

Welfare Funds (Scotland) Bill

[AS INTRODUCED]

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ACCOMPANYING DOCUMENTS

Explanatory Notes, together with other accompanying documents, are printed separately as SP Bill 51-EN. A Policy Memorandum is printed separately as SP Bill 51-PM.

Welfare Funds (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about the maintenance of welfare funds and to provide for them to be used to help certain individuals; and for connected purposes.

1 Welfare funds

Each local authority is to maintain a fund (called a “welfare fund”) comprising—

- (a) any grants paid into the fund by the Scottish Ministers, and
- (b) any amounts paid into the fund by the local authority.

2 Use of welfare funds: assistance for short term need and community care

- (1) A local authority may use its welfare fund only in order to provide occasional financial or other assistance to or in respect of individuals for the purposes of—

- (a) meeting, or helping to meet, an immediate short term need—
 - (i) arising out of an exceptional event or exceptional circumstances, and
 - (ii) that requires to be met to avoid a risk to the wellbeing of an individual, or
- (b) enabling qualifying individuals to establish or maintain a settled home.

- (2) “Qualifying individuals” means individuals who have been or, without the assistance, might otherwise be—

- (a) in prison, hospital, a residential care establishment or other institution, or
- (b) homeless or otherwise living an unsettled way of life.

- (3) A local authority may exercise its power under subsection (1) by making a payment to a third party with a view to the third party providing, or arranging the provision of, goods or services to or in respect of an individual.

3 Administration of welfare funds

- (1) A local authority may make arrangements for another person to administer its welfare fund on its behalf.

- (2) Two or more local authorities may make joint arrangements under subsection (1) for another person to administer the authorities’ welfare funds jointly in accordance with any instructions agreed by the authorities.

- (3) Such joint arrangements may include arrangements under which a joint committee established by the local authorities administers the authorities' welfare funds jointly.

4 Review of decisions

- 5 (1) The Scottish Ministers may, by regulations, require local authorities to review decisions made by them in pursuance of section 2.
- (2) Regulations made under subsection (1) may—
- (a) make all decisions made in pursuance of section 2 subject to review, or provide for types of decisions which are to be subject to review,
 - (b) provide for the circumstances in which reviewable decisions are to be reviewed.
- 10 (3) If dissatisfied with the outcome of such a review, the individual concerned may apply to the Scottish Public Services Ombudsman for a further review.
- (4) If, on a review, the Ombudsman considers that a different decision should have been made, the Ombudsman may quash the decision and—
- 15 (a) direct the local authority to reconsider the application to which the decision relates, or
 - (b) direct the local authority to use its welfare fund to provide—
 - (i) the assistance concerned, or
 - (ii) any other assistance (being assistance which may be provided by the local authority under section 2).
- 20 (5) Regulations made under this section are subject to the negative procedure.

5 Welfare funds: further provision

- (1) The Scottish Ministers may, by regulations, make further provision in connection with this Act.
- (2) Regulations made under this section may, in particular, make provision—
- 25 (a) about how an application to receive assistance in pursuance of section 2 is to be made,
 - (b) about the procedure which local authorities are to follow in relation to such applications, including the period within which they are to take any particular steps,
 - 30 (c) about the eligibility of individuals to receive assistance in pursuance of section 2,
 - (d) about other circumstances in which assistance may, or may not, be provided in pursuance of section 2,
 - (e) about the type of assistance which may be so provided,
 - 35 (f) about circumstances in which amounts may require to be repaid or recovered in respect of assistance which has been so provided,
 - (g) requiring a local authority to provide the Scottish Ministers with such information in connection with the exercise of its functions under this Act as may be specified in the regulations,
 - (h) about arrangements which may be made in pursuance of section 3,

- (i) about how an application for review by a local authority in pursuance of section 4 is to be made,
- (j) requiring persons to provide information for the purposes of a review by a local authority in pursuance of section 4,
- (k) about circumstances in which an application to receive assistance or an application for review by a local authority may be made by a person on behalf of an individual.

(3) Regulations made under this section may make—

- (a) different provision for different purposes,
- (b) incidental, supplementary, consequential, transitional, transitory or saving provision.

(4) Regulations made under this section may not make provision about reviews by the Scottish Public Services Ombudsman in pursuance of section 4.

(5) Regulations made under this section are subject to the negative procedure.

6 Guidance

(1) A local authority must have regard to any guidance issued by the Scottish Ministers in connection with the exercise of its functions under this Act.

(2) Guidance issued under this section—

- (a) must be addressed to, and apply in the same way to, all local authorities,
- (b) may be general or specific,
- (c) may be varied or revoked.

(3) Before issuing, varying or revoking guidance, the Scottish Ministers must consult—

- (a) such body representing local authorities as they think fit, and
- (b) such other persons as they consider appropriate.

(4) The Scottish Ministers must publish guidance issued under this section in such manner as they consider appropriate.

7 Commencement

(1) This section and section 8 come into force on the day after Royal Assent.

(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

(3) An order made under this section may include incidental, supplementary, consequential, transitional, transitory or saving provision.

8 Short title

The short title of this Act is the Welfare Funds (Scotland) Act 2015.

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An Act of the Scottish Parliament to make provision about the maintenance of welfare funds and to provide for them to be used to help certain individuals; and for connected purposes.

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