The Regulated Social Fund will be devolved to the Scottish Parliament under the Scotland Bill, currently progressing through Westminster. The Regulated Social Fund is made up of: Funeral Payments, Sure Start Maternity Grant, Cold Weather Payments and the Winter Fuel Payment. This briefing gives an overview of these benefits and the debate so far over their devolution. It also looks briefly at proposals to devolve other measures related to welfare foods and fuel poverty.

The Scottish Government intends to publish a paper in the new year setting out its social security proposals. Should the SNP be successful at the Scottish Parliament election in May 2016, a Social Security Bill will be introduced in the first year of the next Scottish Parliament.
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EXECUTIVE SUMMARY

The Scotland Bill proposes that the Regulated Social Fund will be devolved. That is: the subject matter of the Sure Start Maternity Grant, Funeral Expenses Payment, Winter Fuel Payment and Cold Weather Payment. Together, spend on these in Scotland in 2014/15 came to c.£200m, although almost all of this (£184m) was on the Winter Fuel Payment.

The Social Fund was introduced in the late 1980s and comprised a discretionary fund and a regulated fund. The discretionary fund was based on a fixed budget, whereas the regulated fund was based on entitlement established in regulations and therefore spend reflected demand. The discretionary Social Fund was abolished in 2013 and largely replaced by local schemes. In Scotland this became the Scottish Welfare Fund. The remaining elements, Budgeting Loans and advances on benefit payments remained reserved and are being replaced by alternative provision. All four elements of the regulated fund are to be devolved under the Scotland Bill.

Two of the Regulated Social Fund benefits relate to fuel poverty. The largest element is the non means-tested Winter Fuel Payment which is provided to those over the qualifying age for Pension Credit. While there has been debate about whether this should be means-tested, the Scottish Government recently made clear that it would not do so. Cold Weather Payments are also aimed at tackling fuel poverty and these are means-tested. The amount paid out varies considerably each year as payments are related to the temperature.

The Scottish Government already has some responsibility for fuel poverty measures and the Smith Commission proposed further devolution in this area outwith the Social Fund.

Aside from fuel poverty, the Regulated Social Fund provides payments for funeral expenses and maternity costs.

A Funeral Expenses Payment is available to people on certain income-related benefits. Certain expenses are met in full and up to £700 is available for other expenses. In 2014/15, the average value of an award was £1,375.

The Sure Start Maternity Grant is available to people on certain income-related benefits. It provides a one off payment of £500 to help with the expenses of having a first child.

The Scottish Government is currently undertaking engagement work on how it should use its new social security powers. A social security bill is expected in the first year of the next Scottish Parliament.

The Scottish Parliament's Welfare Committee is holding an inquiry into how the new social security powers might be used.
BACKGROUND

The Social Fund was introduced under the Social Security Act 1986 to make provision for funeral, maternity and other expenses. It consisted of the Regulated Social Fund (which this briefing covers) and the Discretionary Social Fund. The Discretionary Social Fund was abolished in 2013 and most of its functions are replaced by local schemes. What were formerly Community Care Grants and Crisis Loans now make up the Scottish Welfare Fund. Budgeting Loans are being replaced by similar provision accessed through Universal Credit or Pension Credit. Budgeting Loans still exist those who have not yet transferred to Universal Credit. The table below shows the benefits that were contained in the Social Fund.

<table>
<thead>
<tr>
<th>The Social Fund</th>
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<tr>
<td><strong>Discretionary Social Fund</strong> (abolished 2013)</td>
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<tr>
<td><strong>Budgeting Loans</strong></td>
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<tr>
<td>(function remains reserved, replaced by Budgeting Advance for Universal Credit, Benefit Advance for Pension Credit. Budgeting Loans continue for those not yet transferred to Universal Credit)</td>
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<tr>
<td><strong>Crisis Loans</strong></td>
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<tr>
<td>(devolved in 2013 as Scottish Welfare Fund, now Crisis Grants)</td>
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<tr>
<td>Crisis loan “alignment payment” (payments pending first benefit payment) – function remains reserved. Replaced by DWP Universal Credit Advances and Short Term Advances</td>
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<tr>
<td><strong>Community Care Grants</strong></td>
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<td>(devolved in 2013 as Scottish Welfare Fund)</td>
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EXPENDITURE

Spend on the Regulated Social Fund is more than double the spend on what was the Discretionary Social Fund. The Scottish Welfare Fund budget for 2014/15 was £37m (Scottish Government 2015a) and £44m was provided through the DWP in Budgeting Loans (DWP 2015a). The spend on the Regulated Social Fund in Scotland in 14/15 was c.£200m and is set out in chart 1 below.
Chart 1: Regulated Social Fund spend in Scotland 2014/15. £m

Sources: DWP 2015b, DWP 2015c, Scottish Government 2015b. Figures for Funeral Expenses and Sure Start Maternity are estimates, and are based on 13/14 data.

There were just under 1 million awards of Winter Fuel Payment in Scotland in 2014/15. Caseload data is not published at a Scottish level for Sure Start Maternity or Funeral Expenses. The number of Cold Weather Payments made varies considerably each year as it is dependent on the temperature. In 2014/15 there were 268,000 awards made in Scotland (DWP 2015b) compared to 1,100 the previous year (DWP 2014).

Chart 2 below shows the real terms trend in spend at a GB level since the late 1980s when the Social Fund was introduced. As with current spend, it shows that the largest element has been the Winter Fuel Payment. It also illustrates the variation in Cold Weather Payment, reflecting both harsh winters in 2010/11 as well as the increase in the level of individual payments made in 2009. Spend on Funeral Payments has remained steady throughout the period. In contrast, spend on Sure Start Maternity Grants increased from 2002/03 but fell back close to previous levels in 2011/12.
Chart 2: Trend in budget outturn and forecast £m real terms. GB.

(DWP 2015e)

**WINTER FUEL PAYMENT**

The Winter Fuel Payment is by far the largest area of expenditure in the Regulated Social Fund, with £184m spent on this in Scotland in 2014/15. It was introduced in 1997 as part of measures to tackle pensioner poverty. It is a tax free payment which, unlike the other benefits in the Regulated Social Fund, is not dependent on receiving income related benefits. The current rules are designed to ensure that:

- in a household where the eldest person is between pension credit age and 79, the total amount received by the household is £200, and
- in a household where the eldest person is 80 or over, the total amount received by the household is £300

Following a European Court judgment, Winter Fuel Payments are now also made to eligible people living outside the UK in another European Economic Area (EEA) Member State and Switzerland. In response, the UK Government introduced a new eligibility criteria, effective from winter 2015/16, based on country of residence. Winter Fuel Payments will not go to people living in EEA countries where the average winter temperature is higher than the warmest region of the UK.

There were 922,440 recipients in Scotland in 2014/15 (DWP 2015f). It therefore benefits more people than other elements of the Regulated Social Fund and any other of the benefits to be devolved. This is around three times the caseload for Disability Living Allowance (DWP tabulation tool, data for May 2015). Even though the population is ageing, this has been off-set by the gradual increase in the women’s State Pension age, to which eligibility is linked. The total number of people eligible for Winter Fuel Payment is therefore slowly falling (DWP 2015g).
Over the last few years, since the recession, there has been a debate about whether the Winter Fuel Payment should be means-tested. For example, in 2009 the IPPR argued that:

“As a fuel poverty measure, WFPs are very poorly targeted with just 12 per cent of recipients thought to be fuel poor” (IPPR 2009).

An IFS report (2010) argued:

“If the aim of the payment is to encourage older individuals (regardless of their income) to increase their fuel consumption, then it seems to be a reasonably successful (albeit expensive) policy. If though, the aim is to reduce hardship among those most likely to struggle with paying their winter fuel bills, then the policy is poorly targeted and a great deal more expensive than necessary.”

In 2013, the House of Commons Energy and Climate Change Committee reported (5th report 2013) on energy prices and fuel poverty, concluding that:

“energy efficiency programmes should be the focus of Government's fuel poverty policy in order to tackle the long-term root causes of the problem cost-effectively. It is disappointing that so much of current Government fuel poverty policy centres on short-term help with bills when improving the thermal efficiency of UK housing stock should be the priority.”

In the 2015 general election the Conservative Party and SNP said they would protect the Winter Fuel Payment (Conservative Party 2015). The Green Party (2015) said they would keep it. The Labour Party (2015) said they would stop paying it to the richest 5% of pensioners. The Liberal Democrats (2015) said they would withdraw eligibility from pensioners paying the 40% rate of income tax.

Creating a fairer Scotland - Social Security summarises the Scottish Government's engagement to date on the further devolution of social security. It sets out the views it has heard on welfare provision, including the Regulated Social Fund. In relation to the Winter Fuel Payment the main issue highlighted was that it is not targeted in any way and there is no guarantee that eligible households will use the income to reduce fuel bills.

In response, the Scottish Government stated:

“Tackling fuel poverty is already a priority for the Scottish Government. With the devolution of Cold Weather Payments and Winter Fuel Payments, we are considering the eligibility criteria, converting the payments into a fuel bill rebate or using the funding to provide warmer more affordable homes for people. We are asking for views on how effective the Cold Weather Payments and Winter Fuel Payments are in tackling fuel poverty and what, if any, changes might be welcomed” (Scottish Government 2015b).

The Scottish Government has stated that they do not intend to means-test the Winter Fuel Payment. The BBC reported that:

“A Scottish Government spokesperson later clarified the plans, saying: “There is absolutely no question of means-testing eligibility for the winter fuel allowance - or of removing entitlement from anyone who currently receives it” (BBC News 2015).
COLD WEATHER PAYMENTS

Cold Weather Payments are made to individuals on certain benefits during periods of cold weather. A sum of £25 is paid for each week of cold weather (7 days of average daily temperature at or forecast as zero or below at the nearest designated weather station).

Payments are made to people receiving Pension Credit and the following income related benefits where certain extra amounts are included related to being a pensioner, having a disability or having young children:

- Income Support
- Income Based Job Seekers Allowance
- Income Related Employment Support Allowance
- Universal Credit (where the claimant is unemployed)

Over half (54%) of those eligible are in receipt of Pension Credit (205,000 out of 380,000 eligible in Scotland in 2014/15) (DWP 2015b). Payments are made automatically to those entitled to them and there is no need to claim. The actual number of payments made is related to the temperature and so it fluctuates from year to year. In 2013/14 (a mild winter) only 1,100 payments were made, which came to only £27,500 (DWP 2015d). This compares with 268,000 payments made in Scotland in 2014/15 at a cost of £6.7m (DWP 2015b). This variation is illustrated in the chart below which shows the number of payments made across Great Britain since the late 1980s.

Chart 3: Cold Weather Payments, (GB) (000) 1988 - 2014


The current scheme was introduced in 1987, replacing a scheme based on local office discretion (Kennedy 2010). It became part of the new Social Fund in 1988 and since then:

- In 1991, the payments were increased from £5 to £6 per week of cold weather, payment became automatic, a person’s capital was no longer taken into account and forecast periods were introduced.
• Payments increased to £7 in 1994, to £8.50 in 1995 and to their current rate of £25 in 2008.

The scheme is reviewed each year, focusing particularly on the assignment of postcodes to the Met office weather stations which are used to monitor temperatures and thus trigger payments.

In the Scottish Government's engagement work on social security, stakeholders' views included:

• In many remote areas (especially islands), wind and other weather conditions can mean extended heating periods even though temperatures haven't reached zero.

• Paying the benefit in retrospect means that people in rural areas who incur fuel costs on delivery cannot plan ahead.

The ‘wind-chill’ factor has been raised before. Since 1997 there have been a number of unsuccessful attempts to incorporate wind chill into the Cold Weather Payments scheme (see Kennedy 2010).

As noted above, the Scottish Government is currently “asking for views on how effective the Cold Weather Payments and Winter Fuel Payments are in tackling fuel poverty and what, if any, changes might be welcomed ” (Scottish Government 2015b).

**OTHER MEASURES TO TACKLE FUEL POVERTY**

The Housing (Scotland) Act 2001 requires the Scottish Government to eradicate fuel poverty “as far as reasonably practicable” by November 2016. A household is considered to be in fuel poverty if it is required to spend more than 10% of its disposable income on household fuel. Around 39% of all Scottish households are defined as being in fuel poverty (Scottish Government 2014).

A UK scheme - the Warm Home Discount, provides £140 discount on electricity bills for those on Pension Credit (if their electricity supplier is a scheme member). Other UK and Scottish measures for tackling fuel poverty focus on improving energy efficiency rather than providing income supplements.

The main Scottish Government schemes aimed at tackling fuel poverty are the Home Energy Efficiency Programmes for Scotland (HEEPS). In 2015-16, HEEPS consists of four separate programmes: Area Based Schemes (ABS), Warmer Homes Scotland (WHS), HEEPS: Cashback and HEEPS Loans. These schemes offer advice, information and assistance with implementing energy efficiency measures in a house. The total budget for energy efficiency programmes in 2015/16 is £119m (Liddell, 2015). This is more than ten times the spend on Cold Weather Payments in Scotland last winter, and around two thirds of what was spend on Winter Fuel Payments.

HEEPS was designed to complement and 'leverage in' funding from the UK-wide Energy Company Obligation (ECO) programme. ECO was introduced by the UK Government in January 2013 to “reduce energy consumption and support people at greater risk of living in fuel poverty”(DECC, 2015). Funding for ECO is provided by energy companies and funded through consumers’ energy bills (for further information see Howe and Page, 2015). The design and delivery of ECO, as well as the Warm Home Discount, will be devolved under the Scotland Bill.

For further detail on fuel poverty measures outwith the Social Fund see Liddell (2015).
FUNERAL PAYMENTS

Funeral Payments are for individuals on low incomes who need help to pay for a funeral for which they are responsible. In Great Britain as a whole, there were around 32,000 awards made in 2014/15 with an average value of £1,375. Total expenditure was £44m, of which an estimated £6m was spent in Scotland (Scottish Government, 2015b).

The chart below shows that, across Great Britain as a whole, pensioners make up less than half of claimants:

Chart 4: Funeral Payments by Claimant Group (GB)

Source: DWP 2015a

Applicants must be on a qualifying benefit, have taken responsibility for the funeral and be a close relative or friend. If there is another close relative or friend, who might be expected to take responsibility for arrangement and who is not on a qualifying benefit, then the application will not be successful. The qualifying benefits are:

- Income Support
- Income Based Job Seekers Allowance
- Income Related Employment and Support Allowance
- Housing Benefit
- Child Tax Credit paid at a rate which exceeds the family element
- Working Tax Credit if it includes the disabled worker or severed disability element
- Pension Credit
- Universal Credit

Qualifying relationships are:

- the partner of the deceased when they died
- a close relative or close friend of the deceased (it must also be reasonable for them to accept responsibility, given the nature and extent of their relationship with the deceased)
• the parent of a still born baby after 24 weeks of pregnancy

• the parent of the deceased child, if they were under 16 (or under 20 and not in full time education)

The form for claiming Funeral Payments is 36 pages long, and includes questions needed to establish whether another person might be considered responsible for funeral costs.

Rather than being set at particular level, the entitlement is to an amount sufficient to cover necessary costs and up to £700 for other costs (CPAG 2015). The costs of actual burial or cremation are usually met in full by the Funeral Payment, together with:

• reasonable costs of transporting the body (if over 50 miles), within the UK to their home or funeral director’s premises, transportation of the coffin to the funeral

• costs of any medical references, certificates and doctor’s fees for the removal of a heart pacemaker, and

• necessary travel costs for one return journey within the UK to arrange or attend the funeral.

Other costs would include items such as flowers, headstone, transporting the body (if under 50 miles) and a Minister’s fee (Citizens Advice, 2013). Any payments made towards the funeral costs are recoverable from the estate of the deceased, if there are sufficient funds (CPAG 2015). However, very little is actually recovered in practice (DWP annual report).

Funeral payments have been criticised as failing to meet the costs of a basic funeral. Citizens Advice Scotland has highlighted how funeral costs have increased in recent years (see CAS, 2014 and CAB, 2013). CAS report that the average total cost for a basic funeral in 2014 for a cremation is £2,610 and £3,240 for a burial. This comprises:

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<table>
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<tbody>
<tr>
<td>funeral directors</td>
<td>£1,900</td>
</tr>
<tr>
<td>cremation/burial</td>
<td>£570/ £1,180</td>
</tr>
<tr>
<td>Minister/celebrant</td>
<td>£140</td>
</tr>
</tbody>
</table>

This does not include costs for things like flowers, obituary notice, limousine, catering, venue hire or memorial (such as headstone). The CAS estimate the average cost for these common expenses to be £1,815.

In a 2013 report, CAB identified the main problems as:

• Inadequate payments.
• Poor information and communication about costs when choosing and paying for a funeral.
• Problems with eligibility for payments, including a long decision-making process, lack of clarity about entitlement and the claw-back of deposits and gifts.

In the Scottish Government’s engagement work on social security, stakeholders’ views included

• Widespread lack of awareness of the payments.

• That the level of the payment does not meet the cost of a funeral, resulting in debt for bereaved families and bad debt for funeral directors, in turn pushing prices up further.
• Complexity in how the payment is made up, what you can apply for and difficulty in predicting what you might be awarded.

• A perceived unfairness in the rules on who can receive a payment, particularly since relationships in modern families are more fluid.

• Relatively low success rates (around 52% of applications result in awards) mean a lot of wasted effort on the part of applicants and processing staff.

• Delays in processing cause anxiety at a very difficult time.

• That costs of burial or cremation vary significantly depending on which Local Authority area you live in.

In response, the Scottish Government said:

“...we recognise the growing challenge and impacts of funeral poverty. Funeral Payments cannot provide the whole answer to funeral planning by individuals and activity to create downwards pressure on costs must also play a part. (Scottish Government 2015b).

Funeral Poverty

The increasing costs of funerals and the creation of unaffordable debt as a consequence has led to interest in ‘funeral poverty.’ Sunlife produce annual reports on funeral spend across the UK. In 2015 they found that the average cost of a basic funeral is £3,693. This is an increase of 92% since 2004 (Sunlife, 2015). It found that a large proportion of people (41%) had made no specific financial provisions to pay for their funeral before they died. On average, loved ones had to find £2,449 to cover funeral costs.

The Scottish Government (2015c) has asked the chair of the Scottish Working Group on Funeral Poverty, John Birrell, working with Citizens Advice Scotland, to make a recommendation to address the rising costs of funerals. Announcing the measure, Alex Neil (Social Justice Secretary) said:

“As a result of the Smith Commission, we will have powers over Funeral Payments, but it’s clear that this is just only one part of the challenge of tackling funeral poverty.

John Birrell’s report will look at how the Scottish Government can take a more co-ordinated approach which will help bereaved families on low incomes organise a respectful funeral without taking on unsustainable debt.”
SURE START MATERNITY GRANT

Sure Start Maternity Grants are a one-off payment of £500 to help towards the costs of having a child for individuals who are in receipt of certain benefits. Expenditure in Scotland for 2013/14 was an estimated £3m (Scottish Government, 2015b).

A Sure Start Maternity Grant of £200 was introduced in 1999. The payment was increased to £300 in December 2000 and to £500 in June 2002. Capital limits were abolished in October 2001. In 2011, the grant was restricted to where there is no other child under 16 in the household (although there are some exceptions such as the birth of twins) (Kennedy, 2011). The effect on spend of these changes can be seen in chart 2. Eligibility for the grant is receipt of any of the following benefits:

- Income Support
- Income Based Job Seekers Allowance
- Income Based Employment and Support Allowance
- Child Tax Credit paid at a rate exceeding the family element
- Working Tax Credit if it includes the disabled workers or severe disability element
- Pension Credit
- Universal Credit

There are strict time limits. Claims must be made between 11 weeks before the birth and up to 3 months after the birth. Forms must be signed by a health professional to confirm that a mother has had welfare and health advice.

In the Scottish Government’s engagement work on social security (2015b), stakeholders’ views related to perceived unfairness of restriction to the first child only and tight timescales for applying at a time of high family stress. In response, the Scottish Government stated:

“Maternal and infant health and early years policy in Scotland is well developed and it will be important to make sure that the new grant is well embedded with existing support.”

OTHER RELEVANT MEASURES: WELFARE FOODS

The Welfare Foods Scheme was established in 1940 as a wartime measure but was subsequently targeted at children in low-income families. Regulations are made under section 13 of the Social Security Act 1988. Schemes must be targeted at pregnant women, mothers, and children, “with a view to helping and encouraging them to have access to, and to incorporate in their diets, food of a prescribed description.”

Under the current legislation Scottish Ministers must be consulted on changes, and can introduce regulations which specify the type of foods included.

The current provision comprises ‘Healthy Start’ vouchers and the nursery milk scheme. Healthy Start vouchers are available to pregnant women and those with children under 4 if they are on certain income related benefits, or aged under 18. They are worth £3.10 a week and help with the cost of milk, fruit and vegetables. Vitamin supplements are also available (gov.uk online). The Nursery milk scheme provides children under 5 with 1/3 pint of milk for each day they attend approved day care facilities for 2 hours or more.
SCOTLAND BILL

REGULATED SOCIAL FUND

The Smith Commission (2014) proposed that the Regulated Social Fund should be devolved, that is: “Benefits which currently comprise the Regulated Social Fund: Cold Weather Payment, Funeral Payment, Sure Start Maternity Grant and Winter Fuel Payment.” (para 49(2)).

Reflecting this, draft clause 17 of the Scotland Bill would (HM Government 2015):

“provide the Scottish Parliament with legislative competence over the subject matter of the Regulated Social Fund. […]

The Scottish Parliament will have the power to create new benefits or other payments to replace the existing benefits should they wish and the autonomy to determine the structure and value of these payments.”

The Devolution (Further Powers) Committee report (14 May 2015) queried whether both Winter Fuel Payments and Cold Weather Payments were covered by the wording of the draft clauses (Scottish Parliament Devolution (Further Powers) Committee, 2015).

Draft clause 17 became clause 20 in the Scotland Bill as introduced.

During the House of Commons Committee stage Minister for Employment, Priti Patel explained:

“…the clause devolves not simply the existing benefits but the subject matter of them. That will give the Scottish Parliament wide-ranging powers to make its own provision for the areas in question”

This reasoning was reiterated in a letter from the Secretary of State for Scotland to the Devolution Committee on 26th August 2015 (Mundell 2015a)

“…the clause does not simply devolve the existing benefits themselves but rather the subject matter of the benefits. This gives the Scottish Parliament wide-ranging powers to make their own provision for the areas currently covered by these benefits. I believe the current approach fully meets the Smith Commission Agreement and devolves the subject matter of the Regulated Social Fund in a way which enables the Scottish Parliament to legislate for their own provision.”

In their Alternative Clauses (Swinney, 2015), the Scottish Government proposed an amendment to clause 20 which would provide for assistance in kind as well as in cash.

“Under the terms of clause 20 of the Scotland Bill, the support which might be provided in respect of maternity, funeral and heating expenses is limited to financial assistance. The Scottish Government believes this places limitations on the Scottish Parliament’s proposed ‘complete autonomy,’ which are significant and unwelcome.”

Although an opposition amendment proposing ‘in kind’ payments was not called during committee stage (Hansard Scotland Deb 3rd sitting 6 June 2015, Amendment 115 lodged by Angus Robertson (SNP)), a UK Government amendment providing for this was successful at report stage. This would:
"enable the Scottish Parliament to legislate to provide for forms of non-financial assistance with a view to reducing maternity expenses, funeral expenses or expenses for heating in cold weather" (Mundell, D 2015b).

**WELFARE FOODS**

The Smith Report (2014) recommended that devolution of ‘welfare foods’ should be subject to further discussion (para 62). In their ‘alternative clauses’ on the Scotland Bill, the Scottish Government recommended that this should be devolved and that they would be writing to the UK Government to this effect (Swinney, 2015). A Government amendment at the report stage provides for the devolution of welfare foods.

**FUEL POVERTY SCHEMES**

Paragraph 68 of Smith recommended devolution of some elements of fuel poverty schemes created under the Energy Act 2010. These are schemes that are funded through money raised from gas and electricity suppliers. Smith recommended that:

“Powers to determine how supplier obligations in relation to energy efficiency and fuel poverty, such as the Energy Company Obligation and Warm Home Discount, are designed and implemented in Scotland will be devolved. Responsibility for setting the way the money is raised (the scale, costs and apportionment of the obligations as well as the obligated parties) will remain reserved. This provision will be implemented in a way that is not to the detriment of the rest of the UK or to the UK’s international obligations and commitments on energy efficiency and climate change”

This became clauses 50 and 51 in the Scotland Bill as introduced. These provide that some aspects of the regulation making power in relation to supplier funded schemes for reducing fuel poverty is devolved. In particular, it would allow Scottish Ministers to determine which groups of people would benefit from a scheme and set the level of payment received. The Bill requires that Scottish Ministers must obtain the agreement of the Secretary of State before making such regulations (Section 50(3) inserting Section 14A(4) into the Energy Act 2010).

The Scottish Government’s Alternative Clauses (Swinney 2015) sought to give greater freedom of action to Scottish Ministers:

“Clauses 50 to 52 of the Scotland Bill provide the opportunity to re-shape delivery of Fuel Poverty programmes in Scotland. However, the Secretary of State retains significant powers that restrict the ability of Scottish Ministers to exercise these new powers.

[...] Clauses 50 and 51 as currently drafted provide that Scottish Ministers may not make regulations in these areas unless they have the agreement of the Secretary of State. [...] our alternative clauses remove the requirement for the agreement of the Secretary of State as a pre-requisite to the exercise of certain powers by the Scottish Ministers, and include a requirement for the agreement of the Scottish Ministers before Secretary of State may vary or revoke instruments made by the Scottish Ministers.

Our intention is to develop an intergovernmental concordat to ensure that there is a common understanding of the roles and responsibilities of each Government when developing future fuel poverty and energy efficiency schemes.”

At Committee Stage (Day 4) ([Hansard](https://hansard.parliament.uk/ debates/2015/07/06/scotland-bill)) Scotland Bill Deb 4th sitting 6 July 2015) Amendments 149 to 153, lodged by A. Robertson, reflected the Scottish Government’s alternative clauses.
The amendments were not called. Andrea Leadsom, Minister of State, Department of Energy and Climate Change explained the UK Government’s position as:

“Clauses 50, 51 and 52 implement the Smith Commission agreement and devolve design and implementation powers relating to energy efficiency and fuel poverty to Scottish Ministers, while reserving responsibility for the overarching aspects that affect all consumers in Great Britain, such as scale, costs and apportionment of obligations, as well as the obligated parties.”

At Report stage, UK Government amendments were lodged which remove the requirement to obtain treasury consent. However, the requirement to obtain agreement of the Secretary of State remains (David Mundell amendment 138).
SOURCES


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Hansard. HC Deb 12 November 2008 cc 1255-1256w. Available at: http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm081112/text/81112w0023.htm#08111242000093


RELATED BRIEFINGS

SB 15-33 Fuel Poverty in Scotland (1,330KB pdf)
SB 15-53 Scotland Bill: Employment Support (699KB pdf)
SB 15-16 Further Devolution for Scotland: The draft clauses (1.2MB pdf)
SB 15-11 Welfare Funds (Scotland) Bill - Prior to Stage 3 (669KB pdf)
SB 15-07 The Smith Commission’s Welfare Proposals (1,516KB pdf)
SB 15-03 The Smith Commission Report - Overview (1,438KB pdf)
SB 14-56 Welfare in Scotland: Current Changes and Future Proposals (1,237KB pdf)
SB 14-55 Welfare Funds (Scotland) Bill (431KB pdf)
SB 13-54 Scottish Welfare Fund (499KB pdf)

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