

Social Justice and Social Security Committee
Thursday 7 November 2024
29th Meeting, 2024 (Session 6)

Note by the Clerk on the Scotland Act 1998 (Agency Arrangements) (Specification) Order 2024 (SSI 2024/989)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 28 November 2024. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
2. More information about the instrument is summarised below:

Title of instrument: [The Scotland Act 1998 \(Agency Arrangements\) \(Specification\) Order 2024](#)

Laid under: The Scotland Act 1998

Laid on: 04/10/2024

Procedure: Negative

Deadline for committee consideration: 25 November 2024

Deadline for Chamber consideration: 28 November 2024

Commencement: 21 November 2024

Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
4. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).
6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

7. The DPLR Committee considered the instrument on [29 October 2024](#) and reported on it in its [61st Report, 2024](#). The Committee made no recommendations in relation to the instrument.

Purpose of the instrument

8. The Scotland Act 1998 (Agency Arrangements) (Specification) Order 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.
9. The detailed arrangements for these functions will be set out in an agency agreement between the UK Government and the Scottish Government and this instrument allows for such arrangements to be agreed.
10. The [Policy Note](#) accompanying the instrument is included in Annexe A. No formal consultation was required to be carried out in relation to these Regulations.

Committee consideration

11. So far, no motion recommending annulment has been lodged.
12. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, options include:
 - seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or
 - inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

It would then be for the Committee, at the next meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.

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13. If members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).
14. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

**Clerks to the Committee
September 2024**

ANNEXE

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 September 2024**