

Summary of the provisions of the National Assistance Bill.

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MINISTRY OF HEALTH
DEPARTMENT OF HEALTH FOR SCOTLAND
MINISTRY OF NATIONAL INSURANCE

Summary of the Provisions of the NATIONAL ASSISTANCE BILL

*Presented by the Minister of Health, the Secretary of State for Scotland,
and the Minister of National Insurance to Parliament
by Command of His Majesty
October 1947*

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NATIONAL ASSISTANCE BILL

SUMMARY OF THE PROPOSED NEW NATIONAL ASSISTANCE AND LOCAL AUTHORITY SERVICES

This paper contains a general description of the proposed new services for which the Bill provides. It is intended only as a summary, and as such it cannot always be in precise terms. For more exact definition of what is proposed, reference should be made to the Bill itself.

INTRODUCTORY

1. The Bill applies to England and Wales and to Scotland. Its general object is to substitute for certain existing services a comprehensive scheme of assistance and welfare services which will complete the main pattern of the new social legislation, of which the Family Allowances Act, the National Insurance (Industrial Injuries) Act, the National Insurance Act, and the National Health Service Acts are other principal features.

2. The institution of a scheme of this kind entails an extensive repeal of existing legislation, and in particular, the repeal of the Poor Law. It is, indeed, a fundamental object of the Bill to achieve the final break-up of the Poor Law and to create entirely new services founded on modern conceptions of social welfare.

3. The Bill makes provision for comprehensive services falling into two main groups—

A. National Assistance, taking the form mainly of financial aid to those in need (and whose needs are not otherwise met by National Insurance or from any other source). This is to be a function of central government and a national, not a local, charge—and all local government responsibility for the relief of destitution will give place to it.

B. Residential accommodation for the aged, the infirm, and others who require care and attention to be provided in this way, with special welfare services for certain handicapped persons. This is to be a local government function entrusted to the councils of counties, county boroughs, and (in Scotland) large burghs, and a local rate charge with some Exchequer assistance. It will not be concerned with the relief of destitution as in the past, and the local poor law institution—as now known—will disappear.

4. The two services, founded on the above apportionment of function between central and local government, are described below.

A.—NATIONAL ASSISTANCE

5. The Bill provides a unified State service of financial assistance according to need in place of various existing services provided by either the State or Local Authorities. The services which will be replaced are—

(1) Unemployment Assistance, now paid by the Assistance Board to insurable unemployed persons not qualified for Unemployment Benefit and to persons receiving such benefit who find it insufficient for their needs;

(2) Supplementary Pensions, now paid by the Assistance Board to old age pensioners, and also to widow pensioners if they are over 60 years old or their pensions include an additional allowance in respect of a child;

(3) Blind Domiciliary Assistance, now paid by Local Authorities to registered blind persons;

(4) Tuberculosis Treatment Allowances, now paid by Local Authorities (at the cost of the Exchequer) to certain persons suffering from pulmonary tuberculosis who give up employment in order to undergo treatment; and

(5) Out-door Relief under the Poor Law, now paid by Local Authorities to persons in need who cannot be assisted under any of the foregoing services.

The National Assistance Board

6. The new service is to be administered by a National Assistance Board, who will be required to exercise their functions in such manner as will best promote the welfare of the persons affected. The Board will stand in the same relation to the Minister of National Insurance as the Assistance Board stand at present. They will be required to make annual reports to the Minister, who will lay the reports before Parliament.

Persons who may apply for assistance

7. Any person aged 16 years or over who is in need will be able to apply for assistance, including a person who needs assistance in supplementation of a pension or insurance benefit. Where need is established the assistance will provide for any dependants as well as for the applicant. The Bill makes no provision for the needs of children under the age of 16 who are not being cared for by a parent or other adult person, since it is intended to deal with the care and maintenance of such children in another Bill.

8. It is expected that applicants for assistance will, in the main, be persons who are aged, disabled, or sick, and who are living in their own homes. Assistance grants will, however, also be made to persons living in residential accommodation provided by Local Authorities under the Bill, if their resources are insufficient to enable them to meet the minimum charge which the Authorities are to make.

Administrative arrangements

9. Decisions on individual cases will be given in the first instance by the Board's local officers whose powers will include authority to grant immediate assistance in an urgent case. Assistance may be in money or in kind as the circumstances require. Applicants dissatisfied with a decision by the officer will have a right of appeal to an independent local Appeal Tribunal. The Tribunals will consist of three persons, a Chairman and one other member appointed by the Minister of National Insurance and a third member selected in rotation from a panel of persons nominated by the Minister to represent workpeople. The second member appointed by the Minister takes the place, in the existing Tribunals for supplementary pensions and unemployment assistance, of a member appointed by the Assistance Board to represent the Board. There will also, as at present, be Advisory Committees of persons having local knowledge and experience in matters affecting the Board's functions to advise both on general questions and on difficult individual cases.

Determination of need

10. *Standards of assistance.*—In deciding whether a person is in need, and the extent of any assistance to be granted, the Board's officers are to give effect to Regulations made by the Minister of National Insurance. It is intended that these Regulations should, like the present Regulations for unemployment assistance and supplementary pensions, lay down scales of assistance for general application while leaving room for the exercise of

discretion in the individual case. This discretionary power is an essential feature of a service of assistance according to need, and even wider use may have to be made of it in view of the extended scope of the new scheme and the greater variety of circumstances in which assistance may be sought. The Bill requires that the Regulations shall make special provision for blind persons and persons who have suffered a loss of income in order to undergo treatment for pulmonary tuberculosis, to whom assistance is at present being afforded on special standards.

11. Making of Regulations.—The manner in which these Regulations are to be made follows the established procedure of making Regulations for unemployment assistance and supplementary pensions. A draft will be prepared by the Board and submitted to the Minister who, with the Board's draft before him, will then make his own draft Regulations and submit them to Parliament. If the Minister's draft is not in the form of the draft submitted by the Board it must be accompanied by a statement of the variations and the Board's report on them. Regulations cannot be made until the Minister's draft has been approved by resolutions of both Houses of Parliament. The Bill directs the Board to prepare draft Regulations as soon as may be after it has become law, and thereafter from time to time as occasion may require. It will be necessary for the first substantive Regulations under the Bill to be made in time to become operative on the appointed day for National Assistance, though if the review of all current cases by reference to the new Regulations cannot be completed by that day, transitional provisions will enable payment to be continued at the old rates for a limited period.

12. Treatment of resources.—The Regulations will have to include general rules for dealing with resources. The needs of a husband and wife living together will be considered jointly, and their joint resources will be considered available to meet the needs of both. The resources of other adult members of an applicant's household will not be taken into account against the needs of the applicant, though, where the applicant is the householder, it will be assumed that they are making appropriate contributions towards the rent and overhead expenses of the household. The contribution to be assumed will be prescribed in the Regulations.

13. Income.—The Bill contains directions about the treatment of the resources of applicants for assistance and their wives or husbands. Certain forms of income are to be disregarded in whole or in part. Provisions for disregarding income are to be found in all the various schemes of assistance which will be replaced by the unified scheme of National Assistance, but they have developed piecemeal and differ in certain respects between one scheme and another. The disregard rules have now been reconsidered in the light of the provisions in the National Insurance Acts for sick, disabled and other persons, and the proposals in the Bill bring them into harmony with those provisions and with one another.

14. Capital.—The directions about the treatment of capital belonging to an applicant, the applicant's wife or husband and any dependants, preserve the protection given in the Determination of Needs Act, 1941, to "war savings" within an individual limit of £375, and enable income tax credits paid after the date (which the Bill leaves to be fixed by Order in Council) at which the amount of a person's "war savings" is to be finally computed, to be included in the computation. Rules about capital not protected as "war savings," or under a provision which excludes the value of owner-occupied houses, provide that the first £50 of the capital (instead of £25 as in existing legislation) is to be disregarded. In so far as the value of the capital exceeds £50 but does not exceed £400 the amount of the weekly

assistance payable is to be reduced by sixpence for every complete £25 after the first £50. In general, assistance will not be payable to persons who own unprotected capital to a value of more than £400.

Special provisions applicable to persons able to work

15. Able-bodied persons of working age form a very small proportion of the persons assisted under the existing schemes and are not expected to apply in large numbers for National Assistance. In general, assistance is not to be granted to persons in full-time employment whether for themselves or their dependants. Assistance is also not ordinarily to be given to meet the needs of a person engaged in a trade dispute in circumstances which would disqualify him for unemployment benefit, but may be given to meet the needs of his dependants. The question whether a person is so engaged in a trade dispute will be decided, on appeal, by the statutory authorities under the National Insurance Act, 1946.

16. When assistance is granted to able-bodied persons of working age it will usually be paid through the local office of the Ministry of Labour and National Service and it will be a condition of payment that such persons should register for employment.

17. If an applicant, not being in receipt of unemployment benefit and therefore not subject to the relevant provisions of the National Insurance Act, refuses or neglects to maintain himself or his dependants, the case may be referred to the Appeal Tribunal. On a direction by the Tribunal the applicant may be required, as a condition of receiving an assistance grant, to attend a course of instruction or training approved by the Minister of National Insurance, or may in lieu of an assistance grant be provided with maintenance in a re-establishment centre. The Board are empowered, subject to the approval of the Minister, to provide such centres for any applicants who need re-establishment because of lack of regular occupation, instruction or training. The Board may also enter into arrangements with other Government Departments or voluntary organisations for the use of similar centres, and, during the first two years of the new services, with a Local Authority for an applicant to be accommodated in premises provided by the Authority.

18. Notwithstanding any disqualification or failure to comply with a condition, assistance may be granted in an urgent case, but if granted to a person in full-time work may be recovered.

Vagrants

19. Responsibility for the casual poor person or vagrant now rests on Local Authorities under the Poor Law. The Bill will transfer this responsibility to the Board by requiring them to make provision whereby persons without a settled way of living may be influenced to lead a more settled life and for their temporary accommodation in reception centres. Local Authorities may be required to provide and to maintain such centres on the Board's behalf, with reimbursement of their approved expenditure.

20. The steps that can be taken to influence a person to settle down will naturally vary: for example, old and infirm persons may be induced to settle in a suitable Home (see paragraph 23 below); younger persons capable of work will be put in touch with opportunities of employment through the local office of the Ministry of Labour and National Service; and if such younger persons are unfit for work through lack of regular occupation or instruction or training, this may be provided for them in one of the re-establishment centres already mentioned.

B. RESIDENTIAL AND OTHER ACCOMMODATION, AND WELFARE SERVICES TO BE PROVIDED BY LOCAL AUTHORITIES

21. The services which will be provided under the Bill by Local Authorities are described in paragraphs 23 to 34 below. The Bill places responsibility for these services in the hands of the major Local Authorities—i.e., the Councils of Counties and County Boroughs in England and Wales and of Counties and Large Burghs in Scotland—and provides for the formation of joint boards where this is desirable. Local Authorities will exercise their functions under the general guidance and control of the Minister of Health in England and Wales and the Secretary of State for Scotland,* who are empowered by the Bill to make regulations for this purpose.

22. As in the case of National Assistance, the services of Local Authorities under this Bill will not extend to children under 16 living otherwise than with their parents or guardians, responsibility for whom, as already explained, will be the subject of separate legislation.

RESIDENTIAL AND OTHER ACCOMMODATION

Persons who may be accommodated

23. The Bill places a duty on the Local Authorities to provide residential accommodation for persons who, by reason of age, infirmity or other circumstances, are in need of care and attention not otherwise available to them. These will not include sick persons who need treatment in hospital and are therefore the responsibility of the National Health Service, but will comprise many types of elderly, infirm, disabled or sub-normal people who are unable to lead a normal home life. The service will include all necessary care, maintenance and amenities.

Accommodation to be paid for

24. Residential accommodation of this kind will be provided in Homes or Hostels designed to meet the varying needs of the persons concerned. The service will be available to those in need of it irrespective of their means. The Local Authority will thus cease to be merely a reliever of destitution, and will become the provider of comfortable accommodation, with care and attention, for those who, owing to age or infirmity, cannot wholly look after themselves. The Local Authority will fix a standard charge for the accommodation provided and the resident, if his resources permit, will pay the charge in full. If he is unable to do so, the charge will be reduced to an amount which he can afford to pay and at the same time retain for himself a reasonable sum as pocket money—but always subject to a prescribed minimum charge, so that in all cases a payment will be made by the resident himself and all suggestion of the workhouse will disappear.

25. The majority of persons admitted to residential accommodation (an increasing majority as time goes on) will have at least a retirement pension or other insurance benefit of 26s. a week. Assuming that they retain 5s. a week for pocket money, such persons will be in a position to pay at least 21s. a week for their accommodation and maintenance. The Minister, under powers conferred by the Bill accordingly proposes to prescribe 5s. a week as the normal sum required as pocket money, and 21s. a week as the minimum charge for residential accommodation. Where a person's resources do not amount to 26s. a week it will be for the National Assistance Board to pay him an allowance which will bring his resources up to that amount and thus enable him to pay the Local Authority the minimum charge.

* References to "the Minister" in the succeeding paragraphs should be read as including the Secretary of State, in relation to Scottish interests.

26. In assessing a person's ability to pay, the Local Authority will allow the same "disregards" of income and capital as the Board (see paragraphs 13 and 14), and will take account of his continuing commitments.

Temporary accommodation

27. In addition to the provision of residential accommodation, which will ordinarily be of a more or less long-term character, it will be the duty of the Local Authority to provide temporary accommodation for persons who are in urgent need of it, for example, as a result of fire, flooding, or eviction. Payment for such accommodation will be made either on the same basis as for residential accommodation, or, where this is inappropriate, e.g., where the accommodation is provided for less than a week, on such basis as the Local Authority consider suitable.

Admission to accommodation

28. Applications for admission to residential or temporary accommodation will ordinarily be made to the Local Authority. Where, however, the National Assistance Board are satisfied that a person is in urgent need of such accommodation the Board may require the Local Authority to provide it. While bound to comply with the Board's requirements, the Local Authority is given the right to appeal to the Appeal Tribunal referred to in paragraph 9.

Rules for Management of Accommodation

29. The provisions of the Bill relating to the management of accommodation provided by Local Authorities are designed so that Local Authorities will be free to frame their own rules, subject to any general requirements laid down in Regulations made by the Minister.

WELFARE SERVICES FOR HANDICAPPED PERSONS

Scope

30. It is at present a duty of Local Authorities, under the Blind Persons Acts, 1920 and 1938, to make arrangements for promoting the welfare of blind persons. Under the Bill, Local Authorities are empowered, and to such extent as the Minister may direct will be under a duty, to make such arrangements, not only in regard to the blind, but also as respects the deaf or dumb, and other persons who are substantially and permanently handicapped by illness, injury or congenital deformity, or such other disabilities as the Minister may prescribe. Apart from financial assistance, which, as already explained, will in all cases be a matter for the National Assistance Board, the arrangements may take the same form as those already made for blind persons and will include instruction to handicapped persons, in their own homes or elsewhere, as to how best to overcome the effects of their disabilities, the provision of workshops and of hostels for the workers, schemes for home workers, and the provision of recreational facilities. The arrangements outlined above in regard to residential accommodation, including those relating to payment by the resident, will apply to residential accommodation provided for handicapped persons. As regards other services, the Local Authority will have power to make charges, where appropriate, for services provided under these arrangements.

ADMINISTRATION

Local administrative machinery

31. Public Assistance Committees of Local Authorities will disappear with the repeal of the Poor Law, and the Bill provides for the new functions under the Bill being referred to a new committee appointed for the purpose, or alternatively, to a suitable existing committee approved by the Minister.

Approval of Local Authorities' arrangements by the Minister

32. A Local Authority will be required to submit schemes to the Minister showing how they propose to discharge their functions under the Bill, and the Minister may approve the schemes with such modifications, if any, as he thinks fit, or may himself make a scheme for the Local Authority to carry into effect. The Minister is also given default powers against Local Authorities if they are not carrying out their functions satisfactorily.

Authority liable to provide the services

33. The repeal of the Poor Law will remove from the Statute Book the intricate provisions of the present law relating to settlement and removal. Under the Bill the question which Local Authority is responsible in a particular case for the provision of accommodation or welfare services will be determined, in general, by the relatively simple test of the person's ordinary residence. This is to say, the duty of providing residential accommodation or welfare services will rest on the Local Authority in whose area the person is ordinarily resident. In the case of residential accommodation, however, an Authority will be under a duty to deal with any case of urgency, no matter where the person concerned may be ordinarily resident. They will not be precluded from dealing with other persons not ordinarily resident in their area and they will have power to agree with another Authority for reimbursement of the cost.

Voluntary Organisations

34. The Bill makes provision enabling Local Authorities, if they wish, to utilise the services of voluntary organisations in the provision of the accommodation and welfare services described above. A Local Authority may make arrangements with any voluntary organisation, including a Housing Association under the Housing Acts, for the provision of accommodation under the Bill in premises managed by the organisation, and may pay the organisation for such accommodation at agreed rates. Such premises are to be subject to inspection by authorised officers of the Local Authority or of the Health Departments. The Local Authority may also use as their agent for the purpose of providing welfare services for handicapped persons any appropriate voluntary organisation registered under the War Charities Act, 1940, as extended by the Bill. Local Authorities may make contributions to the funds of any voluntary organisation which provides residential accommodation, or promotes the welfare of the blind or other handicapped classes, and are also empowered to make subscriptions to the funds of any voluntary organisation having as one of its objects the provision of recreation or meals for old people (i.e., Old People's Clubs, etc.).

OTHER PROVISIONS

Registration and inspection of old people's homes, etc.

35. With a view to bringing under supervision any establishment the sole or main object of which is the provision of accommodation for old people or blind or other handicapped persons, the Bill provides that it shall be an offence punishable by fine, or, where the offence is repeated, by fine or imprisonment, or both, to carry on such an establishment, whether for profit or not, without registering with the Local Authority. The Bill gives a right of inspection of such establishments to officers of the Health Departments and of the Local Authority, and authorises the Minister to make Regulations as to the conduct of the establishments, in particular as to the number of persons

who may be received in them and as to the facilities and services to be provided. The Local Authority will have power by order to refuse or to cancel registration in the case of unsuitable establishments, or establishments employing unfit persons, subject to the right of an aggrieved person to appeal to the court against the Local Authority's order.

Liability of relatives

36. The liability of a person for the maintenance of his relatives at present rests, under the Poor Law, on a wide range of relatives. In future, for the purposes of the Bill, a man will be liable to maintain only his wife and his children under 16, and a woman her husband and her children under 16, whether the children in either case are legitimate, illegitimate or adopted.

37. The Bill empowers the National Assistance Board and the Local Authorities to recover from liable relatives the cost of assistance or the cost of providing residential accommodation, as the case may be, and for this purpose to obtain the benefit of affiliation orders.

Non-contributory old age pensions

38. The Bill will make a change in the arrangements for administering non-contributory old age pensions by providing that after the appointed day pension claims and questions are to be decided by the National Assistance Board (in practice the Board's local officers), with a right of appeal to the Appeal Tribunals under the Bill, instead of as now by local Pension Committees with a right of appeal to the Minister of National Insurance.

39. Other amendments include provision to preserve the title to pension of persons who go to live in residential accommodation provided by Local Authorities under the Bill; and for securing by Regulations that where a pensioner is undergoing treatment in hospital the value of his maintenance, etc., shall be ignored in the calculation of means. As, however, maintenance in hospital will be free of charge under the new National Health Service, such Regulations may provide for the adjustment of the pension.

40. The Bill will make no change in the age, nationality and residence qualifications for non-contributory pensions, nor, save as indicated above, in the conditions relating to means.

Removal of persons needing care and attention

41. The Bill provides for the general application of a provision contained in the Public Health (London) Act, 1933, and many Local Acts, whereby persons suffering from grave chronic disease, or old, infirm or physically incapacitated persons who are living in insanitary conditions and are unable to devote to themselves or to receive from persons with whom they reside, proper care and attention, may, by order of the Court made on application by the local medical officer of health, be removed to a hospital or to residential accommodation provided under the Bill or to some other suitable place. The order may provide for his detention there for not more than three months but the Court may extend this period from time to time.

42. Where such a person is removed to a hospital which is provided under the National Health Service Acts, treatment will be provided free of charge. If he is removed to residential accommodation provided under the Bill, the basis for payment will be that described in paragraphs 24 to 26 above. In any other case, the cost will be borne by the Local Authority on whose initiative the Court acted.

Burial or cremation

43. In replacement of the existing powers of Public Assistance Authorities, the duty is placed on the local Sanitary Authority* of arranging for the burial or cremation of any person who dies or is found dead in their area where it appears to the Authority that no other person has made or is making suitable arrangements for that purpose. Provision is made for the recovery of costs by the local Sanitary Authority from the deceased person's estate or from any liable relative, and for enabling them to receive a contribution from any death grant payable under the National Insurance Act, 1946.

Compensation and superannuation of displaced Local Authority officers

44. As respects persons in full-time employment in capacities to be prescribed, the Minister is authorised to make Regulations for the payment by Local Authorities of compensation for loss of employment, or loss or diminution of emoluments, attributable to the passing of the National Insurance Acts, the National Health Service Acts, or this Bill, so far as provision for compensation for the loss has not already been made in the enactments already passed. The Treasury may also make Regulations for the payment by the Exchequer of compensation to persons employed full-time in connection with local Pension Committees, who suffer loss of employment as a result of the Bill.

45. Where a displaced officer continues in Local Authority service, his superannuation rights are already safeguarded under the existing Local Government superannuation scheme. To meet the case where he obtains employment in the Civil Service it is intended during the present Session to introduce legislation for the suitable modification of the existing rules relating to the superannuation rights of Local Government officers transferred to the Civil Service.

Care of property of persons in hospital, etc.

46. The Bill makes it the duty of Local Authorities to take steps, where necessary, to protect or deal with the property of persons admitted to hospital or to residential accommodation. This provision is based on the present practice of Public Assistance Authorities in the exercise of their functions under the Poor Law.

Miscellaneous and transitional provisions

47. The Bill contains a number of miscellaneous provisions relating to such matters as the registration of charities for disabled persons under the War Charities Act, 1940, penalties where a person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain, or makes a false statement in connection with an application for assistance, the holding of inquiries by the Minister of Health, and the Secretary of State for Scotland, the procedure for making Regulations, and the repeal or adaptation of the existing law to fit the new legislation.

48. Provision is also made for ensuring the smooth transition of administration from the Poor Law, unemployment assistance, supplementary pensions and other superseded services, including arrangements for the care by Local Authorities of non-sick persons remaining in institutions transferred under the National Health Service Acts to the Minister of Health, and for the care by the Regional Hospital Boards of sick persons remaining in premises which are left in the ownership of Local Authorities for the purposes of residential accommodation under the Bill.

* In Scotland, this duty already rests on the Public Health Authority.

FINANCE

National Assistance

49. The cost of National Assistance administered by the National Assistance Board will (like the cost of the present schemes of unemployment assistance and supplementary pensions) be borne by the Exchequer. In addition to the actual cost of assistance grants and the expenses of administering them, this will include the cost of repaying to Local Authorities any expenditure they incur as agents for the Board, e.g., in providing and maintaining reception centres for vagrants.

Local Authorities' Services

50. The expenditure incurred by Local Authorities in exercising their powers and duties under the Bill, in so far as it is not recovered by charges authorised by the Bill, e.g., charges made for accommodation as explained in paragraphs 24 to 26, will be borne by local rates. The Exchequer will, however, pay a subsidy to Local Authorities in respect of approved residential accommodation provided in premises the construction of which is begun after the date of introduction of the Bill. This subsidy will take the form of an annual payment for a period of 60 years of £7 10s. (in Scotland £11) for each bedroom designed for occupation by one resident only, and for each other bedroom £6 10s. (in Scotland £9 10s.) multiplied by the number of residents for whom the room is designed. This subsidy will also be payable where the accommodation is provided for Local Authorities by Housing Associations within the meaning of the Housing Acts.

51. The financial memorandum attached to the Bill itself gives details of the general financial background of the new proposals.

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