

Social Security (Amendment) (Scotland) Bill

Additional information provided by the Forum of Scottish Claims Managers

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I share the concerns of the DPLR Committee that this appears to be a new and wide ranging power that lacks definition of what would constitute neglect leading to an offence.

As the email from the Committee suggests, The equivalent UK legislation that creates offences for failure to comply with an investigation is Part VI of the Social Security Administration Act 1992 and offences created at s.111.

This legislation came before the Social Security (Recovery of Benefits) Act 1997 which effectively replaced part IV of the 1992 Act (the 'Recovery from compensation payments' section) with the system we know today that created the Compensation Recovery Unit.

I could not see any similar provision to 94U or reference to criminal offences created in the 1997 Act and we should bear in mind that the overall purpose of Part 7 of the Bill is to recreate the provisions of the 1997 UK Act for 'Scotland only' benefits.

There is no indication that the 1992 Act has been repealed, so s.111 actually remains in force UK wide and the power still exists under that legislation were it ever required to be used.

My conclusion is that 94U is therefore not necessary or appropriate for 2 reasons:

1. The power still exists at s.111 of the Social Security Administration Act 1992 were it ever to be required and therefore, it does not need to be included in the Bill.
And/
2. The same power was not included in the 1997 Act, and can't have been intended to apply specifically to recovery of benefits.

I hope this assists the Committee in their consideration of the Bill.