

EXECUTIVE NOTE

THE HOME ENERGY ASSISTANCE SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2012

SSI 2012/34

Powers under which Instrument is made

1. The Home Energy Assistance Scheme (Scotland) Amendment Regulations 2012 (“the Amendment Regulations”) are made by the Scottish Ministers in exercise of powers conferred by section 15(1), (2) and (9)(b) of the Social Security Act 1990.

Parliamentary Procedure

2. This Scottish Statutory Instrument is subject to the negative Parliamentary procedure.

Summary of Policy Proposals

The Energy Assistance Package

3. The Energy Assistance Package (“EAP”) is the Scottish Government’s flagship programme to address fuel poverty. A person is defined to be living in fuel poverty if, to heat their home to a satisfactory standard, they would need to spend more than 10% of their household income on fuel. EAP is designed to assist as many people as possible who are in or at risk of fuel poverty, and to make sure that the available funding is being put to the best possible use. The package provides a range of measures to reduce fuel bills and improve the energy efficiency of homes.
4. Under Stage 4 of EAP, individuals may apply for grant to have installation measures installed and/or their central heating system repaired or replaced. The level of grant and eligibility for grant is set out in the Home Energy Assistance Scheme (Scotland) Regulations 2009 (SSI 2009/48) (“the 2009 Regulations”) as amended. There are eligibility criteria for both: (a) the dwelling to which the application relates; and (b) the individual making an application for grant. The Amendment Regulations make technical changes to both aspects of these criteria: firstly, updating the methodology for assessing the energy efficiency of dwellings and, secondly, closing a gap in eligibility for individuals in receipt of certain allowances under the War Pensions Scheme.

Assessing the energy efficiency of dwellings

5. To qualify for grant, the application must be made in respect of an “energy inefficient dwelling”, which is defined in regulation 2 of the 2009 Regulations as a dwelling (other than a mobile home) that does not attain a rating of 55 or

above under the Government's Standard Assessment Procedure ("SAP") for Energy Rating of Dwellings, 2005 Edition.

6. The 2005 Edition of SAP is now becoming obsolete as most organisations and businesses have updated to the 2009 Edition. SAP 2009 incorporates a Reduced Data Standard Assessment Procedure "RDSAP" which was developed as a robust and simple means of assessing the carbon and energy performance of existing dwellings from non-invasive inspection of a property. This is set out in "*The Government's Standard Assessment Procedure for Energy Rating of Dwellings – 2009 edition incorporating RdSAP 2009*"¹. Regulation 4 of the Amendment Regulations amends the 2009 Regulations to refer to the 2009 Edition and makes explicit that RDSAP is the methodology to be used.
7. The move to the 2009 Edition of RDSAP means that the assessment procedure more accurately reflects the relative prices of each type of fuel. The effect of this is modest but it will make it marginally easier for dwellings with gas central heating to qualify and marginally harder for those with electric central heating systems. The Scottish Government is publicising the change through the Energy Saving Trust (to which applications under the 2009 Regulations are made) so that any individual who is concerned that they may not qualify after 1 April can make their application by 31 March and be considered under the 2005 Edition of SAP.

War Disablement Pensions

8. Some war disablement pensions, which are paid as a result of injuries sustained in service, mirror benefits paid by the Department of Work and Pensions to those with equivalent injuries or disabilities. However, the 2009 Regulations unintentionally do not treat these individuals in the same way.
9. Regulation 6(4A) of the 2009 Regulations makes provision for individuals (or their partners) who receive disability living allowance at the highest rate of the care component or the higher rate of the mobility component to qualify for assistance provided they meet other qualifying criteria.
10. The War Pensions Scheme pays two supplementary allowances that are comparable to disability living allowance. These are the constant attendance allowance, which is payable at four rates, and the mobility supplement which is paid at a flat rate. The top two rates of the constant attendance allowance are broadly equivalent to the highest rate of the care component of the disability living allowance. The Amendment Regulations make provision to provide that those who receive these rates of constant attendance allowance, or mobility supplement, are able to apply for grant in the same way that those who meet the disability allowance criteria can apply.

¹ This publication describes SAP 2009 version 9.90 dated March 2010, revised in October 2010 and further revised to include RDSAP 2009 in March 2011.

11. The Amendment Regulations also update references to the legislation under which the war disablement allowances and supplements are paid.
12. Since 6 April 2005, the Armed Forces Compensation Scheme (ACFS) has replaced the War Pension Scheme for new claimants. Unlike the War Pension Scheme, individuals in receipt of compensation under the ACFS can claim the civilian equivalent benefits. The same issues do not arise in respect of these individuals.

Applications made prior to 1 April 2012

13. Applications made prior to 1 April 2012 will be assessed for eligibility under existing provision in the 2009 Regulations. This gives any individual concerned about their eligibility from 1 April 2012 onwards time to apply under current provision.

Consultation

14. We have not undertaken a public consultation exercise on the Amendment Regulations. This is because the change to the 2009 Edition of RDSAP is a necessary technical change without a realistic alternative. However, Scottish Gas, who deliver the scheme, and the Energy Saving Trust, who manage applications on behalf of Ministers, have been consulted about this change and are content.
15. Similarly, the amendment to provision for war pensioners is not a change of policy but the closing of an unintended gap in provision. As the Scottish Government is not making any change in policy, it was not appropriate to conduct a public consultation exercise.

Financial Effect and Business and Regulatory Impact Assessment

Assessing the energy efficiency of dwellings

16. The move to RDSAP 2009 has no impact on any organisations other than for Scottish Gas and the Energy Saving Trust, both of whom will need to update relevant software applications. However, both organisations already use RDSAP 2009 for other aspects of their business and the one-off cost of any change will be offset by the benefits of harmonising to RDSAP 2009 and ending requirements to support the older methodology.

War pensioners

17. As of 31 March 2011, there were 200 war pensioners in receipt of constant attendance allowance and 1,055 in receipt of mobility supplement, living in Scotland². These figures breakdown by age as follows:

Age range	Constant attendance allowance (all rates)	Mobility supplement
Less than 60 years old	85	455

² Source: Defence Analytical Services Agency, an agency of the Ministry of Defence: www.dasa.mod.uk.

60 to 74 years old	60	280
75 or more years old	55	320
Total	200	1,055

18. The constant attendance allowance figures are not available broken down by rate but, as war pensioners can ask for reviews of their levels of disablement and supplementary allowances at any time, all of these individuals could have the potential to receive the top two rates.
19. Individuals aged 75 or over already qualify under regulation 6(2) of the 2009 Regulations and are unaffected by this change. War pension numbers are falling steadily at about 5% per annum and some individuals will be in receipt of both allowances. Therefore, the maximum number of individuals to whom eligibility has been extended is 880 but, once these and other factors have been taken into account, this figure is likely to be significantly lower. This change will have minimal impact on the Scottish Government's expenditure of £65m to address home energy efficiency and tackle fuel poverty in FY2012/13. Accordingly, a full Business and Regulatory Impact Assessment has not been completed for this instrument.

Scottish Government
 Directorate for Housing, Regeneration and the Commonwealth Games.