POLICY NOTE

THE SCOTLAND ACT 1998 (AGENCY ARRANGEMENTS) (SPECIFICATION) ORDER 2024

SI 2024/989

This Order is made by His Majesty in Council in exercise of the powers conferred upon Him by sections 93(3) and 113(3) of the Scotland Act 1998(a).

The instrument is, by virtue of section 115 and schedule 7 of that Act, subject to negative procedure in both Houses of the UK Parliament and in the Scottish Parliament.

This Order specifies certain functions of the Scottish Ministers in connection with the provision of winter heating assistance under section 30 of the Social Security (Scotland) Act 2018 ("the Act") so that they can be exercised on behalf of the Scottish Ministers by a Minister of the Crown. The detailed arrangements for the functions will be set out in an agency agreement between the UK Government and the Scottish Government; this instrument allows for such arrangements to be agreed.

Policy Objectives

Winter Fuel Payments were introduced in 1997/98 to help older people meet the cost of heating their homes in winter. Until 2023/24, any household in Great Britain with someone over State Pension age in the third week of September was eligible for an annual Winter Fuel Payment.

Powers in relation to winter heating assistance were devolved to the Scottish Parliament under the Scotland Act 2016. The Scottish Government had planned to introduce a new winter heating assistance – Pension Age Winter Heating Payment (PAWHP) – from winter 2024/25 on the same universal basis as Winter Fuel Payments were anticipated to be made in England and Wales.

The powers to provide winter heating assistance are devolved to the Scottish Parliament under section 23 of the Scotland Act 2016. The power for the UK Government to make payments out of the Regulated Social Fund in Scotland ended on 31 March 2024.

On 29 July 2024, the UK Chancellor announced to the UK Parliament that Winter Fuel Payments will be reformed from winter 2024-25. This means that the Winter Fuel Payment in England and Wales will be now targeted to low-income pensioners in receipt of Pension Credit and other specified benefits or tax credits.

Scottish Ministers had intended to introduce a pension age heating assistance provision – Pension Age Winter Heating Payment (PAWHP) from winter 2024/25 on the same universal basis as in England and Wales. This would be legislated for under section 30 of the Social Security (Scotland) Act 2018 and administered by the executive agency, Social Security Scotland.

The Scottish Government is funded on an equivalent basis to England and Wales under the Barnett formula. Following the announcement of the decision to narrow eligibility for the Winter Fuel Payment in England and Wales, the Scottish Ministers have announced that, due to the change in funding, they will no longer be delivering a universal PAWHP and will instead mirror the eligibility criteria introduced in England and Wales. Further, that due to the late policy change Social Security Scotland cannot adapt its delivery infrastructure to deliver the payment on this basis in time for this winter.

The Scottish Ministers have therefore laid draft regulations in the Scottish Parliament to deliver a winter heating payment that will be equivalent to the Winter Fuel Payments in England and Wales. It is intended that DWP will deliver these payments on behalf of the Scottish Ministers. This requires an agency arrangement, which will be permitted by this Order.

This Order in Council specifies the functions related to those payments in order to allow the two Governments to enter into an agency agreement under which DWP will deliver the payments and associated processes for this year.

This Order therefore specifies, for the purposes of section 93(1) of the Scotland Act 1998, certain functions exercisable in connection with winter heating assistance under section 30 of the Social Security (Scotland) Act 2018. These functions relate to winter heating assistance for pensioners and not other forms of winter heating assistance that Scottish Ministers have previously introduced.

Consultation

This order specifies certain delegated administrative functions. Therefore, no formal consultation was required.

Impact Assessment

A full Regulatory Impact Assessment has not been prepared for this instrument because there is not a significant new impact on business, charities or voluntary bodies – beyond existing obligations.

Impact on businesses, charities and voluntary bodies

There is no, or no significant, impact on business, charities or voluntary bodies because this instrument allows for an agreement to be made between the UK and Scottish Governments.

The legislation does not impact small or micro businesses.

There is no, or no significant, impact on the public sector because this instrument purely allows for an administrative arrangement to be made between the UK and Scottish Governments.

Financial Effects

No financial effects identified.

Scottish Government
Social Security **Directorate**

11.09.2024