SOCIAL SECURITY (AMENDMENT) (SCOTLAND) BILL

FINANCIAL MEMORANDUM

INTRODUCTION

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Social Security (Amendment) (Scotland) Bill, introduced in the Scottish Parliament on 31 October 2023.

2. The following other accompanying documents are published separately:

- Explanatory Notes (SP Bill 35-EN);
- a Policy Memorandum (SP Bill 35-PM);
- a Delegated Powers Memorandum (SP Bill 35-DPM);
- statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 35-LC).

3. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

Background

4. The overarching policy objective of the Bill is to enhance the Scottish system of social security in line with the Social Security Principles at section 1 of the Social Security (Scotland) Act 2018 (the 2018 Act), particularly the principles that require that 'opportunities are to be sought to continuously improve the Scottish social security system in ways which put the needs of those who require assistance first, and advance equality and non-discrimination,' and that 'the Scottish system of social security is to be efficient and deliver value for money'.

5. The Bill includes a number of provisions intended to improve the experience of people using the services provided by Social Security Scotland and a number of provisions intended to deliver increased efficiency and value for money. The Bill also seeks to implement findings of an independent review into the remit and operation of the Scottish Commission on Social Security, and to revoke emergency provision inserted into the 2018 Act in 2020 at the height of the Coronavirus (COVID-19) pandemic. Some provisions of the Bill seek to amend or repeal sections of the 2018 Act, and others seek to create new provisions in that Act.

6. The Bill is drafted in nine parts, containing a total of 26 sections:

- Part 1 is titled 'Types of Social Security Assistance' and contains the provisions which take new regulation-making powers for Childhood Assistance and Care Experience Assistance;
- Part 2 is titled 'Applications for Assistance' and contains the provisions which repeal s52B of the 2018 Act, which contains emergency COVID-19 provision introduced in 2020;
- Part 3 is titled 'Determinations and Re-determinations of Entitlement to Assistance' and contains the provisions which relax deadlines for re-determination or appeal requests, the provisions which introduce the right to withdraw a re-determination request, provisions which clarify the duties on Scottish Ministers where they miss deadlines for completing a re-determination, the provisions introducing a power for Scottish Ministers to make a new determination which stops an appeal following an error, and provisions which set out the powers of the Tribunal in a process appeal, along with the effect of that Tribunal's decision;
- Part 4 is titled 'Assistance Given in Error' and contains provisions which modify the 2018 Act provisions on liability for overpayments and introduce a right to appeal to the First-tier Tribunal for Scotland against a finding of liability for an overpayment, and a right to appeal against a process decision made by Social Security Scotland to reject a request for a review of a liability decision;
- Part 5 is titled 'Appointees' and contains provisions which would allow Scottish Ministers to make payment of assistance to a person appointed by the Department for Work and Pensions (DWP) for a limited time, and which make appointees liable to the person they act for where they act in breach of their duties, bringing appointees into line with others who act for clients;
- Part 6 is titled 'Information for Audit' and contains provisions which confer powers on Scottish Ministers allowing them to effectively audit the monetary value of error and fraud in the Scottish social security system;
- Part 7 is titled 'Recovery from Compensation Payments' and contains the provisions which take a power for Scottish Ministers to make recoveries from awards of compensation and specify the high-level framework within which the recoveries scheme will operate;
- Part 8 is titled 'Scottish Commission on Social Security' and contains provisions which implement some recommendations of a recent independent review into the remit and operation of the Commission;
- Part 9 is titled 'Final Provisions' and contains the final provisions of the Bill.

7. The policy background of each Bill provision is detailed in the Policy Memorandum.

COSTS ON THE SCOTTISH ADMINISTRATION

8. Generally, social security costs on the Scottish Administration fall into three main categories; (1) direct spending on benefit payments, (2) spending on the implementation of the necessary technical infrastructure to deliver payments, and (3) the running costs borne by bodies who have a responsibility for discharging functions on behalf of Scottish Ministers, principally Social Security Scotland and the Scottish Courts and Tribunals Service.

9. The Bill is projected to have a cost impact within the 2025-26 and 2026-27 financial years of £7.6 million to £17.2 million and £7.3 million to £17.9 million respectively. Net savings of £2.8 million could begin in 2027-28 with ongoing next savings of £3.5 million possible from 2028-29 onwards. The provisions in the Bill are examined with respect to each of these categories in turn.

Provision Costs Summary - Low Estimate (£ million)	**Year 1**	**Year 2**	**Year 3**	**Year 4**
	2025-26	**2026-27**	**2027-28**	**2028-29**
Costs	7.6	7.3	2.8	3.0
Savings	-1.2	-3.5	-5.6	-6.5
Net Cost/(Savings) - Low Estimate	**6.4**	**3.8**	**-2.8**	**-3.5**

Provision Costs Summary - High Estimate (£ million)	**Year 1**	**Year 2**	**Year 3**	**Year 4**
	2025-26	**2026-27**	**2027-28**	**2028-29**
Costs	17.2	17.9	6.2	6.8
Savings	-1.3	-3.6	-5.8	-6.7
Net Cost/(Savings) - High Estimate	**15.9**	**14.3**	**0.4**	**0.1**

Benefit Expenditure

10. The Scottish Government is set to invest £5.3 billion in benefits expenditure in 2023-24, providing support to over 1 million people. This is over £750 million above the level of funding forecast to be received from the UK Government through the social security Block Grant Adjustments.

11. Funding on social security benefits is expected to reach £7 billion by 2026-27. Analysis by the Scottish Fiscal Commission (SFC) indicates that, over the same period, Scottish Government investment in social security could grow to £1.2 billion above the level of funding received from the UK Government. The 2022 Resource Spending Review[1] set out the funding envelope of £23 billion for demand-led benefits and payments that help people who need it most across Scotland. The Scottish Government considers this an investment in the people of Scotland, key to its national mission to tackle child poverty.

12. All Scottish Government social security benefits were increased by 10.1% in April 2023, in line with inflation as measured by the Consumer Prices Index, except for Scottish Child Payment (SCP), which was uprated early, with total investment of over £400 million in 2023-24. SCP was increased to £25 per week in November 2022 – a 150% increase in eight months.

13. The SFC has a statutory duty to provide independent official forecasts of Scottish GDP, devolved tax revenues and devolved social security expenditure. Under the Scottish Fiscal Commission Act 2016, the SFC may produce forecasts on other fiscal factors, defined as 'anything

[1] https://www.gov.scot/publications/investing-scotlands-future-resource-spending-review/pages/1/

which the Scottish Ministers use to ascertain the amount of resources likely to be available for the purposes of sections 1 to 3 of the Public Finance and Accountability (Scotland) Act 2000'.[2]

14. The Protocol for engagement between the SFC and the Scottish Government notes that the SFC may produce forecasts where it considers the policy, or policies, to have a "non-negligible impact on receipts or expenditure". Where a power is being taken to make regulations for a form of assistance, it is those regulations which will have a potential to impact the SFC's forecasts of benefit spending.

15. The SFC has reviewed the measures in the Bill and concluded that the Bill is not expected to materially change their forecasts published in May 2023. If applicable, the Commission will include the effect of the Bill in their next forecast.

16. Estimates for benefit expenditure have been included for the provisions which take new regulation-making powers for Childhood Assistance and Care Experience Assistance. These are indicative figures only as the provisions take a power for Scottish Ministers to make regulations, and the manner in which that power is exercised will determine the benefit expenditure.

17. As the Scottish Government's current intention is that the power for Childhood Assistance will be used to align SCP more closely with other forms of assistance delivered by Social Security Scotland, the power will not introduce a new line of benefit spending. The regulations made under the power in the Bill will replace existing SCP regulations which are currently made using a different power. SCP is already included in the forecasts produced by the SFC.

18. The power for Care Experience Assistance will introduce a new line of benefit spend for the Scottish Administration, and the best estimates of that have been set out below. However, the details of the payment will shortly be the subject of a full public consultation and are currently the subject of a 'discovery' phase to scope out high-level options for delivery of the payment in due course.

19. Given the SFC's decision not to update its forecasts, and the fact that SCP spending is already being accounted for in those SFC forecasts, the Scottish Government has chosen not to include benefit spend which will in due course be enabled by the provisions on Childhood Assistance in the Bill in the summary of costs and savings provided at Table 5.

Implementation costs

20. The Scottish Government's Social Security Programme exists to develop and implement the capability required by Social Security Scotland to deliver 16.5 million payments per year to the two million clients the Scottish Government expects by 2024-25. This includes building systems for financial payments, fraud, error and debt, document storage and delivery, case management, cyber security, telephony, redeterminations and appeals, and many other functions.

21. A Business Case for the Social Security Programme was most recently published in February 2023[3]. The business case provides a view on the costs and benefits of the Programme over a 30 year timeframe to 2050, and has been developed with DWP and other delivery stakeholders to agree an

[2] Scottish Fiscal Commission Act 2016 (legislation.gov.uk)
[3] Social Security Programme Business Case - gov.scot (www.gov.scot)

ambitious but deliverable timetable for launching the remaining devolved benefits and completing case transfer. The programme functions currently carried out by the Social Security Programme will be progressively transitioned to Social Security Scotland in the coming years whereby the agency will take on responsibility for continuous improvement for service delivery.

22. The provisions in the Bill were not considered as part of the Business Case. The Scottish Government has therefore estimated a range of likely costs to build the necessary infrastructure to deliver the provisions in the Bill which will require new systems or changes to existing systems, based on its experience of similar work to date. The total estimated implementation costs of each provision in the Bill are dealt with in turn; these should be understood as best estimates based on the current approach to delivering infrastructure for service delivery.

23. The implementation costs have been derived from the known delivery scope outlined in this Financial Memorandum, alongside the social security programme's established approach that is used to establish the size and cost of activities within the Programme. These costings draw on the Programme's experience of delivery and costs for similar work of this size and nature, tempered with the fact that assumptions have had to have been made across the scope and future delivery approach that may be undertaken to deliver the capabilities required to support the provisions in the Bill.

24. Taking the known scope of delivery, assumptions were then built based on the technical platform and delivery skillset likely to be required, with previous and similar deliverables across the Programme as a reasonable basis for comparison. This allowed an informed view to be developed on the size and scale of effort required to deliver each component of the Bill's provisions; the size and scale being defined in the number of standard Programme development periods ('sprints') required to deliver this work. A standard sprint lasts for a fortnight. For the provisions in the Bill which have estimated implementation costs, the volume of work required ranges from 3 to 18 sprints.

25. Taking the established development duration for each topic, overall costs were calculated based on a blended team cost of £70,000 for each sprint. An additional 50% was then added to account for essential delivery supporting services such as testing, environmental build, and delivery managers. These additional support costs correlate to the growing complexity as the size and scale of a delivery increases. In addition, a delivery range of 10% to 200% for Optimism Bias was created based on the HM Treasury Green Book approach[4], using the Software Development guidance. It is important to note that the methodology used to develop these costs is based on a number of assumptions required to develop the model. This work, in line with best practice for large scale IT programmes, will be subject to detailed design and planning before any work is undertaken, with a comprehensive assurance and review process aligned to this process at all times.

26. The figures provided are likely to increase in coming years due to increasing supplier costs and inflation and are based on assumptions about the estimated scale and scope of work required. The costs include both development of the core software platform used by Social Security Scotland and the cost of the supporting services required by that core software development, provided by Social Security Scotland's Chief Digital Office, such as digital security and testing. Any such increases would be in addition to the margins of uncertainty employed in arriving at the total estimated costs.

[4] The Green Book (2022) - GOV.UK (www.gov.uk)

27. The estimated implementation costs of the Bill, subject to the qualifications set out above, are set out by provision.

Running costs

28. There are three bodies that the ongoing running costs imposed by the provisions in the Bill will mainly fall upon: Social Security Scotland, the Scottish Courts and Tribunals Service and the Scottish Commission on Social Security. The estimated costs on each organisation are set out by provision, in the order they appear in the Bill.

29. The delivery vehicle for Care Experience Assistance is still to be determined. In line with the agile approach a discovery phase is underway to assess the suitability of delivery options for this payment. For the purposes of this financial memorandum indicative figures for implementation costs and running costs have been assumed as being imposed on Social Security Scotland however following the discovery phase an alternative vehicle for delivery may be identified as preferrable.

30. The implementation and running costs of Care Experience Assistance will fall on the Scottish Administration regardless of the delivery vehicle agreed following the discovery phase.

Social Security Scotland

31. Social Security Scotland, established in September 2018 to deliver the forms of assistance in the 2018 Act, is an executive agency of the Scottish Government. Its headquarters are in Dundee, with offices in Glasgow, along with a local delivery service in each of Scotland's 32 local authority areas. Its Chief Executive is directly accountable to Scottish Ministers. Social Security Scotland has been designed with the people who use it to ensure that processes are clear and inclusive and that it delivers support to people across Scotland with dignity, fairness and respect.

32. In its 2023-24 budget Social Security Scotland's total administration costs were £301.6 million, of which £199.5 million was staffing costs, £69 million was other administrative costs, and £33.1 million was on formal agreements with the UK Government's DWP. The Scottish Government expects that, once all forms of devolved assistance are being delivered by Social Security Scotland, its running costs will be broadly in line with SG estimates of the comparable DWP figure, at around 6% of total benefit expenditure. Some of the provisions in the Bill will have an effect on the running costs of Social Security Scotland, and therefore on the cost of administration as a proportion of benefit expenditure.

Scottish Courts and Tribunal Service

33. Some of the provisions in the Bill are expected to affect the running costs of administering the Social Security Chamber of the First-tier Tribunal for Scotland, the independent Tribunal which hears appeals against Scottish Ministers' determinations of entitlement to social security assistance and against process decisions made by the Scottish Ministers in relation to applications for assistance and requests for a re-determination.

34. The Scottish Courts and Tribunals Service (SCTS) is an independent body corporate established by the Judiciary and Courts (Scotland) Act 2008. It is responsible for administrative support for Scottish courts and tribunals, including the First-tier Tribunal for Scotland. SCTS' total expenditure, including staffing costs, in the financial year ending 31 March 2022 was £163.1 million.

35. Operational costs for the First-tier Tribunal for Scotland (Social Security Chamber), which includes Tribunal member fees, are funded by the Social Security Programme. Discussions will take place with the Social Security Chamber to agree the funding required with the SCTS, based on the forecast activity. Where possible, the estimated additional running costs likely to fall on SCTS have been set out, alongside the provisions giving rise to those costs, in this Memorandum.

36. Where new running costs are expected to fall on SCTS due to the provisions in the Bill, the Scottish Government has engaged with SCTS to produce estimates of the likely impacts.

Scottish Commission on Social Security

37. It is anticipated that the Bill will generate some running costs and savings for the Scottish Commission on Social Security (SCoSS). The budget for SCoSS provides funding to cover all expenditure associated with operating SCoSS within the guidance of an advisory Non-Departmental Public Body. SCoSS are supported by a secretariat of Scottish Government civil servants, which was expanded in 2022-23 to provide more effective support to the SCoSS Board. This, along with their operational costs and members' fees, is funded from a Commission budget which is provided by the Scottish Government. The SCoSS budget for the 2023-24 financial year is £450,000.

Childhood assistance

Benefit expenditure

38. Table 1 shows the SFC's forecast for the yearly benefit expenditure for SCP until the financial year 2028-29.[5] Any future regulations that resulted in a departure from the costings in the table below would be impacted, costed and consulted on as necessary.

Table 1: SFC forecast for yearly benefit expenditure for SCP

Financial Year	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29
Spend (£m)	405	428	433	435	436	438

39. Estimates suggest that fewer than 150 children in receipt of SCP sadly pass away each year. As such, it is anticipated that standardising the run-on payable in the event of a child's death would have a negligible impact on overall benefit expenditure.

Implementation costs

40. The provisions on childhood assistance at section 1 of the Bill will not in themselves generate any implementation costs. The provisions take a power for Scottish Ministers to make regulations, and the manner in which that power is exercised will determine the type and amount of system development required. The Scottish Government anticipates the implementation costs of any changes

[5] Scotland's Economic and Fiscal Forecasts May 2023

required following the exercise of the regulation-making power would likely be minimal, given the substantial existing infrastructure which delivers SCP, and the extent to which existing systems can be re-used will form part of the considerations around how that power may be exercised in future. An example of a possible use of the power with no implementation costs is set out below.

41. It is for Scottish Ministers to agree how these powers would be used in future, however the powers could be used to modify SCP to improve its administration in ways which are not currently possible using the powers granted under Section 79 of the 2018 Act.

42. One possible use of these new powers may be to resolve an outstanding workaround with the way claims are handled in the unfortunate event of the death of a child to whom a claim of SCP relates. Under the existing legislative footing a normal run-on is not possible. Current regulations do allow for an additional amount to be paid to clients in the event of a child's death, but the amount paid will vary depending on the status of the SCP claim in the 12 weeks prior to the child's death, resulting in varying amounts being paid to different bereaved clients. Whilst this was felt to be better than providing no run on at all, it is Ministers' intention that it would be preferable to provide a consistent 12 week run-on of SCP in the event of any child's death to whom an SCP award relates. Amending the legislative footing would allow for this provision to be administered as intended, in the form of a standard 12 week run-on in all cases. This would carry no additional implementation or administrative costs, but would help ensure the policy intent is enacted correctly and fairly.

Running costs

43. The provisions at section 1 will not in themselves generate any running costs for Social Security Scotland or SCTS. The provisions take a power for Scottish Ministers to make regulations, and the manner in which that power is exercised will determine the running costs of any new assistance. Any new regulations will be impacted, costed and consulted on as necessary.

44. SCP is currently delivered by Social Security Scotland by teams that work across a number of low income benefits, so it is not possible to accurately estimate the current delivery cost of SCP in isolation. However, since it is not envisaged that future regulations made under these powers will result in a significant departure from the current approach to SCP delivery, we would not anticipate there being significant costs or savings generated by future changes. Any such costs or savings would be impacted, costed and consulted on as necessary.

Care Experience Assistance

Benefit expenditure

45. The Scottish Government has committed to invest £10 million per annum to support people with experience of being in care[6], including through a payment for people leaving care. This payment will be established in future using the regulation-making power taken in the Bill and will support the Scottish Government's commitment to Keep The Promise by 2030. High level indicative costs for benefit expenditure are included at table 2.

[6] Keeping the Promise implementation plan - gov.scot (www.gov.scot)

Table 2: Indicative costs of benefit expenditure for Care Experience Assistance

Take Up	**Year 1**	**Year 2**	**Year 3**	**Year 4**	**Year 5**
100%	£2.8 million	£1.4 million	£1.4 million	£1.4 million	£1.4 million
90%	£2.5 million	£1.3 million	£1.3 million	£1.3 million	£1.3 million
70%	£2 million	£1 million	£1 million	£1 million	£1 million
Range (70-90%)	£2 million to £2.5 million	£1 million to £1.3 million	£1 million to £1.3 million	£1 million to £1.3 million	£1 million to £1.3 million

46. This assumes that a cohort of 1400 people will receive a one-off payment of £2,000 to help towards the costs of leaving care and transitioning to independent living. The benefit expenditure costs are expected to be higher in year one as the current assumption is that people leaving care will be eligible for a payment up to 12 months after the date they leave care. The application period at launch has not been finalised and the ratio of year one costs to subsequent years is subject to change.

47. The Children's Social Work Statistics published in April 2023 indicates that the number of young people aged 16+ who ceased to be looked after between 2018 and 2022 was in the range of 1207-1464. The figure of 1400 has been chosen as the basis for estimates to ensure the higher anticipated number of applicants, and therefore costings, is included. However, as the number of young people leaving care each year varies, the number of applicants receiving the Care Leaver Payment annually may vary, resulting in variable costings. This will be considered when developing any assistance under the power provided in the Bill for Care Experience Assistance.

48. The provisions take a power for Scottish Ministers to make regulations, and the manner in which that power is exercised will determine the benefit expenditure.

Implementation costs

49. The provision at section 2 of the Bill takes a regulation-making power for Scottish Ministers to establish one or more schemes to provide care experience assistance to those who have experience of the care system. Details on the eligibility criteria, processes and delivery model of the assistance are still to be determined. This will be developed through engagement and consultation with care experienced people and those with experience of delivering similar support.

50. The Scottish Ministers intend to use this power initially to create assistance to support people leaving care. The provisions on Care Experience Assistance at section 2 are expected to generate implementation costs estimated at £2.079 million to £5.67 million. This assumes that the provisions will be used to deliver a payment for people leaving care and that there will be the need to build a system with functionality to deliver the payment.

51. These estimated costs are comprised of £1.26 million in development of the core software platform and £630,000 in associated supporting technical services, with the necessary work taking

place over 18 sprints. The optimism bias (10% to 200%) was then applied to the sum of these two estimates (in this case, £1.89 million) to produce the range given (£2.079 - £5.67 million).

Running costs

52. The running costs generated by Care Experience Assistance are estimated to be in the region of £0.2 million per year to provide staffing to administer a payment for people leaving care. This figure will be refined in future when the processes and delivery model of the assistance are agreed.

Repeal of section 52B of the 2018 Act

Implementation Costs

53. The repeal of section 52B at section 3 of the Bill imposes no new implementation costs. The change requires no new supporting systems or operational processes. Section 52B currently allows applications made to Social Security Scotland outwith statutory deadlines to be accepted as though they were on time, where the reason for the delay is COVID-19.

Running Costs

54. The repeal of section 52B of the 2018 Act will have no effect on the running costs of Social Security Scotland. The guidance used by decision-makers will be replaced by the guidance used before the changes brought in by the Coronavirus (Scotland) Act 2020 came into force.

55. The repeal of section 52B will have no effect on SCTS. The Scottish Government is not currently aware of any appeals to the First-tier Tribunal for Scotland on the basis of an application which was rejected under the terms of section 52B. As such, no impact is anticipated on Tribunal caseloads.

Re-determination and appeal deadlines in exceptional circumstances

Implementation costs

56. Social Security Scotland systems have existing functionality to process re-determinations and appeals beyond a year. As such, the Scottish Government considers that there will be no implementation costs associated with this provision, other than updated operational guidance for Social Security Scotland decision-makers and client notifications. The cost of the guidance update and notification changes is estimated at approximately £346,500 to £945,000. The methodology employed to arrive at this range is detailed above, under the heading of ‘Implementation Costs’.

57. These estimated costs are comprised of £210,000 in development of the core software platform and £105,000 in associated supporting technical services, with the necessary work taking place over 3 sprints. The optimism bias was then applied to the sum of these two estimates.

Running Costs

58. The provision at section 4 is unlikely to generate additional running costs for Social Security Scotland, except for the cost of staff training. This is because the Scottish Government anticipates that use of this provision will be so rare as to be insignificant in terms of costs on the Scottish Administration. Social Security Scotland spent £100,000 on staff training from a total £88 million in

overall administration costs in the year to 31 March 2021, and £300,000 on staff training from a total of £103.2 million in administration costs in the following financial year to 31 March 2022. The Scottish Government does not consider that the cost of any additional training required by the Bill provision will materially affect Social Security Scotland's training costs in a way which moves significantly away from existing ratios.

59. The 2020 provision to allow late re-determination and appeals for reasons related to COVID-19 was never utilised beyond a calendar year. In addition, cases that fall under this new provision will need to evidence exceptional circumstances and will therefore be very low in number.

Withdrawal of request for re-determination

Implementation costs

60. Section 5 of the Bill, which will introduce the right to withdraw a re-determination request is anticipated to generate estimated implementation costs for Social Security Scotland of between £693,000 and £1.89 million. This range has been estimated based on the assumption that implementation of this provision will require updating operational guidance, changes to notifications, and enhancements to public-facing digital content. The methodology employed to arrive at this range is detailed above, under the heading of 'Implementation Costs'.

61. These estimated costs are comprised of £420,000 in development of the core software platform and £210,000 in associated supporting technical services, with the necessary work taking place over 6 sprints. The optimism bias was then applied to the sum of these two estimates.

Running costs

62. Section 5, which introduces a right to withdraw a re-determination request, is likely to lead to savings in terms of Social Security Scotland resourcing and costs, but it is challenging to quantify these impacts.

63. This provision will allow the Client Experience Team to stop working on re-determinations if clients no longer wish to continue with their challenge. Currently the Client Experience Team has to complete all requested re-determinations, which can take up to 56 days to complete, even if clients change their mind and no longer consent to this process.

64. This new provision is therefore likely to enhance efficiency and speed of processing for re-determinations, reducing the risk of re-determinations going out-of-time. The DWP allows the withdrawal of mandatory reconsideration requests and the rate of withdrawal or cancellation is 8% for Personal Independence Payment (PIP)[7].

65. However, it is difficult to quantify resource and cost savings for an equivalent rate of withdrawals for Adult Disability Payment re-determination requests within Social Security Scotland, as it would depend on the point at which re-determination requests are withdrawn.

[7] Personal Independence Payment statistics April 2013 to January 2023 - GOV.UK (www.gov.uk)

Re-determinations after the period allowed

Implementation costs

66. The provision at section 6 of the Bill, which clarifies in legislation the duties on Scottish Ministers when a re-determination is completed late, formalises an existing operational process. There are no anticipated implementation costs for Social Security Scotland arising from this provision as existing system functionality does not place any limitation on the re-determination period, so no system changes are required.

Running costs

67. There are no anticipated running costs for Social Security Scotland generated by this provision as Social Security Scotland are already completing re-determinations after the period allowed. This provision merely serves to formalise existing process and service design within legislation, in order to enhance stakeholder understanding and inform clients of their rights in these scenarios.

New determination of entitlement after error

Implementation costs

68. The implementation costs of the provisions at section 7 of the Bill, which enable Scottish Ministers to make a new determination of entitlement which has the effect of ending an appeal, have been estimated at approximately £1.39 million to £3.78 million. This estimate assumes that implementation of this provision will require changes including updating the technical interface between Social Security Scotland and SCTS, enhancements to operational guidance and notifications, and updates to public-facing digital content and other communications. The methodology employed to arrive at this range is detailed above, under the heading of 'Implementation Costs'.

69. These estimated costs are comprised of £210,000 in development of the core software platform and £105,000 in associated supporting technical services, with the necessary work taking place over 3 sprints. The optimism bias was then applied to the sum of these two estimates.

Running costs

70. Social Security Scotland will require to develop new training for staff employed on the process for stopping appeals, including how best to approach individuals or their representatives. Social Security Scotland spent £100,000 on staff training from a total £88 million in overall administration costs in the year to 31 March 2021, and £300,000 on staff training from a total of £103.2 million in administration costs in the following financial year to 31 March 2022[8]. The Scottish Government does not consider that the cost of any additional training required by the Bill provision will materially affect Social Security Scotland's training costs in a way which moves significantly away from existing ratios. There will be additional calls on Social Security Scotland staff resource in engaging with individuals or their representatives to outline options and seek agreement to any new determination of entitlement, and in making the new determination and drafting a notice of determination.

71. However, the provisions are also likely to free up for redeployment Social Security Scotland staff resource that would otherwise be engaged in appeals work; both the resource deployed appearing

[8] https://www.socialsecurity.gov.scot/asset-storage/production/downloads/AnnualReportAccounts_21-22.pdf

at Tribunals hearings to represent Social Security Scotland, and potentially the resource deployed in drafting appeal submissions, depending on when the appeal is stopped.

72. It is difficult to forecast how many appeals might be stopped for Scottish Government benefits. In estimating how many appeals might be stopped for Scottish Government benefits, the Scottish Government has considered the DWP data on lapsed appeals. Lapsed appeals are where DWP change the decision in the client's favour before the appeal is heard at the Tribunal, and therefore the appeal is stopped. The challenge is that the data on lapsed appeals in the reserved system is constantly fluctuating for PIP and is extremely limited for other reserved benefits. For initial decisions (UK wide) following a PIP assessment between April 2013 and December 2022, 15.6% of appeals lodged were lapsed by DWP, and the decision changed.

73. Considering only people residing in Scotland, with their PIP claim administered by DWP, 13.7% of appeals lodged were lapsed by DWP over the same period. Based on this data, if approximately 14% of appeals to the Social Security Chamber were stopped, this could lead to a reduction in resource requirements associated with appeal hearings in Social Security Scotland.

74. This reduction in resource requirement has been estimated to be between one and two full time equivalents. These staff would be a combination of grades. This equates to between approximately £45,000 to £120,000 per year for 2025-26 based on current appeal rate assumptions. This potential reduction in time saved may not be a realised saving as it does not consider any additional operational processes and tasks that may arise from introducing a mechanism to allow a new determination to be made after an appeal is lodged, thereby stopping the appeal.

75. The provisions at section 7 of the Bill will generate potential savings in terms of running costs for SCTS if a new determination is made in some cases, thereby stopping the appeal, as this could lead to fewer appeal hearings, and resultant savings in Tribunal members' fees.

76. Looking at the DWP data on lapsed appeals for PIP in Scotland, if 14% of appeals to the Social Security Chamber were stopped, this could lead to a reduction in direct costs associated with appeal hearings, primarily Tribunal members' fees. A 14% reduction in appeal hearings could amount to estimated savings for SCTS of between approximately £900,000 and £1 million per year from 2025-26, based on current appeal rate assumptions.

77. These indicative savings are based on several assumptions, including that stopped appeals would be communicated to the Tribunal sufficiently ahead of any scheduled hearings that cancellation fees would be unlikely to be incurred. Another assumption is that administrative input by SCTS would still be required ahead of any appeals stopping and that there would therefore be no impact on staffing requirements.

78. After the initial implementation costs of £1.39 million to £3.78 million, the annual reoccurring savings are expected to be between £0.95 million to £1.12 million.

Appeal to First-tier Tribunal against process decisions

Implementation costs

79. There are no anticipated implementation costs for the provisions at section 8 of the Bill. This provision clarifies the powers of the Tribunal in a process appeal, along with the duties of the Scottish Ministers where the Tribunal sets aside the Scottish Ministers' previous decision. There is no requirement for new systems or operational processes.

Running costs

80. The provisions about process appeals will not generate any running costs for Social Security Scotland or SCTS. Section 8 of the Bill clarifies in legislation existing operational processes.

Liability of individual/individual's representative for assistance given in error

Implementation costs

81. The provisions at section 9 and 10 of the Bill, which extend liability for overpayments to entitled individuals where they have someone acting on their behalf, except where that person acting on their behalf acts in bad faith, are expected to generate estimated implementation costs of approximately £346,500 to £945,000. This assumes that the implementation of this provision will require updated guidance and notifications. The methodology employed to arrive at this range is detailed above, under the heading of 'Implementation Costs'.

82. These estimated costs are comprised of £210,000 in development of the core software platform and £105,000 in associated supporting technical services, with the necessary work taking place over 3 sprints. The optimism bias was then applied to the sum of these two estimates.

Running costs

83. The provisions at sections 9 and 10 will not generate any additional running costs for Social Security Scotland, other than staff training. Either the individual with entitlement or their representative can currently be held liable for overpayments, and these sections do not change this fact. Section 9 simply widens the scope of statutory liability for overpayments to include representatives acting on behalf of someone in certain circumstances while section 10 sets out that a representative can be held liable where they have used the overpaid money for a purpose which was a breach of their duties or responsibilities as a representative. Social Security Scotland spent £100,000 on staff training from a total £88 million in overall administration costs in the year to 31 March 2021, and £300,000 on staff training from a total of £103.2 million in administration costs in the following financial year to 31 March 2022[9]. The Scottish Government does not consider that the cost of any additional training required by the Bill provision will materially affect Social Security Scotland's training costs in a way which moves significantly away from existing ratios.

Consequential modifications of the Prescription and Limitation (Scotland) Act 1973

84. The provisions at section 11, which modify the relevant parts of the legislation which set out when debts prescribe in respect of liability for overpayments, of the Bill are not expected to generate

[9] https://www.socialsecurity.gov.scot/asset-storage/production/downloads/AnnualReportAccounts_21-22.pdf

any implementation or running costs for Social Security Scotland or SCTS, being straightforward textual modification of relevant legislation which requires no implementation nor maintenance.

Liability of individual's estate

Implementation costs

85. The provisions at section 12 of the Bill are not expected to generate any new implementation costs in themselves. The provisions at section 12 bring representatives found liable for an overpayment into line with individuals who represent themselves, making their estates liable in the same way. As such, existing systems and processes can continue to be used.

Running costs

86. The provisions at section 12 of the Bill are not expected to generate any running costs.

Assistance given in error: reviews and appeals

Implementation costs

87. The provisions at section 13 of the Bill will generate estimated implementation costs of approximately £1.39 million to £3.78 million. This assumes that implementation of the provisions at section 13 will require changes to existing systems and the implementation of new procedures, to accommodate this new form of challenge, as well as novel notifications and guidance. The methodology employed to arrive at this range is detailed above, under the heading of 'Implementation Costs'.

88. These estimated costs are comprised of £840,000 in development of the core software platform and £240,000 in associated supporting technical services, with the necessary work taking place over 12 sprints. The optimism bias was then applied to the sum of these two estimates.

Running costs

89. The provisions at section 13 of the Bill are unlikely to generate significant additional running costs for Social Security Scotland. The provisions allow individuals to formally challenge liability for any overpayment and seek re-determination or to appeal if not satisfied with the outcome. They can be viewed as formalising an existing non-statutory process and are not expected to have a significant effect on the overall number of redetermination and appeals.

90. There is no substantive evidence base to use for analysis, but initial examination of the current informal process indicates that there have been an average of less than 2 cases per month since February 2022 where such a challenge has been made. While it is reasonable to assume, based on wider trends within the devolved social security system, that only a proportion of challenges made would reach the appeal stage, for the purposes of this financial memorandum we have based our predictions on 100% of challenges going to the appeal stage. While the Scottish Government currently knows of no reason to expect this number to increase significantly as a result of the process being put on a statutory footing, there is a degree of uncertainty around the effect that may have.

91. The provisions at section 13 are anticipated to have a negligible impact on Social Security Scotland's staffing costs based on the assumption that they will generate less than twenty four additional appeals per year. Social Security Scotland's annual report[10] sets out the data on appeals, and Social Security Scotland also publishes statistics on the number of appeals by benefit[11]. The Scottish Government expects appeal volumes to increase with the delivery of disability benefits, and as case transfer continues. The cost of an appeal to Social Security Scotland is estimated at between £60 and £240 in staff time, but it should be noted that this figure is provided for context only and that this cost is only realised if additional staff are recruited to undertake this function.

92. Although the provisions at section 13 are not expected to have a significant effect on the overall number of appeals, they will generate some additional running costs for SCTS. Based on an assumption that 2 cases per month will arise and assuming 100% of these go to the appeal stage, additional running costs for SCTS might be expected to be £19,000 per year. While the Scottish Government currently knows of no reason to expect this number to increase significantly as a result of the process being formalised, there is a degree of uncertainty around the effect that may have and it should be recognised that running costs may increase further if uptake increases.

93. The cost of any training required for SCTS for this new type of appeal will vary depending on whether an additional training day is required and the number of members to be trained. SCTS estimates that the cost could amount to around £100,000 in members' fees if a full day training was required for all members on the proposed provisions. This should be considered the maximum cost, however; if a dedicated training day is not required and training can be incorporated into existing plans for annual members training, this cost is already incorporated and there is no additional cost.

Power to make provision in relation to appointments made by a Minister of the Crown

Implementation costs

94. The provisions at section 14 of the Bill, which enable Scottish Ministers to make regulations enabling payments to an appointee made by a Minister of the Crown, are expected to generate approximately £577,500 to £1.6 million in implementation costs. This assumes that implementation of section 14 will require relatively minor changes to existing systems, processes and guidance. The methodology employed to arrive at this range is detailed above, under the heading of 'Implementation Costs'.

95. These estimated costs are comprised of £350,000 in development of the core software platform and £175,000 in associated supporting technical services, with the necessary work taking place over 5 sprints. The optimism bias was then applied to the sum of these two estimates.

Running costs

96. The provisions at section 14 are not expected to generate any additional running costs. Social Security Scotland will still require to carry out an appointee assessment once the provision is in force, in the same way as it currently does, although the provision will allow that assessment to be carried out at a later date. As such, the provision is cost-neutral in terms of running costs.

[10] Social Security Scotland - Annual Report 2021-2022
[11] Social Security Scotland - Social Security Scotland statistics: publications

Liability of appointees under sections 85A and 85B

97. The provisions at section 15 of the Bill are expected to generate approximately £577,500 to £1.6 million in implementation. This section makes an appointee who acts outwith the scope of their duties personally liable to the person they act on behalf of for any losses incurred by their acts outside the scope of their duties. This assumes that the implementation of section 15 will require changes to notifications and guidance. The methodology employed to arrive at this range is detailed above, under the heading of 'Implementation Costs'.

98. Section 15 is not expected to generate any additional running costs for Social Security Scotland. Any dispute under these provisions will fall to be resolved between the parties to the dispute.

Information for audit of the social security system

Implementation costs

99. The implementation costs of the provisions at section 16, which take a power enabling Scottish Ministers to conduct random sampling exercises in Social Security Scotland's caseload for audit purposes, have been estimated at approximately £1.39 to £3.78 million. This assumes that the implementation of section 16 will require the build of a new digital infrastructure to store and manage the information gathered. The methodology employed to arrive at this range is detailed above, under the heading of 'Implementation Costs'.

Running costs

100. Section 16 is expected to generate additional running costs for Social Security Scotland. The staff resource required to carry out the anticipated additional work generated by section 16 is already in place. However, the Scottish Government estimates that administering the necessary licences for case management, reporting, and integrating with existing systems could amount to approximately £100,000 per annum in additional running costs, mostly being the cost of ongoing software licences. This estimate is based on quotes to provide similar technical solutions which have been provided to Social Security Scotland in the past.

101. Another potential additional cost is created by the possibility of increased numbers of unscheduled reviews as a result of people not participating in the process without good reason. Those costs are estimated to be minor; equivalent to around £11,000 per annum in staff costs. This estimate is based on DWP's sample sizes for a comparable exercise. Work is currently ongoing in Social Security Scotland to establish its sample size, which will have an impact on final costs.

102. The Scottish Government considers that there may be a very small increase in the number of appeals as a result of a small increase in the numbers of unscheduled reviews which could occur if people do not participate in the process without good reason; however, these numbers are expected to be small enough – in single figures – to have no impact on the overall running costs of SCTS. Social Security Scotland's annual report[12] sets out the data on appeals, and Social Security Scotland

[12] Social Security Scotland - Annual Report 2021-2022

also publish statistics on the number of appeals by benefit. Appeal volumes are expected to increase with the delivery of disability benefits, and as case transfer continues.

Recovery of value of assistance from compensation payments

Implementation costs

103. The implementation costs of the provisions at section 17, which enable Scottish Ministers to make recoveries of devolved assistance from compensation payments, will depend on the eventual delivery method decided upon. Scottish Government officials are currently working with the DWP to explore the possibility of the DWP delivering a service by agreement on behalf of Scottish Ministers. In the alternative, Scottish Ministers would require to set up a new standalone Compensation Recovery Unit (CRU) to carry out this function.

104. The Scottish Government's preferred solution is to work in partnership with the DWP to use existing technical infrastructure and processes used by its CRU, in order to minimise implementation costs and avoid complexity for users of the service. The decision taken on delivery will have an impact on implementation costs, as costs will increase in line with the requirement for complex processes and this is yet to be fully explored. Table 5 has assumed that the Scottish Government's preferred solution is developed and the cost of that has been estimated at between £1.39-£3.78 million. The methodology employed to arrive at this range is detailed above, under the heading of 'Implementation Costs'.

105. These estimated costs are comprised of £840,000 in development of the core software platform and £420,000 in associated supporting technical services, with the necessary work taking place over 12 sprints. The optimism bias was then applied to the sum of these two estimates.

106. An indication of the level of complexity needed for the development and delivery of each option is included in Table 3. The Scottish Government's current preference is represented as Option 2 in that table.

Running costs

107. Like the implementation costs, the running costs of the provisions at section 17 will depend on the approach to delivery. Table 3 below compares the differing costs of possible delivery methods to Scottish Ministers against the option of doing nothing, with the estimated value of recoveries.

Table 3: Compensation recovery delivery options analysis

Option / Impact	**Option 1** Devolved and new Scottish benefits are not recoverable	**Option 2** DWP recovers compensation on behalf of Social Security Scotland	**Option 3** Devolved benefits are recovered by Scottish Compensation Recovery Unit (CRU)
Background	Under this option, devolved and new Scottish benefits are not recovered from compensation. However,	This option involves Social Security Scotland and DWP working in partnership on compensation recovery.	This option involves Social Security Scotland setting up its own Compensation Recovery Unit,

Option / Impact	**Option 1** Devolved and new Scottish benefits are not recoverable	**Option 2** DWP recovers compensation on behalf of Social Security Scotland	**Option 3** Devolved benefits are recovered by Scottish Compensation Recovery Unit (CRU)
	DWP would continue to recover its benefits paid to Scottish recipients. This option will require Social Security Scotland to provide information to DWP to enable DWP to recover compensation of certain reserved benefits. For example, where the award of a devolved disability benefit passports a disability premium. Social Security Scotland will need to provide DWP with details of benefit determination periods, amounts and reason for the award. This will require agency and data sharing agreements, as well as processes and systems to securely process requests. This could be delivered via different options, which would need to be fully explored and impacted if this was the preferred option chosen to be investigated further.	This option relies on DWP recognising there is a Scottish interest and referring to Social Security Scotland for comprehensive details of the benefit determination dates, amounts and reason for award. This collaborative working will allow Social Security Scotland to build skills in house, and learn from DWP processes, mitigating some of the risk associated with implementing a full Compensation Recovery Unit. This will require agency and data sharing agreements, as well as processes and systems to securely process requests. Transfer of recovered funds to Social Security Scotland will need to be included in these agreements.	while continuing to work with DWP on joint interests. Scotland will recover the Scottish issued benefits, DWP will continue with their existing recovery. As both organisations pay benefits, and both may have a joint interest in one request, joint working will need to be a key factor, to allow both organisations to fulfil their legislative duties. Data sharing agreements will be required.
Financial Impact	**Low** (In comparison to options 2 & 3). Small team within Social Security Scotland to process requests to enable DWP to recover passported element of certain reserved benefits. Small system/process needed to handle requests,	High (In comparison to option 1). Medium team required within Social Security Scotland to advise DWP. Training required to ensure correct information being provided.	High (In comparison to options 1 & 2). Substantial team to process Social Security Scotland requests. Substantial training and upskilling for these staff.

Option / Impact	**Option 1** Devolved and new Scottish benefits are not recoverable	**Option 2** DWP recovers compensation on behalf of Social Security Scotland	**Option 3** Devolved benefits are recovered by Scottish Compensation Recovery Unit (CRU)
	respond, monitor and report. Social Security Scotland may charge DWP the costs related to data sharing, therefore, offsetting the cost to provide that information. Finance colleagues will need to be consulted in relation to Fiscal Framework regarding Social Security Scotland charging DWP to provide the information. Further cost benefit analysis will need to be fully undertaken if this was the preferred option. **• Staffing only costs circa *£170,000 - £530,000 (annually by 2028/29)** **• Data Sharing Agreement costs at least £250,000 (annually)** **• Recoupment amount NIL (annually)** *based on the assumption that Social Security Scotland processes all claims and passes information to DWP where a claim relates to reserved benefits. A3 staff will be required to check the system to confirm that the claimant	System/process needed to handle the requests, responses, monitoring and reporting. Financial processes, procedures and protocols between DWP and Social Security Scotland will be needed to enable transfer of recovered compensation. DWP will charge Social Security Scotland thus increasing the costs. Further cost benefit analysis will need to be fully undertaken if this was the preferred option. **• Staffing only costs circa £860,000 to £2.3 million (annually by 2028/29)*** **• Agency Agreement costs circa £800,000 to £2.7 million (annually by 2028/29)**** **• Recoupment amount circa £5.5 million (annually by 2028/29)** *based on the assumption that SG decision maker required to confirm why SG awarded the benefit so there is considerable work to be done by B1 grade along with processing by A3 grade.	Substantial system/processes, responses, monitoring and reporting to handle the requests will be needed. It's anticipated 95% will be nil return, but considerable work and resource will be required to process these even if partially automated. Further cost benefit analysis will need to be fully undertaken if this was the preferred option. **• Staffing only costs circa £900,000 to £4 million (annually by 2028/29)*** **• Recoupment amount circa £5.5 million (annually by 2028/29)** *If a Scottish Compensation Recovery Unit were set up and processed a similar number of claims per FTE as Northern Ireland, we would require around 110 FTE by 2028/29 when the unit claims volume stabilises. This would

Option / Impact	**Option 1** Devolved and new Scottish benefits are not recoverable	**Option 2** DWP recovers compensation on behalf of Social Security Scotland	**Option 3** Devolved benefits are recovered by Scottish Compensation Recovery Unit (CRU)
	is in receipt of a benefit. We have assumed this will take between 10 and 20 minutes. Based on these assumptions in 2028/29 we will require 5-15 A3 FTE at a staffing cost of £170,000 to £530,000.	B1 staff will be required to check the system to determine why the claimant was awarded the benefit. We expect this to take on average 30-60 mins. A3 staff will be required to check how much the claimant has been paid. This will be similar to processing required in Option 1 so also assume this will take between 10 and 20 minutes. Based on these assumptions 2028/29 we will require 20-55 FTE at a staffing cost of £860,000 to £2.3 million. **Difficult to accurately estimate the cost of agency agreement with DWP. Unlikely to be as high as £2.7 million, this is based on the cost of a 'live' agency agreement for delivering a benefit with a Scottish caseload of more than 80,000. Compensation recovery will be a complex process, requiring additional resource, but with a far lower caseload than 80,000.	cost £4.6 million for a unit made up of B1 grade staff or £5.1 million for A4 staff. The actual cost is likely to be lower than this as the Northern Ireland unit also process recoveries for health costs. It is unknown what proportion of Northern Ireland staff work on health claims but the proportion for DWP is around 25%. If the claims per FTE rate were equivalent to the estimated DWP rate this would require around 10 FTE by 2028/29, with a cost of around £420,000 for a unit comprising all A4 staff, or £470,000 for all B1 staff.
Development & delivery	**Medium** (In comparison to options 2 & 3) Relatively simple process. It is not envisaged that a complex system or	**High** (In comparison to option 1) Relatively simple process, but there is the potential that a complex system will	**High** (In comparison to options 1 & 2) Most complex to deliver as new processes, systems and procedures will be required.

Option / Impact	**Option 1** Devolved and new Scottish benefits are not recoverable	**Option 2** DWP recovers compensation on behalf of Social Security Scotland	**Option 3** Devolved benefits are recovered by Scottish Compensation Recovery Unit (CRU)
	procedures will be required to deliver this solution	be required to deliver this solution.	

108. Table 4 below gives an indication of the estimated increase in the sum recovered as the amount of recoverable assistance paid by Scottish Ministers increases over coming years. Scottish Ministers estimate that the value of the sums recouped from compensation payments using the power at section 17 could amount to £5.53 million in the year 2028-29. This recovery from compensation will only apply to accidents, injuries and disease that occur after the provisions come into force, resulting in a gradual increase of cases every year until reaching a plateau.

Table 4: Forecasted recovery amounts and number of cases

Benefit Type	Data	2025/26	2026/27	2027/28	2028/29
Child Disability Payment	Recovery Amount	£30,000	£80,000	£125,000	£140,000
	Number of cases	10	15	25	30
Adult Disability Payment	Recovery Amount	£770,000	£2,165,000	£3,345,000	£3,765,000
	Number of cases	240	505	760	835
Pension Age Disability Payment	Recovery Amount	£100,000	£279,000	£423,000	£455,000
	Number of cases	35	75	110	115
Scottish Child Payment	Recovery Amount	£15,000	£45,000	£65,000	£65,000
	Number of cases	70	140	205	205
Employment Injury Assistance	Recovery Amount	£55,000	£365,000	£815,000	£1,105,000
	Number of cases	15	80	150	200
Total	**Recovery Amount**	**£970,000**	**£2,935,000**	**£4,770,000**	**£5,530,000**
	Number of cases	**365**	**820**	**1,255**	**1,385**

Table 4 notes:

- These are **estimates only** and there is a significant degree of uncertainty which should be acknowledged.
- Number of cases have been rounded to nearest 5. Recovery amounts have been rounded to nearest £5,000. Figures may not sum due to rounding.
- Calculations in this table have been made by using DWP figures for Scotland to calculate a proportion of claims in the total caseload for which a recovery is made. It is assumed that this

proportion of recoveries will continue into the future, so it has been applied to the forecast caseload for Social Security Scotland (including new applications and cases migrated from the DWP) to estimate the number of Scottish recovery cases.

- Amount recovered has been estimated by considering the average amount of money recovered by the DWP. It is assumed that the average amounts will remain at the same level into the future. We have also included an assumption for inflation applied to reflect up-rating of benefits.
- An additional and uncertain assumption made to estimate the amount of time it is expected to take for claims to settle has been applied to account for the policy that only incidents that have occurred since the policy becomes active (assumed to be early 2025) being eligible for recovery. This is not underpinned by data due to it not being available; as such, there is a higher degree of uncertainty in this element of the estimate which should be acknowledged.

- That assumption forms part of a calculation which also uses DWP Compensation Recovery Unit performance statistics. The use of performance statistics assumes the types of claim for which a recovery is made is consistent across benefits.
- The table only includes compensation recovery for cases that would be administered by Social Security Scotland.

109. The provisions at section 17 also have the potential to generate additional costs for SCTS, as the Bill will create a right of appeal against disputed certificates of recoverable assistance.

110. According to data obtained from the DWP, there were 130 CRU appeals involving a Scottish postcode in 2020-21 and 122 in 2021-22. However, the appeals in the UK system involve a larger range of benefits than those controlled by Scottish Ministers (for example, those figures will involve disputes over Universal Credit, which is controlled by the UK Government). The figure for appeals against devolved forms of assistance is likely to be lower.

111. The Scottish Government estimates that between 5 and 10 additional appeals per year are likely as a result of the introduction of appeals for recovery of value of assistance from compensation payments. This is not enough to have a significant impact on SCTS' running costs, likely less than £10,000 per year, although members training will likely require to be delivered to administer this new type of appeal.

Scrutiny of regulations by the Commission

112. Section 18 sets out the regulations that will be subject to scrutiny by the Scottish Commission on Social Security and is not expected to give rise to any implementation or running costs. The changes regularise the situation in respect of current Commission working practice, and the Board will continue to manage their scrutiny workload within their current resource budget.

Removal of Commission's status as body corporate

113. Section 19 is not expected to give rise to any implementation or running costs.

Removal of Commission's accounting and auditing duties

114. Section 20 of the Bill, which removes the requirement for the Scottish Commission on Social Security to have its accounts audited, is likely to save the Commission (which is funded by the Scottish Government) approximately £8,000 per annum on auditor's fees.

Duty on Commission to publish an annual report

115. Section 21 will impose no additional costs on the Commission. The Scottish Government considers that its existing operational budget, which includes publication costs, will cover the cost of publishing this report and not require any adjustment as a result of the Bill provision.

COSTS ON LOCAL AUTHORITIES

116. The Scottish Government does not consider that the Bill imposes any costs on local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

117. The Scottish Government does not consider that the Bill in itself imposes any costs on other bodies, individuals or businesses. The Scottish Government considers that the provisions in the Bill are not enough of a departure from existing frameworks to believe that they will impose significant new costs on the advice sector, for example. At the point of implementation the recovery of the value of social security assistance from compensation payments may have a financial impact on businesses in the insurance industry and legal sector.

118. The costs imposed on businesses will be dependent on the eventual delivery model adopted for compensation recovery, so it is not possible to understand the impact at this time. The Scottish Government is committed to working with businesses to understand any financial impacts prior to implementation. A comprehensive programme of engagement will therefore be undertaken with businesses, including key stakeholders in the insurance industry and legal sector, to consider financial implications and inform a future decision around the delivery model adopted. Discussions to date with representatives of the insurance and legal sectors have indicated that the delivery option where the DWP CRU recovers on behalf of Scottish Ministers would impose the smallest costs on their businesses. This is because that option would be closest to the status quo procedures already undertaken by the relevant businesses, requiring minimal to no changes to their existing processes.

SUMMARY OF COSTS AND SAVINGS

119. A number of provisions in the Bill take regulation-making powers and will not in themselves generate any costs. The manner in which the regulation-making powers are exercised in future will determine any costs and savings.

120. Table 5 below provides a summary of potential costs and savings generated by the Bill.

Table 5: Indicative summary of costs and savings generated by the Bill

Provision (paragraph numbers)	**Implementation Costs**	**Benefit Spend (indicative)**	**Annual Running Costs (Social Security Scotland)**	**Annual Running Costs (SCTS)**	**Potential Annual Savings (Social Security Scotland)**	**Potential Annual Savings (SCoSS)**	**Potential Annual Savings (SCTS)**
Childhood assistance (38-44)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Care-experience assistance (45-52)	£2.079 million to £5.67 million	£2 million to £2.5 million in Year 1, £1 million to £1.3 million in following years	Approximately £0.2 million	N/A	N/A	N/A	N/A
Repeal of s52B of the 2018 Act (53-55)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Re-determination and appeal deadlines in exceptional circumstances (56-59)	£0.347 million to £0.945 million	N/A	Unlikely to generate additional costs	Likely to be very low	N/A	N/A	N/A
Withdrawal of request for re-determination (60-65)	£0.693 million to £1.89 million	N/A	N/A	N/A	Potential for savings but unable to quantify	N/A	N/A
Re-determinations after the period allowed (66-67)	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Provision (paragraph numbers)	**Implementation Costs**	**Benefit Spend (indicative)**	**Annual Running Costs (Social Security Scotland)**	**Annual Running Costs (SCTS)**	**Potential Annual Savings (Social Security Scotland)**	**Potential Annual Savings (SCoSS)**	**Potential Annual Savings (SCTS)**
New determination of entitlement after error (68-78)	£1.39 million to £3.78 million	N/A	N/A	N/A	(£45,000) to (£120,000)	N/A	(£900,000) to (£1 million)
Appeal to First-tier Tribunal against process decisions (79-80)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Liability of individual / individual's representative for assistance given in error (81-83)	£0.347 million to £0.945 million	N/A	N/A	N/A	N/A	N/A	N/A
Consequential modification of the Prescription and Limitation (Scotland) Act 1973 (84)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Liability of individual's estate (85-86)	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Provision (paragraph numbers)	Implementation Costs	Benefit Spend (indicative)	Annual Running Costs (Social Security Scotland)	Annual Running Costs (SCTS)	Potential Annual Savings (Social Security Scotland)	Potential Annual Savings (SCoSS)	Potential Annual Savings (SCTS)
Assistance given in error: reviews and appeals (87-93)	£1.39 million to £3.78 million	N/A	Negligible impact	£19,000 to £119,000	N/A	N/A	N/A
Recovery of value of assistance from compensation (103-111)	£1.39 million to £3.78 million	N/A	£1.67 million to £5.1 million	<£10,000	Up to (£5.53 million) by 2028/29	N/A	N/A
Power to make provision in relation to appointments made by a Minister of the Crown (94-96)	£0.578 million to £1.6 million	N/A	N/A	N/A	N/A	N/A	N/A
Liability of appointees made under sections 85A and 85B (97-98)	£0.578 million to £1.6 million	N/A	N/A	N/A	N/A	N/A	N/A
Information for audit of social security system (99-102)	£1.39 million to £3.78 million	N/A	£111,000	Likely to be very low	N/A	N/A	N/A
Scrutiny of regulations by the Commission (112)	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Provision (paragraph numbers)	**Implementation Costs**	**Benefit Spend (indicative)**	**Annual Running Costs (Social Security Scotland)**	**Annual Running Costs (SCTS)**	**Potential Annual Savings (Social Security Scotland)**	**Potential Annual Savings (SCoSS)**	**Potential Annual Savings (SCTS)**
Removal of Commission’s status as body corporate (113)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Removal of Commission’s accounting and auditing duties (114)	N/A	N/A	N/A	N/A	N/A	(£8,000)	N/A
Duty on commission to publish annual report (115)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
TOTAL	**£10.182 million to £27.770 million**	**£2 million to £2.5 million in Year 1, £1 million to £1.3 million in following years**	**£1.981 million to £5.411 million**	**<£29,000 to £129,000**	**Up to (£5.575 million) to (£5.650 million) by 2028/29**	**(£8,000)**	**(£900,000) to (£1 million)**

SOCIAL SECURITY (AMENDMENT) (SCOTLAND) BILL

FINANCIAL MEMORANDUM

Produced and published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:
www.parliament.scot/documents