

Response ID ANON-VQUF-FRFT-M

Submitted to Social Security (Amendment) (Scotland) Bill - your views
Submitted on 2024-01-12 14:00:38

About you

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3 What is your name?

Name:
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4 What is your email address?

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5 Are you responding as an individual or on behalf of an organisation?

Organisation

Organisation details

1 Name of organisation

Name of organisation:
Glasgow City Council

2 Information about your organisation

Please add information about your organisation in the box below:

Glasgow City Council was created as part of the local government reorganisation in 1996 and is 1 of 32 single-tier councils across Scotland.

Part 1 - Types of Social Security Assistance

1 Do you have any views on this part of the Bill?

Please provide your response in the box provided.:

We welcome the proposal to create a Care Leaver Payment as part of a broader package of support for young people leaving care to reduce the financial barriers that they may face.

We also welcome the proposed introduction of a new overarching provision 'Childhood Assistance' that would have its own eligibility criteria and entitlement will not be restricted only to people in receipt of a UK benefit. It would be correct to consider including under this provision the Scottish Child Payment (CDP) and the other forms of assistance in respect of children.

Creating regulations to enable entitlement without the need to be in receipt of a UK means tested benefit will prevent unintended situations where a change in entitlement to a UK benefit could have an adverse effect on entitlement to CDP and other entitlements in respect of children.

Currently the loss of entitlement to a UK means-tested benefit will as a consequence impact on entitlement to CDP.

An example where this can occur is where someone on a low earned income, is paid four-weekly and is receiving Scottish Child Payment on the basis that they have a child and they are also in receipt of an amount of Universal Credit. There will be one calendar month in each year where they receive two salary payments, depending on the amount they earn this may mean that for that month they do not get any Universal Credit. As the rules currently stand, the loss of UC for that month would mean that they would also not be entitled to Scottish Child Payment for that same period.

Part 2 - Applications for Assistance

1 Do you have any views on this part of the Bill?

Please provide your response in the box provided.:

The necessary measures introduced during COVID to allow for claims, redeterminations and appeals to be made out with the usual strict time scales, where the delay was COVID related, highlighted that the existing rules were too restrictive for exceptional circumstances such as the COVID pandemic.

The proposal to replace the temporary COVID provisions in relation to both requesting redeterminations and lodging appeals appeals, with a new provision extending timescales where there are exceptional circumstances would be a welcome improvement over the current provisions. However, something similar should be created in relation to making claims to be operated in exceptional circumstances.

Eg if someone was in hospital and physically or mentally incapable of making a claim, should such an exceptional circumstance not be a relevant consideration to permit an extension of the time in which to make a claim?

The fact that very few people took advantage of the ability to backdate a claim should not be used as a reason not to have such a provision for exceptional circumstances. Instead the fact that it was not greatly used would be evidence that such a provision does not create a financial risk to Social Security expenditure and does provide a safeguard in the unlikely event of a future situation similar to the pandemic.

Part 3 - Determinations and Re-determinations of Entitlement to Assistance

1 Do you have any views on this part of the Bill?

Please provide your response in the box provided.:

The proposed changes in relation to redetermination and appeals are welcomed and are do not raise concerns in relation to the social security principles.

By recognising that there may be exceptional circumstances that would warrant an extension of the current one year time limit would be in interest of fairness.

It would also be fair to permit someone who had requested a redetermination to change their mind and to be permitted to withdraw their request, this would also mean that Social Security Staff staff would not need to complete a task that was no longer wanted.

The present rule that currently lifts the duty on Social Security Scotland to make a redetermination after they have missed the time frame for doing so is not on the best interest of either the claimant or Social Security Scotland. This is perhaps an unintended consequence of what was introduced as a provision to allow a claimant to lodge an appeal where Social Security Scotland did not conduct the redetermination within a given time. By maintaining the provision allowing a claimant to proceed to appeal in such circumstances but also requiring Social Security Scotland to make a redetermination in the claimants favour will avoid unnecessary delays and stress to the claimant and will also avoid extra cost to public purse. This will also allow claimants who may be unsure of taking a matter to appeal to still receive their determination.

The positive points above would also apply to a power enabling Social Security Scotland to make a better offer after an appeal has been lodged. This however should not become a form of bargaining to encourage appellants to withdraw their appeal.

Part 4 - Assistance Given in Error

1 Do you have any views on this part of the Bill?

Please provide your response in the box provided.:

The proposed changes try to make it clear the where there has been a recoverable overpayment then the person who gained financially from that error (claimant or representative) will be the person who is liable for to repay the money. The term representative has been clarified to mean an appointee or similar person and not and a worker in an advice agency who may assist the claimant in dealings with Social Security Scotland or represent at an appeal tribunal.

The proposal in effect establishes that the responsibility for repaying the overpayment is from the person who benefited from the money and as such this should protect friends or family members who come forward to genuinely assist where the claimant is unable to do so for themselves without fear that they could become liable for an overpayment.

Such a proposal is reasonable but we would want to flag up what could be complications. Where an appointee is not acting wholly in the interests of the claimant and as such is benefiting from the payments they may not be doing do exclusively, they may take some money for themselves and use some for the benefit of the unindividual.

Also in some circumstances the appointee might be a care home manager or other similar service provider who manages the claimants finances but uses some of the money to pay for the service or accommodation that they provide and the remainder for the claimant.

In both situations it may be necessary to establish exactly how the money was used and establish who benefited. In addition where there is more than one income source being managed by an appointee (eg a UK benefit) then further difficulties may arise in determining what money was being used for the individual and what money source was not.

As such it may be necessary to have a provision that allows for an overpayment to be apportioned to both the individual and representative.

The proposal to enable recovery of an overpayment from the deceased estate is reasonable and will bring it in line with the arrangements for UK

benefits.

The proposal to bring the decision of recoverability within the jurisdiction of the appeal tribunal will avoid the need to have matters decided in court. A tribunal will be able to determine both liability and recoverability and this may allow for both matters to be considered together within the same appeal tribunal.

Part 5 - Appointees

1 Do you have any views on this part of the Bill?

Please provide your response in the box provided.:

The proposal to temporarily approve DWP appointees is welcomed. It will prevent a situation where a claimant who has an existing appointee for a UK benefit and subsequently claims a benefit administered by Social Security Scotland. This would be particularly relevant in the instance of a terminal illness where it would not be desirable to delay the award of the Scottish Benefit pending a new appointment process.

We also welcome the proposed provision that would make an appointee liable to repay a claimant where they have used the claimant's money in bad faith. The proposal may provide a level of protection to the claimant however as the claimant will be incapable of managing their own affairs but it is unclear how they may be able to make use of this provision.

Part 6 - Information for Audit

1 Do you have any views on this part of the Bill?

Please provide your response in the box provided.:

We recognise that there is a requirement to monitor and gauge overpayment and underpayments of benefit and to do so will require obtaining information from claimants. There should however be safe guards put in place to ensure that vulnerable claimants are sufficiently supported to participate when required to do so, to avoid any risk of them having their benefits suspended where they are unable for good reason to comply with a request for information.

Part 7 - Recovery from Compensation Payments

1 Do you have any views on this part of the Bill?

Please provide your response in the box provided.:

Where an award of compensation has taken into consideration the benefits that may be paid to the claimant and then there is an award made that overlaps with those benefits then it is reasonable for there to be a deduction at the point of settlement. Any compensation for matters that do not overlap with the benefits should not be liable to recovery.

The recovery should be done at the point of settlement so that it is a cost to the person or organisation liable to pay the compensation and not directly from the claimant. This should all be done without the claimant having to take any action and there should not be any ongoing deduction from weekly benefit payment.

Part 8 - Scottish Commission on Social Security

1 Do you have any views on this part of the Bill?

Please provide your response in the box provided.:

The expansion of the type of regulations that the Scottish Commission on Social Security is able to consider is welcome. The proposed other changes do not raise any concerns.

Additional comments

1 Do you have any other comments?

Please provide your response in the box provided.:

None