

POLICY NOTE

THE SOCIAL SECURITY (SCOTLAND) ACT 2018 (COMMENCEMENT NO. 10 AND TRANSITIONAL PROVISION) REGULATIONS 2024

SSI 2024/57

The above instrument was made in exercise of the powers conferred by section 99(2) and (3) of the Social Security (Scotland) Act 2018. The instrument is laid with no further procedure.

Summary Box

This instrument commences sections 88, 89, 90, 91 (so far as not already in force), 92 and 93 of the Social Security (Scotland) Act 2018, and makes transitional provision.

Policy Objectives

Background

Responsibility for the Discretionary Housing Payment (DHP) scheme was devolved to the Scottish Ministers in 2017. Section 91 of Part 5 of the Social Security (Scotland) 2018 Act (the “2018 Act”) was partially commenced on 1st April 2020 by regulation 2(2) of S.S.I. 2020/75 to allow consultation on a Scottish DHP guidance manual.

At present local authorities can consult a DWP-issued guidance manual, with further instructions provided in an interim guidance note setting out the Scottish Government’s policies with regard to mitigation of the removal of the spare room subsidy (bedroom tax) and benefit cap as far as is possible under the Discretionary Financial Assistance Regulations 2001/1167 (the “DFA Regulations”).

This instrument will be laid in tandem with an instrument which revokes the DFA Regulations insofar as they relate to Scotland.

Full commencement of these sections of Part 5 of the 2018 Act will allow Scottish Ministers to issue statutory guidance to local authorities setting out how the DHP scheme should be administered in Scotland.

Transitional arrangements

In order to transition to the new scheme for DHPs under Part 5 of the Social Security (Scotland) Act 2018, it is necessary to revoke the DFA Regulations. The transitional provision has the effect that all applications for DHPs and requests for reviews that are ongoing, as well as ongoing decisions in relation to the making, cancellation and recovery of a DHP which have begun prior to 1st April 2024 but have not completed before that date will be completed under the new scheme rules and guidance from 1st April 2024.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government’s policy to maintain alignment with the EU.

Consultation

In developing the policy, the following Scottish Government teams have been invited to input: Child Poverty, Violence Against Women and Girls, Homelessness, Social Security, Analysts and Economists.

The DHP guidance document has been actively developed in partnership with the Convention of Scottish Local Authorities (COSLA). COSLA convened a group of social-security advisers (drawn from local authorities) with knowledge of the DHP scheme to provide detailed advice and feedback on the operation of the scheme, and on the impacts of changing the legislative basis of the scheme.

To comply with the requirement in section 91(4) of Part 5 of the 2018 Act, the Scottish Ministers performed a formal consultation with COSLA. The consultation provided feedback on the wording of the statutory guidance document.

Impact Assessments

An Equalities Impact Assessment and a Stage 1 and 2 Children's Rights and Welfare Impact Assessment have been completed.

A Data Protection Impact Assessment was not carried out because no personally identifiable data, or unique identifiers, will be collected by the Scottish Government. It was also considered that the policy will have no impact on the environment and will not have a significantly different effect on any island communities.

Financial Effects

The Scottish Fiscal Commission's view is that these regulations, combined with the new statutory guidance, are likely to have only a negligible effect on Scottish Government spending on Discretionary Housing Payments.

A Business and Regulatory Impact Assessment (BRIA) has been completed. The Scottish Government is satisfied that the Bill has no significant impact on businesses and other non-public bodies.

Scottish Government
Directorate for Local Government and Housing
February 2024