

POLICY NOTE

THE HOME ENERGY ASSISTANCE SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2014

SSI 2014/40

Powers under which Instrument is made

1. The Home Energy Assistance Scheme (Scotland) Amendment Regulations 2014 (“the 2014 Amendment Regulations”) are made by the Scottish Ministers in exercise of powers conferred by section 15 of the Social Security Act 1990.

Parliamentary Procedure

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

Summary of Policy Proposals

3. Under the Energy Assistance Scheme, individuals can 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 2013 (SSI 2013/148)¹ (“the 2013 Regulations”), which came into force on 1 July 2013. The 2014 Amendment Regulations make provision: to improve the interaction between the Energy Assistance Scheme and Affordable Warmth Scheme; and to reflect the rollout of Universal Credit² in terms of eligibility for the Energy Assistance Scheme.

Interaction with the Affordable Warmth Scheme

4. The Affordable Warmth Scheme is one of the Scottish Government’s national fuel poverty schemes. It is targeted at private tenure households who are vulnerable to fuel poverty as defined by the UK Government’s affordable warmth group³. Eligibility is based on the Home Heating Cost Reduction Obligation of the Energy Companies Obligation.
5. Regulation 4(5) in the 2013 Regulations excludes those households eligible for the Affordable Warmth Scheme from being eligible for support under the Energy Assistance Scheme. Eligibility for assistance under the Affordable Warmth Scheme is primarily determined by making a referral for verification to the Department for Work and Pensions (“DWP”). Where DWP cannot give a definite answer, the energy company to whom the applicant is referred has to confirm whether or not the individual is eligible, normally by visiting the individual. This can be onerous for the individual and the energy company where the individual is unlikely to benefit from measures offered under the Affordable Warmth Scheme. However, the 2013

¹ As amended by the Home Energy Assistance Scheme (Scotland) Amendment Regulations 2013 (SSI 2013/253) to include individuals eligible for the Council Tax Reduction Scheme.

² Universal Credit is the benefit set out at Part 1 of the Welfare Reform Act 2012.

³ See article 2 of, and schedule 1 to, the Electricity and Gas (Energy Companies Obligation) Order 2012 (SI 2012/3018).

Regulations require the individual to be confirmed as ineligible under the Affordable Warmth Scheme before the individual could be considered for the Energy Assistance Scheme. Regulation 3 of the 2014 Amendment Regulations amends this provision to allow for greater flexibility in the way that referrals, for which DWP are unable to determine eligibility, are handled. This will allow the Scottish Government to streamline arrangements with the energy companies and improve the customer journey for affected individuals.

Universal Credit

6. Universal Credit is a new single payment for people who are out of work or on a low income being rolled out by the UK Government across the UK. It is being introduced over the period 2013 to 2017 and will replace the following benefits upon which eligibility for the Energy Assistance Scheme can depend:
 - income-based jobseeker's allowance
 - income-related employment and support allowance
 - working tax credit
 - child tax credit
 - housing benefit; and
 - income support.
7. Further information can be found on the UK Government's [Universal Credit implementation website](#)⁴.
8. The Scottish Government's intention is to preserve the effect of current eligibility criteria as Universal Credit is rolled out. The 2014 Amendment Regulations expand the provision for qualifying benefits in regulation 6(9) of the 2013 Regulations to encompass individuals starting out on, or transferred to, Universal Credit who would have qualified had they been assessed for, or remained on, the superseded benefits.

Income-based jobseeker's allowance, income-related employment support allowance and working tax credit

9. Regulation 4 of the 2014 Amendment Regulations inserts a new regulation 6(9)(g)(i) in the 2013 Regulations to handle cases where the individual would have received income-based jobseeker's allowance, *income-related* employment support allowance⁵ or working tax credit before Universal Credit.
10. The working tax credit threshold set in regulation 6(9)(b)(ii) of the 2013 Regulations to qualify for the Energy Assistance Scheme (in conjunction with other criteria) is a relevant income of no more than £18,165 (an annual, gross amount). The effect of regulation 4(5) is largely to preclude those with relevant incomes below £15,860 (as this is the working tax credit threshold for eligibility for the affordable warmth group, see paragraph 4).

⁴ www.gov.uk/government/policies/simplifying-the-welfare-system-and-making-sure-work-pays/supporting-pages/introducing-universal-credit

⁵ Eligibility for the Energy Assistance Scheme encompasses both *income-related* employment support allowance and *contribution-based* employment support allowance. Individuals who receive *contribution-based* employment support allowance may continue to do so under Universal Credit.

11. Universal Credit is calculated and framed differently, with monthly assessment periods and monthly benefit awards linked to monthly net earned income. The UK Government has proposed amendments to the affordable warmth group which set an earned income threshold of £1,167 (net, monthly)⁶. Regulation 4 provides for an earned income threshold of no more than £1,260 (net, monthly) to qualify for the Energy Assistance Scheme, so that households within the range £1,167 to £1,260 qualify. Analysis⁷ suggests that setting £1,260 as the income threshold is most likely to capture the right number and type of households to be as close as practicably possible to the current eligibility criteria, without narrowing the number of households who would be eligible. Therefore, the Scottish Government considers that this best meets the policy intention to preserve the effect of current eligibility criteria in the period covering the initial phase of Universal Credit roll-out to the closure of the Energy Assistance Scheme in 2015.

Child tax credit and housing benefit

12. Child tax credit and housing benefit will be replaced by Universal Credit. Regulation 4 also inserts a new regulation 6(9)(g)(ii) in the 2013 Regulations in order to preserve eligibility for households with individuals who would have qualified through receipt of those benefits. This is done by reference to the award including a child element, childcare element or housing element. The fact that these elements are included will be stated in the award letter. No reference is made to the disabled child element because that is always an additional amount, on top of the child element, so any recipients of disabled child element will already qualify through the child element.

Income support

13. Relatively few individuals receive income support as the process of migrating them to other benefits is nearing completion. No specific provision needs to be made for recipients of income support under Universal Credit as provision for other benefits will capture any relevant cases.

Consultation

14. We have consulted the Scottish Fuel Poverty Forum, DWP, the Energy Saving Trust, Scottish Gas, Scottish Power, SSE and other stakeholders involved with the delivery of the Energy Assistance Scheme, Affordable Warmth Scheme and related services in developing the 2014 Amendment Regulations.

Financial Effect and Business and Regulatory Impact Assessment

15. A full Business and Regulatory Impact Assessment has not been completed. The change to eligibility criteria to make provision for Universal Credit has no impact on

⁶ See article 9 of the Electricity and Gas (Energy Companies Obligation) (Amendment) Order 2014 (draft affirmative).

⁷ Analysis is informed by DWP's Policy Simulation Model using 2010-11 Family Resources Survey data and Scottish Government analysis of comparative gross and net household incomes.

any organisations other than Scottish Gas⁸, who deliver the Energy Assistance Scheme, and the Energy Saving Trust, who manage applications on behalf of the Scottish Ministers. The change to improve the interaction between the Energy Assistance Scheme and Affordable Warmth Scheme is also limited to these two organisations and also Scottish Power and SSE (who participate in the Affordable Warmth Scheme with British Gas). However, all these organisations are already geared up to handle eligibility assessment against a range of benefits and this change should not impose any additional costs on those organisations.

Scottish Government
Directorate for Housing, Regeneration and Welfare.

⁸ Scottish Gas is the administering agency appointed by the Scottish Ministers in terms of regulation 3(1) of the 2013 Regulations and subcontractors appointed by Scottish Gas are the network installers selected and registered by the administering agency in terms of regulation 3(5) of those Regulations.