b) an appropriate person certifies (in such form as the Scottish Ministers require) that in the person’s opinion—

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- (i) the individual is not incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000,
  - (ii) the individual understands the effect of the appointment,
  - (iii) the individual has not been subject to any undue influence in agreeing to the appointment, and
  - (iv) the person proposed to be appointed is suitable to act as the individual's appointee.
- (5) The Scottish Ministers are to make regulations defining "appropriate person" for the purposes of subsection (4)(b).
- (6) This subsection applies if—
  - (a) the individual is deceased, and
  - (b) there is no executor appointed on the individual's estate.
- (7) This subsection applies if, in relation to the matter mentioned in subsection (1)—
  - (a) the individual is incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000,
  - (b) there is no guardian acting or appointed under that Act,
  - (c) the individual's estate is not being administered by a judicial factor, and
  - (d) there is no other person who has authority to act on behalf of the individual and is willing to do so.
- (8) An individual who is under 16 years may not be appointed as an appointee.
- (9) Where an appointee is appointed under subsection (1) to act on behalf of an individual—
  - (a) the appointee can do anything that a relevant individual could do in connection with the determination of the individual's entitlement to assistance (including making an application for assistance),
  - (b) the Scottish Ministers may request that the appointee provide them with information that the Ministers may otherwise request under section 54 or, as the case may be, the regulations under section 79 (and in the case of section 54, subsections (2) and (3) of that section apply to that request as they apply to a request made to the individual),
  - (c) any information that would be given to the individual under or by virtue of Part 2 or, as the case may be, the regulations, must be given to the appointee instead.
- (10) In subsection (9)(a), "relevant individual" means—
  - (a) in the case of an appointment by virtue of subsection (3)(a), the individual in relation to whom the appointment is made,
  - (b) in the case of an appointment by virtue of subsection (6), an executor appointed on the individual's estate,
  - (c) in the case of an appointment by virtue of subsection (7), a person with authority (however arising) to act on behalf of the individual in relation to the determination of the individual's entitlement to assistance.

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- (11) The Scottish Ministers may terminate an appointment under subsection (1) at any time.
  - (12) The Scottish Ministers must—
    - (a) terminate an appointment made by virtue of subsection (3)(a) if the individual withdraws agreement to it,
    - (b) consider whether to terminate an appointment made by virtue of subsection (3)(a) if requested to do so by anyone who appears to the Ministers to have an interest in the welfare or financial affairs of the individual.
  - (13) The Scottish Ministers must consider whether to terminate an appointment made by virtue of subsection (6) if requested to do so by anyone who appears to the Ministers to have an interest in the financial affairs of the individual.
  - (14) The Scottish Ministers must consider whether to make an appointment by virtue of subsection (7), or to terminate such an appointment, if requested to do so by—
    - (a) the individual, or
    - (b) anyone else who appears to the Ministers to—
      - (i) have authority to act on behalf of the individual, or
      - (ii) have an interest in the welfare or financial affairs of the individual.
  - (15) Subsection (16) applies where the Scottish Ministers are deciding whether to make an appointment by virtue of subsection (7) or to terminate such an appointment.
  - (16) In making the decision, the Scottish Ministers must, insofar as practicable, have regard to—
    - (a) the wishes and feelings of the individual, and
    - (b) the views of anyone else who appears to the Ministers to have an interest in the welfare or financial affairs of the individual.”.
- (5) After section 85B (as inserted by subsection (4)) insert—
- “85C Guidelines for decisions about appointees**
- (1) The Scottish Ministers—
    - (a) must prepare guidelines governing their decisions in connection with appointments under sections 85A and 85B,
    - (b) may revise the guidelines,
    - (c) must make the latest version of the guidelines publicly available by such means as they consider appropriate.
  - (2) The guidelines must, in particular, set out—
    - (a) the steps that the Scottish Ministers will take to determine that a person is suitable for appointment,
    - (b) how a request that an appointment be made or terminated may be made and how it will be handled,
    - (c) the process by which persons with an interest in the making or termination of an appointment will be involved in those decisions,

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- (d) the steps that the Scottish Ministers will take to review appointments periodically (being in any case no more than 5 years) and the process by which that will occur,
  - (e) how concerns about the acts, or omissions, of an appointee may be raised and how any concerns raised will be handled.
- (3) In preparing or revising the guidelines, the Scottish Ministers must have regard (among other things) to the following considerations—
- (a) that an appointment in the case of a living individual should be made only if it appears to secure a benefit in respect of the individual that cannot reasonably be achieved without the appointment,
  - (b) that such an appointment should last for only so long as it continues to secure that benefit,
  - (c) that, so far as reasonably practicable, before decisions are made—
    - (i) persons who may be affected are consulted, and
    - (ii) due account is taken of their views (or, if they are incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000, their wishes and feelings),
  - (d) that decisions should be made on the basis of good information,
  - (e) that decision-making processes should, so far as reasonably practicable, take account of the circumstances of individual cases,
  - (f) that persons who may be affected by decisions are given adequate information and support in relation to their involvement in the decision-making process.
- (4) In preparing or revising the guidelines, the Scottish Ministers must consult—
- (a) the Commissioner for Children and Young People in Scotland,
  - (b) the Mental Welfare Commission for Scotland,
  - (c) the Public Guardian (established by section 6 of the Adults with Incapacity (Scotland) Act 2000), and
  - (d) local authorities.”.

- (6) After section 85C (as inserted by subsection (5)) insert—

**“85D Right to apply to First-tier Tribunal for review of certain decisions**

- (1) A qualifying person may apply to the First-tier Tribunal for Scotland for a review of—
  - (a) a decision under section 85A made following a request under subsection (5A) of that section,
  - (b) a decision under section 85B made following a request under subsection (12)(b), (13) or (14) of that section.
- (2) For the purposes of subsection (1), the following are qualifying persons—
  - (a) the person who made the request, and
  - (b) any other person entitled to make the same request.
- (3) An application under subsection (1)—

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- (a) may be made without the First-tier Tribunal’s permission if the application is made within 31 days beginning with the day on which the decision concerned was made,
  - (b) may be made only with the First-tier Tribunal’s permission if the application is made after the period mentioned in paragraph (a),
  - (c) may not be made after the period of one year beginning with the day on which the decision concerned was made.
- (4) The First-tier Tribunal may give permission under subsection (3)(b) for an application to be made only if satisfied that there is a good reason for the application not having been made sooner.
  - (5) On application under subsection (1), the First-tier Tribunal is to review the decision concerned and may in consequence—
    - (a) uphold the decision, or
    - (b) set the decision aside.
  - (6) Where a decision is set aside by the First-tier Tribunal, it may (as it considers appropriate)—
    - (a) reach its own view on what the decision should be and order the Scottish Ministers to make the decision accordingly, or
    - (b) order the Scottish Ministers to make the decision afresh.
  - (7) In reaching its own view on what a decision should be by virtue of subsection (6)(a), the First-tier Tribunal may reach such findings in fact as it considers appropriate.
  - (8) In ordering the Scottish Ministers to make a decision afresh by virtue of subsection (6)(b), the First-tier Tribunal may give the Ministers such directions as it considers appropriate.
  - (9) A decision by the First-tier Tribunal about—
    - (a) the outcome of an application under subsection (1), or
    - (b) whether to give permission under subsection (3)(b) for an application to be made,is final.
  - (10) Accordingly (and without prejudice to the generality of subsection (9)), any such decision by the First-tier Tribunal may be neither—
    - (a) reviewed under section 43 of the Tribunals (Scotland) Act 2014, nor
    - (b) appealed against under section 46 of that Act.”.

(7) After section 85D (as inserted by subsection (6)) insert—

### “85E Guidance for appointees

- (1) A person appointed under section 85A or 85B must have regard to any guidance issued by the Scottish Ministers about the way in which the role of appointee should be carried out.
  - (2) The Scottish Ministers must make guidance issued for the purpose of subsection (1) publicly available.”.
- (8) In section 96(3), for “and 43(5)” substitute “, 43(5) and 85B(5)”.>

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### Shirley-Anne Somerville

- 18 In section 11, page 8, line 20, after <sections> insert <(Appointment of person to act on behalf of child),>

### Determination of entitlement to assistance

#### Jeremy Balfour

- 22 In section 2, page 3, line 5, at end insert—
- <(4) As soon as practicable after the end of each calendar year, the Scottish Ministers must lay a report before the Scottish Parliament setting out the number of occasions in that calendar year on which the Scottish Ministers have not complied with a duty mentioned in subsection (1) to inform a person because subsection (3) applies to the information that would otherwise be disclosed.
  - (5) The report must identify separately—
    - (a) the number of occasions on which information has not been disclosed in relation to a person who has a terminal illness,
    - (b) the number of occasions on which the reason for not disclosing information is because disclosure is considered likely to cause—
      - (i) serious harm to the physical health of the recipient,
      - (ii) serious harm to the mental health of the recipient.”.>

### Assistance given in error

#### Shirley-Anne Somerville

- 8 Leave out section 4

#### Shirley-Anne Somerville

- 17 After section 7, insert—

*<Assistance given in error*

#### **First-tier Tribunal’s jurisdiction**

- (1) The Social Security (Scotland) Act 2018 is modified as follows.
- (2) Section 68 is repealed.
- (3) After section 87 insert—

*“Assistance given in error: First-tier Tribunal’s jurisdiction*

#### **87A Power to transfer jurisdiction from sheriff to tribunal**

- (1) The Scottish Ministers may by regulations transfer to the First-tier Tribunal for Scotland some or all of the competence and jurisdiction that a sheriff has in relation to the recovery of—
  - (a) money owed under section 63, or



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- (b) money owed under regulations under Part 3.
- (2) Before laying a draft Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament for approval by resolution, the Scottish Ministers must consult—
  - (a) the Lord President of the Court of Session,
  - (b) the President of the Scottish Tribunals,
  - (c) sheriffs principal.
- (3) The Scottish Ministers must—
  - (a) exercise the power conferred by subsection (1) at least once,
  - (b) before 1 April 2021, consult the persons mentioned in subsection (2) about making regulations under subsection (1).”.
- (4) In section 96(2)—
  - (a) the word “68,” is repealed,
  - (b) after “86” insert “, 87A”.>

### **Shirley-Anne Somerville**

- 19 In section 11, page 8, line 20, after <6,> insert <(First-tier Tribunal’s jurisdiction),>

### **Shirley-Anne Somerville**

- 21 In the long title, page 1, line 4, after <purposes;> insert <the recovery of assistance given in error;>

## **Identifying possible eligibility**

### **Shirley-Anne Somerville**

- 9 After section 6, insert—

#### *<Identifying possible eligibility*

#### **Duty to inform about possible eligibility**

- (1) The Social Security (Scotland) Act 2018 is modified as follows.
- (2) Section 53 is—
  - (a) moved to after section 84B (and the italic heading immediately preceding it moves with it), and
  - (b) re-numbered 84C.
- (3) In section 84C—
  - (a) in subsection (1), after “assistance”, where it first appears, insert “under Part 2 or (as the case may be) regulations under section 79”,
  - (b) in subsection (2)(b)(ii), after “52” insert “, or (as the case may be) section 79”,
  - (c) in subsection (3), after “54(1)” insert “, or (as the case may be) regulations under section 79”,
  - (d) for paragraphs (a) and (b) of subsection (4) substitute—

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- “(a) where the determination mentioned in subsection (1) relates to an individual’s entitlement to assistance under Part 2—
- (i) a different type of assistance described in Chapter 2 of that Part from the type of assistance that the determination mentioned in subsection (1) relates to,
  - (ii) the same type of assistance as that determination relates to, but in respect of a different period or (as the case may be) event, or
  - (iii) assistance under regulations under section 79,
- (b) where the determination mentioned in subsection (1) relates to an individual’s entitlement to assistance under regulations under section 79—
- (i) a different type of assistance described in regulations under section 79 from the type of assistance that the determination mentioned in subsection (1) relates to,
  - (ii) the same type of assistance as that determination relates to, but in respect of a different period or (as the case may be) event, or
  - (iii) a type of assistance described in Chapter 2 of Part 2.”>

### Shirley-Anne Somerville

10 After section 6, insert—

**<Transitional provision in consequence of section (*Duty to inform about possible eligibility*)**

- (1) Anything done under section 53 of the Social Security (Scotland) Act 2018 (“the 2018 Act”) is to be treated as having been done under section 84C of that Act.
- (2) And any reference to section 53 of the 2018 Act in any enactment or other document is to be read accordingly.>

### Shirley-Anne Somerville

20 In the long title, page 1, line 3, after first <assistance;> insert <the duty to inform about possible eligibility for assistance;>

## Diagnosing terminal illness

### Shirley-Anne Somerville

11 In section 7, page 5, line 8, at end, insert—

<“(2ZA) The regulations may provide that, in the situation mentioned in sub-paragraph (2ZB), an individual who is not resident in the United Kingdom is to be regarded as having a terminal illness despite the clinical judgement described in sub-paragraph (2) not having been formed with regard to the guidance mentioned in sub-paragraph (3).

(2ZB) The situation referred to in sub-paragraph (2ZA) is that it would not be reasonable in the circumstances to insist on a clinical judgement being provided that has been formed with regard to the guidance.>

## THIS IS NOT THE MARSHALLED LIST

### Jeremy Balfour

5 In section 7, page 5, line 14, at end insert—

<( ) must provide that a person has appropriate skills and training, as prescribed by the Scottish Ministers in the regulations,>

### Shirley-Anne Somerville

12 In section 7, page 5, line 29, at end, insert—

<(d) may make different provision about the requirements for being an appropriate healthcare professional for the purposes of determining the entitlement to disability assistance of individuals who are resident in the United Kingdom and those who are not.>

### Shirley-Anne Somerville

13 In section 7, page 5, leave out lines 30 to 32 and insert—

<(iii) for sub-paragraph (3), substitute—

“(3) The Chief Medical Officer of the Scottish Administration is—

(a) to prepare and from time to time revise, and

(b) to make publicly available by such means as the Chief Medical Officer considers appropriate,

guidance that sets out when a progressive disease can reasonably be expected to cause an individual's death for the purpose of determining entitlement to disability assistance.

(4) Before preparing or revising guidance under sub-paragraph (3), the Chief Medical Officer must consult appropriate healthcare professionals (as defined in sub-paragraph (2A)) who are registered in the United Kingdom as members of a healthcare profession.”>

### Shirley-Anne Somerville

14 In section 7, page 5, line 34, leave out <5(2A)> and insert <1(2A)>

## Suspension

### Shirley-Anne Somerville

15 After section 7, insert—

*<Suspension of assistance*

#### **Power to suspend payment of assistance**

(1) The Social Security (Scotland) Act 2018 is modified as follows.

(2) In section 51—

(a) in subsection (2), the “and” at the end of paragraph (a) is repealed,

(b) after paragraph (a) insert—

“(aa) make provision, in accordance with schedule 11, about—

## THIS IS NOT THE MARSHALLED LIST

- (i) the circumstances in which an individual who has an entitlement to assistance in respect of a period under such a determination is not to become entitled to be given some or all of that assistance at the time at which the individual otherwise would in accordance with provision under paragraph (a), and
    - (ii) in that event, how and when the individual is to become entitled to be given that assistance, and”,
  - (c) after subsection (3), insert—
    - “(3A) Schedule 11 makes provision about the exercise of the power conferred by subsection (2)(aa).”.
- (3) In section 54—
  - (a) in subsection (1), for paragraphs (a) and (b) substitute—
    - “(a) the Scottish Ministers are either—
      - (i) determining an individual's entitlement to assistance (whether under section 37 or 43), or
      - (ii) considering whether regulations under section 52 require them to make a determination of an individual's entitlement to assistance without receiving an application, and
    - (b) they require further information in order to satisfy themselves about any matter material to the making of the determination of entitlement or (as the case may be) to their consideration of whether they are required to make a determination without receiving an application,”,
  - (b) after subsection (1) insert—
    - “(1A) If—
      - (a) the Scottish Ministers are either—
        - (i) determining the individual's entitlement to a type of assistance that the individual has ongoing entitlement to, or
        - (ii) considering whether regulations under section 52 require them to make a determination of the individual's entitlement to assistance without receiving an application,
      - (b) the individual fails to provide the requested information by the end of the period specified under subsection (1), and
      - (c) it is the first time that the individual has failed to provide the Scottish Ministers with the requested information within a specified period since they began making the determination or considering the matter mentioned in paragraph (a)(ii),the Scottish Ministers may issue a decision to suspend the assistance to the individual in accordance with regulations under section 51(2)(aa).
  - (1B) Where the Scottish Ministers issue such a decision, they must, at the same time, request that the individual provide them with the information within such further period as they specify.”,
  - (c) in subsection (2), for “specified period” substitute “the period specified under subsection (1) or (1B)”,

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(d) after subsection (3) insert—

“(4) The reference in subsection (1A)(a) to an individual having ongoing entitlement to a type of assistance is to an individual being entitled to be given the type of assistance in question under section 24 under a determination made on the basis that the individual has ongoing entitlement to that type of assistance.”.

(4) After schedule 10, insert—

### “SCHEDULE 11 (introduced by section 51)

#### SUSPENSION OF ASSISTANCE

##### *Circumstances in which assistance may be suspended*

1 (1) The regulations may provide for an individual’s assistance to be suspended in the following circumstances only—

- (a) when determining the individual’s entitlement to the type of assistance in question, the Scottish Ministers have requested information from the individual within a specified period under section 54 and the individual has not provided the requested information within that period,
- (b) where the Scottish Ministers have made arrangements (whether under section 85A, 85B or otherwise) for a person to receive the assistance on the individual’s behalf, and the Ministers consider that it is necessary to suspend the assistance—
  - (i) in order to protect the individual from the risk of financial abuse,
  - (ii) because the person with whom the Ministers have made arrangements is unable to continue to receive the assistance, or
  - (iii) for any other reason specified in the regulations, or
- (c) the individual has requested that the Scottish Ministers temporarily stop giving the assistance in question and is yet to request that they resume doing so.

(2) For the purpose of sub-sub-paragraph (1)(b), “financial abuse” includes—

- (a) having money or other property stolen,
- (b) being defrauded,
- (c) being put under pressure in relation to money or other property,
- (d) having money or other property misused.

##### *Safeguards: requirement to consider financial circumstances before suspension*

2 The regulations must require the Scottish Ministers, before suspending the assistance given to an individual, to have regard to the financial circumstances of the individual.

##### *Safeguards: right to review suspension*

## THIS IS NOT THE MARSHALLED LIST

- 3 The regulations must confer a right on an individual whose assistance has been suspended to require the Scottish Ministers to review their decision to suspend the individual's assistance.

### *Safeguards: information to be given following suspension*

- 4 (1) The regulations must require the Scottish Ministers to inform an individual whose assistance they have suspended—
- (a) of their decision to suspend the individual's assistance,
  - (b) of the reasons for their decision,
  - (c) of any steps which might be taken by the individual in order for the Scottish Ministers to consider ending the suspension, and
  - (d) of the individual's right in accordance with the regulations to require the Scottish Ministers to review their decision to suspend the individual's assistance.
- (2) The regulations must provide that the Scottish Ministers are to fulfil the duty described by sub-paragraph (1) in a way that leaves the individual with a record of the information which the individual can show to, or otherwise share with, others.

### *Safeguards: effect of suspension ending*

- 5 The regulations must provide that when—
- (a) the suspension of an individual's assistance ends, and
  - (b) under the latest determination of the individual's entitlement to the type of assistance in question, the individual would have become entitled to be given assistance during the period of the suspension,
- the individual is immediately to be given under section 24 the assistance that the individual would have become entitled to be given under the determination during that period.

### *Generality of enabling power unaffected*

- 6 Nothing in this schedule is to be taken to limit the provision that may be included in the regulations except to the extent stated.

### *Interpretation*

- 7 In this schedule—
- (a) references to an individual's assistance being suspended are to an individual, by virtue of the regulations, not becoming entitled to be given some or all of the assistance in respect of a period that the individual otherwise would at the time, or times, prescribed by regulations under section 51(2)(a),
  - (b) "the regulations" means regulations under section 51(1)."

## THIS IS NOT THE MARSHALLED LIST

### Shirley-Anne Somerville

16 After section 7, insert—

*<Power to set value of assistance as nil in certain circumstances*

#### **Power to set value of assistance as nil in certain circumstances**

- (1) The Social Security (Scotland) Act 2018 is modified as follows.
- (2) In schedule 2—
  - (a) after paragraph 11 insert—

*“Power to set value of assistance as nil*

11A(1) Provision may be made in the regulations for the value of the carer’s assistance that is to be given to an individual in respect of a period to be £0, but—

- (a) such provision must be framed so as to apply by reference to at least one of the following matters—
  - (i) the individual being resident and present in a particular place during the period,
  - (ii) the individual being in receipt of another type of assistance (whether under this Act or another enactment) during the period, and
- (b) the Scottish Ministers may only make such provision where they consider that it would be in the interests of the individuals to whom it applies to be entitled to carer’s assistance with a value of £0 in respect of a period rather than not being entitled to carer’s assistance at all.

(2) Nothing in sub-paragraph (1)(a) is to be taken to preclude provision being framed so as to apply by reference to further matters in addition to those mentioned there.”,

(b) in paragraph 12(b), for “paragraph 11” substitute “paragraphs 11 and 11A”.

(3) In schedule 5—

(a) after paragraph 14 insert—

*“Power to set value of assistance as nil*

14A(1) Provision may be made in the regulations for the value of the disability assistance that is to be given to an individual in respect of a period to be £0, but—

- (a) such provision must be framed so as to apply by reference to at least one of the following matters—
  - (i) the individual being resident and present in a particular place during the period,
  - (ii) the individual being in receipt of another type of assistance (whether under this Act or another enactment) during the period, and
- (b) the Scottish Ministers may only make such provision where they consider that it would be in the interests of the individuals to whom it applies to be entitled to disability assistance with a value of £0 in respect of a period rather than not being entitled to disability assistance at all.

## THIS IS NOT THE MARSHALLED LIST

- (2) Nothing in sub-paragraph (1)(a) is to be taken to preclude provision being framed so as to apply by reference to further matters in addition to those mentioned there.”,
- (b) in paragraph 19, after paragraph (c) insert—  
“(ca) paragraph 14A in Chapter 1 of Part 2,”.
- (4) In schedule 7—  
(a) after paragraph 11 insert—  
*“Power to set value of assistance as nil*
- 11A(1) Provision may be made in the regulations for the value of the employment-injury assistance that is to be given to an individual in respect of a period to be £0, but—
- (a) such provision must be framed so as to apply by reference to at least one of the following matters—
- (i) the individual being resident and present in a particular place during the period,
- (ii) the individual being in receipt of another type of assistance (whether under this Act or another enactment) during the period, and
- (b) the Scottish Ministers may only make such provision where they consider that it would be in the interests of the individuals to whom it applies to be entitled to employment-injury assistance with a value of £0 in respect of a period rather than not being entitled to employment-injury assistance at all.
- (2) Nothing in sub-paragraph (1)(a) is to be taken to preclude provision being framed so as to apply by reference to further matters in addition to those mentioned there.”,
- (b) in paragraph 15, after paragraph (b) insert—  
“(ba) paragraph 11A in Chapter 1 of Part 2,”.
- (5) In schedule 9—  
(a) after paragraph 10 insert—  
*“Power to set value of assistance as nil*
- 10A(1) Provision may be made in the regulations for the value of the housing assistance that is to be given to an individual in respect of a period to be £0, but—
- (a) such provision must be framed so as to apply by reference to at least one of the following matters—
- (i) the individual being resident and present in a particular place during the period,
- (ii) the individual being in receipt of another type of assistance (whether under this Act or another enactment) during the period, and
- (b) the Scottish Ministers may only make such provision where they consider that it would be in the interests of the individuals to whom it applies to be entitled to housing assistance with a value of £0 in respect of a period rather than not being entitled to housing assistance at all.



**THIS IS NOT THE MARSHALLED LIST**

- (2) Nothing in sub-paragraph (1)(a) is to be taken to preclude provision being framed so as to apply by reference to further matters in addition to those mentioned there.”,
- (b) in paragraph 13, after “9” insert “, 10A”.>



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