

EXECUTIVE NOTE

THE HOME ENERGY ASSISTANCE SCHEME (SCOTLAND) REGULATIONS 2009 SSI/2009/48

The above instrument was made in exercise of the powers conferred by section 15 of the Social Security Act 1990. The instrument is subject to negative resolution.

Policy Objectives

The policy is to replace the Central Heating Programme and the Warm Deal with a new Energy Assistance Package. The aim is to focus assistance more directly on the fuel poor and provide a more holistic package of help. The new package has four stages though in practice these may run concurrently. Stages 1 and 2 will provide energy efficiency advice and tariff and benefits entitlement checks to a wide range of clients; stage 3 will ensure installation of standard insulation measures to eligible households under the Carbon Emission Reduction Target programmes run by energy companies. Stage 4 will offer a package of enhanced energy efficiency measures to the most vulnerable. It is this last stage which is covered in these Regulations. This stage will provide enhanced measures to those living in energy inefficient housing in the private sector who are either older pensioner households, low income pensioner households or low income households with a child under 5 or a disabled child under 16; and to all private sector pensioner households who have never had a central heating system. The range of measures will be extended to include, for example, internal wall insulation and air source heat pumps and will be available to eligible people living in residential mobile homes. Grant limits have been set at a level to ensure that the available resources help as many households as possible.

Consultation

Members of the Scottish Fuel Poverty Forum were given an opportunity to comment on the draft Regulations.

Financial Effects

The instrument details the spending of resource allocated by the Scottish Government over 2008 -11. The Regulatory Impact Assessment is attached.

Scottish Government
February 2009

REGULATORY IMPACT ASSESSMENT

1. TITLE

The Home Energy Assistance Scheme (Scotland) Regulations 2009

2. PURPOSE AND INTENDED EFFECT

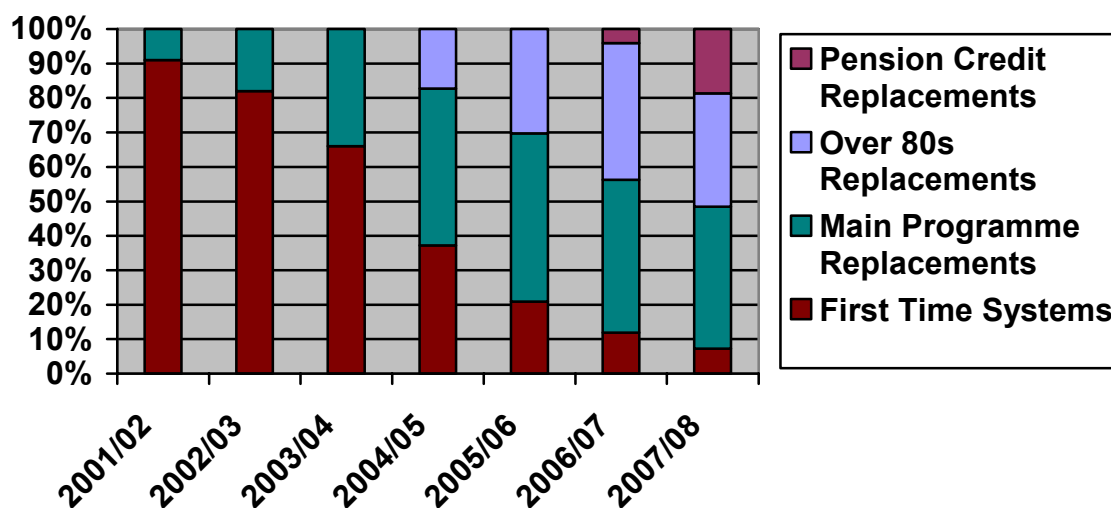
Objectives

These Regulations make provision for making grants to improve the energy efficiency of Scottish dwellings in accordance with section 15 of the Social Security Act 1990. They replace the current Home Energy Efficiency Scheme (Scotland) Regulations 2006 and come into force on 6 April 2009. This puts into effect stage 4 of the new Energy Assistance Package which replaces the current Warm Deal and Central Heating Programme.

Background - Current situation

The Scottish Government's review of fuel poverty¹ published in May 2008 highlighted that existing fuel poverty programmes were no longer achieving their intended purpose and in the face of high fuel prices needed urgent reform if we are to meet our statutory 2016 fuel poverty target. The review concluded that half of those benefiting from the Central Heating Programme were not fuel poor and the programme had moved away from its original objective to provide central heating to pensioners who had none. It found that replacement central heating systems were accounting for over 90% of all successful applications and due to the programme's universal approach and its popularity, waiting lists were growing with the risk that vulnerable, fuel poor pensioners would have to wait for central heating until those who were less vulnerable but applied before them have central heating installed.

Figure 8: Switch from First Time Systems to Replacements²



The review found that rural fuel poverty was a particular issue with 34% fuel poor households compared to 21% in urban areas³ and that the Central Heating Programme as currently designed was a less effective fuel poverty intervention for homes off the gas grid or those of a construction which made them difficult to treat through standard insulation measures.

¹ <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/access/FP/fuelpovertyreview>

² ibid

³ ibid

The review also found that there was a poor fit between fuel poverty and eligibility for the Warm Deal insulation programme and that the Warm Deal Programme may be displacing funding from energy companies through their Carbon Emissions Reduction Target [CERT].

Background - Framework to address situation

The Scottish Fuel Poverty Forum was re-established to provide advice on how fuel poverty programmes should be re-designed to achieve targets. The Forum reported in October 2008⁴. Its main recommendation was that existing programmes should be replaced with a new Energy Assistance Package [EAP]. The Cabinet Secretary for Health and Wellbeing announced in November 2008 that this recommendation would be implemented and that the new EAP would commence in April 2009.

The new package provides a more holistic and integrated approach to tackling fuel poverty; reaching more people and providing a wider range of support. It will have four stages; providing an energy audit, welfare benefit and tax credit check along with advice on energy tariffs at stage 1-2; and through an agreement with energy companies, cavity wall and loft insulation through CERT at stage 3. Stage 4 will provide bespoke energy efficiency measures for eligible groups who live in homes in the private sector with poor energy efficiency. These Regulations bring stage 4 of the new package into effect.

Rationale for Government intervention

The new Regulations are necessary to bring into effect stage 4 of the new energy assistance package.

3. CONSULTATION

Within Government

A wide range of policy areas across Government were consulted on the review and the Forum's recommendations including; Energy Policy, Social Inclusion, Health, SBSA, other parts of Housing Policy, Climate Change, Sustainable Development, Older People and Equalities. Cosla was represented on the Forum and officials held bilateral meetings with Cosla officials. A Scottish Government official attended Cosla's Health and Safety Executive Committee in October 2008.

Public consultation

The Scottish Fuel Poverty Forum was given the opportunity to comment on the draft Regulations and changes were made as a result. The new policy itself was developed by the Scottish Fuel Poverty Forum which represents key stakeholders in the field. A number of other stakeholders were invited to give evidence to the Forum and a call for evidence was put out to which members of the public were invited to respond. Many stakeholders responded to this and their responses were published on the Scottish Government website.⁵ In addition, two stakeholder workshops have been held to help develop the EAP and Stage 4 measures outlined in the regulations, and a further stakeholder consultation event is scheduled for 27 February 2009.

4. OPTIONS

Option 1 - Leaving current Regulations in place - the 'do nothing option' is not recommended. This would mean continuing with programmes which have been shown to no

⁴ <http://www.scotland.gov.uk/Publications/2008/10/09155649/0>

⁵ <http://www.scotland.gov.uk/Topics/Built-Environment/Housing/access/FP/FPFORUMEVIDENCE101008>

longer be achieving their aims. This is clear from the Scottish Government's review of fuel poverty published in May 2008 and stakeholders concerns including evidence given to the Local Government and Communities committee on 3 October 2007⁶. It would mean that programmes could not be offered to other eligible groups such as families and that the basic measures as currently included could not be widened.

Option 2 - Laying new regulations is the recommended option of solicitors and fits the policy intention of the Forum's recommendations. The option is necessary to enable stage 4 measures to be provided. It fits with the overall delivery plan for implementation of the EAP offering energy efficiency advice, tariff checks, benefits entitlement checks and ensuring insulation measures through the Carbon Emission Reduction Target measures (Stages 1 to 3 of the package) though the already well established Energy Saving Scotland Advice Centre network. These Regulations will allow a broader range of physical measures to be offered and a higher grant maximum at Stage 4 of the EAP thus more effectively tackling rural fuel poverty. The new Regulations also broaden eligibility to allow families with a child under 5 or a disabled child under 16 to be helped beyond basic Warm Deal measures.

5. COSTS AND BENEFITS

Sectors and groups affected

The new Regulations affect the following groups of private sector households which the Scottish House Condition survey highlights as vulnerable to fuel poverty:

- People aged 60 or over whose homes never had a central heating system
- People aged aged 75 or over living in energy inefficient housing
- Low income pensioners in energy inefficient housing
- Families on low incomes with a child under 5 or a disabled child under 16 living in energy inefficient housing.

Benefits

The new Regulations will provide measures which will reduce energy usage and fuel bills for these at risk of fuel poverty outlined above. It aims to lift people in these groups above the fuel poverty threshold. It will work towards the goal of eradicating fuel poverty as far as is reasonably practicable.

Costs

The measures in the Regulations relate to the spending of Scottish Government resource already allocated to the alleviation of fuel poverty in each of the years 2008 -11. The EAP will be delivered by the Energy Saving Scotland Advice Centre Network and operate in a seamless manner for the consumer providing us with the flexibility that we need to meet fuel poverty and our wider poverty, climate change and energy objectives. It will be supported by funding worth £55.8 million per annum.

6. SMALL /MICRO FIRMS IMPACT TEST

These Regulations cover stage 4 of the Energy Assistance Package. The present managing agent and his registered installer network will continue to deliver much of this work so in this respect the situation should remain unchanged. In addition the introduction of air source heat pumps and new insulation options to the range of available measures will present opportunities for work for air source heat pump installers and others and help grow the market for these technologies.

⁶ <http://www.scottish.parliament.uk/s3/committees/lgc/or-07/lg07-0602.htm#Col132>

Our consultation with the Fuel Poverty Forum raised concerns about the impact on the jobs market of revoking the Warm Deal Regulations. However, concerns should be allayed by the provision of CERT works through Stage 3 which will generate insulation work. It is also the intention to provide grant funding to local authorities to continue to provide insulation measures for their stock but this is not pertinent to these Regulations.

7. LEGAL AID IMPACT TEST

It is not anticipated that these regulations would give rise to increased use of legal processes, create new rights or responsibilities or impact directly on the legal aid fund. However, as may presently occur, in individual cases, applicants may choose to seek legal advice if refused a grant.

8. TEST RUN OF BUSINESS FORMS

It is not anticipated that any new business forms are required as a consequence of these regulations.

9. COMPETITION ASSESSMENT

The current managing agent contract was won by competitive tender and runs till March 2010 when a new tendering exercise will be launched.

10. ENFORCEMENT, SANCTIONS and MONITORING

The Scottish Government has a contract with Energy Savings Trust and the Stage 4 managing agent to deliver measures as outlined in the regulations. These Administrating Agencies will be required to provide monthly data on the scheme. In addition a separate tender will be issued for a monitoring and inspection contract for a quality check of physical measures.

11. IMPLEMENTATION AND DELIVERY PLAN

Measures under stage 4 will be delivered under the current contract till March 2010 when a new tender exercise will be carried out.

12. POST IMPLEMENTATION REVIEW

The Scottish Fuel Poverty Forum has been given the remit of monitoring the new package and will report to Scottish Ministers annually. We will undertake to ensure a more formal review is carried out within at least the next five years along with our next statutory review of the Scottish Fuel Poverty Statement which is due for publication in 2010.

13. SUMMARY AND RECOMMENDATION

After full consideration of the costs and benefits it is recommended that option 2 is adopted. Laying these regulations will enable Stage 4 measures to be provided under the EAP and fit with fuel poverty objectives.

14. DECLARATION AND PUBLICATION

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed

Date

Nicola Sturgeon
Cabinet Secretary for Health & Wellbeing