



**Social Justice and Social Security Committee**  
**Thursday 18 September 2025**  
**23rd Meeting, 2025 (Session 6)**

## **Pension Age Winter Heating Regulations**

The [draft Winter Heating Assistance \(Pension Age\) \(Scotland\) Amendment Regulations 2025](#) were laid on 25 August, along with a policy note and impact assessments.

The Committee will hear from:

- Shirley-Anne Somerville, Cabinet Secretary, Social Justice
- Scottish Government officials

## **Background**

### **Policy changes**

#### **Devolution of Winter Fuel Payment**

When winter fuel payment was devolved in April 2024 Scottish Ministers intended to create Pension Age Winter Heating Payment as a universal payment delivered by Social Security Scotland. This followed a [public consultation from October 2023](#) to January 2024 and mirrored UK Government policy at that time.

#### **Payments for Winter 2024-25**

In July 2024, the UK Government announced that Winter Fuel Payment would be restricted to those getting Pension Credit and similar means tested benefits.

This reduced the funding to the Scottish Government, and so in August 2024, the Scottish Government followed suit.

The Winter Heating Assistance (Pension Age) (Scotland) Regulations 2024 were passed in November 2024 following [consideration by this Committee on 31 October 2024](#).

Pension Age Winter Heating Assistance was created as a new Scottish benefit but was delivered on behalf of the Scottish Government by the DWP in winter 2024-25.

On 25 September 2024 a pensioner couple, supported by Govan Law Centre, lodged a judicial review against both the UK and Scottish Governments against the means testing of winter fuel payments. The [decision on 13 June 2025](#) found in favour of the UK and Scottish Governments. Findings included that neither government had a duty to consult on the revised policy.

## Payments for Winter 2025-26

In [November 2024](#) the Scottish Government announced they would extend eligibility to provide £100 to all pensioner households that did not qualify for the higher amount via Pension Credit.

Regulations creating the £100 payment were [sent to the Scottish Commission on Social Security \(SCOSS\) in March 2025](#), who reported in April 2025.

On 6 June [draft Scottish regulations were laid](#) providing for the £100 extension.

On 9 June, the UK Government announced that Winter Fuel Payments would be extended to all those with an individual income of £35,000 or less per year. In [a letter to SCOSS](#) the Cabinet Secretary notes that this was done: “with no prior engagement with the Scottish Government.”

On 20 June, the [Scottish Government wrote to SCOSS](#) saying it would mirror the UK Government approach, and withdrew the draft regulations that would have created a universal £100 payment.

On 25 August [draft regulations were laid](#) providing for payments of £305.10 or £203.40 for all pensioner households. The Scottish Government are in negotiation with the UK Government to re-coup the payments through the tax system for individuals with incomes over £35,000.

## What the regulations do

The draft regulations amend the [Winter Heating Assistance \(Pension Age\) \(Scotland\) Regulations 2024](#) to extend eligibility to all pensioners.

Through a combination of payments to individuals and households the general effect is that:

- Households including someone aged 80+ receive £305.10
- Other pension age households receive £203.40

The regulations do not restrict payment to those with income under £35,000. The policy note states that this will be brought forward under separate UK tax legislation. The [explanatory note to the equivalent England and Wales regulations](#) states that the tax recovery provisions will be included in the Finance Bill to be introduced in Autumn 2025.

Other notable policy introduced by the regulations includes provision on opt-out and changes to residence rules.

### Opting out

The regulations provide for individuals to opt-out of receiving the payment if they wish. They can opt back in again up until 31 March of the relevant year, or later, with good reason. (Regulation 8 inserting new Part 3A to the main regulations). The

equivalent UK benefit also provides for opting out. The SFC assume that the financial impact of 'opting-out' will be negligible. ([SFC, August 2025](#))

### **Residence rules**

The regulations remove provision for payments to be made to people living abroad. (regulation 6 replacing regulation 8 of the main regulations). A similar change is made to the regulations for Winter Fuel Payment in England and Wales.

Winter Fuel Payment/Pension Age Winter Heating Payment were 'exportable' under EU benefit co-ordination arrangements for those with protected rights under the Withdrawal Agreement. UK pensioners living in certain countries outside the UK, but with a 'genuine and sufficient link' to the UK were entitled to winter fuel payment if they were within scope of the UK Withdrawal Agreement. (In very general terms this applies to people who moved before end of December 2020).

In general, 'means-tested' benefits are not exportable, being categorised as 'Special Non-contributory Benefits'.

The Explanatory Notes state that it is the Scottish Government's view that the benefit is no longer 'exportable' "due to the element of means-testing introduced through the tax "clawback" from those with an income of over £35,000." The final decision on categorisation will be made by the [Administrative Commission for the Co-ordination of Social Security Systems](#).

## **Consultation**

The Scottish Government last held a public consultation on pension age winter heating benefit policy in October 2023 on the proposal to mirror UK Government policy of a universal payment. Each subsequent iteration has been provided to the Scottish Commission on Social Security with the following time frames:

Regulations [providing for a universal payment](#) were sent to SCOSS on 29 April 2024, who reported in July 2024.

Regulations [restricting eligibility to Pension Credit](#) were referred to SCOSS on 25 September 2024, noting that;

"Unfortunately, given the extraordinary circumstances, and facing significant time pressures to pass legislation, due to the decision taken by the UK Government, it has not been possible to give you the time you need to thoroughly review the revised regulations and provide us with a scrutiny report and recommendations before they are laid in Parliament."

Regulations introducing a [£100 universal payment](#) were sent to SCOSS on 6 March noting that:

“Unfortunately, due to significant time pressures to pass legislation it has not been possible to afford you with the 12-week scrutiny period usually provided in line with standing arrangements.”

SCOSS [replied on 3 April](#) making 6 recommendations. They noted the short time for consultation, and the need for clear communications about how much different households would receive.

[Revised regulations](#) (still based on the £100 policy) were sent to SCOSS on 5 June, noting that:

“Unfortunately, due to the tight timescales required to ensure delivery of Pension Age Winter Heating Payment within the current legislative and operational timetable, it has not been possible to give you the time you need to thoroughly review the revised regulations and provide us with a scrutiny report and recommendations before they are laid in Parliament.”

The current draft regulations were [sent to SCOSS on 22 August](#) noting;

“Unfortunately, given the significant time pressures to pass legislation, it has not been possible to afford you with the full scrutiny period before the revised regulations are laid in Parliament.”

SCOSS [replied on 2 September](#) saying they had no further comments on the regulations.

## **Spend and caseload**

The [Scottish Fiscal Commission estimate spend](#) of £187 million in 2025-26 with potential to re-coup £30 million of this through the tax system:

“We forecast spending on PAWHP prior to payment recovery to be £187 million in 2025-26, rising to £225 million in 2030-31. Payment recovery from those with annual incomes above the threshold is forecast to be £30 million in 2025-26, rising to £47 million in 2030-31.”

**Table 1: Forecast spend and potential payment recovery**

£ million, nominal terms	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31
Spending	187	196	199	206	215	225
Payment recovery	30	33	36	39	43	47

[Scottish Fiscal Commission, Figure B.1, August 2025.](#)

SFC estimate that around 1,055,000 payments would be made in 2025-26 rising to 1,113,000 in 2030-31. Of these they estimate that 169,000 payments would be recovered in 2025-26 rising to 234,000 in 2030-31. Part of the increase in recovery is due to the assumption that the £35,000 threshold will remain fixed, creating ‘fiscal drag’.

**Table 2: Caseload: payments made and recovered**

Number of payments (thousands)	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31
Payments made	1,055	1,061	1,049	1,060	1,086	1,113
Payments recovered	169	180	189	201	217	234

[Scottish Fiscal Commission, Figure B.3, August 2025](#)

Under the Social Security (Scotland) Act 2018, all Social Security Scotland payments are now uprated by inflation. The SFC forecast that by 2030-31 Pension Age Winter Heating Payment will be worth £227.90 (under 80s payment) and £341.80 (over 80s payment).

### How spending estimates have changed due to different policies

The SFC has forecast the costs under different policies. These varied from £33 million when restricted to Pension Credit to £184m for a universal policy.

- Universal policy was originally forecast to cost £184m in 2025-26 ([SFC, September 2024](#))
- Pension Credit only policy had a forecast cost of £33m in 2025-26. ([SFC, September 2024](#))
- Providing a higher payment for Pension Credit and £100 payment otherwise would have cost £98m in 2025-26 (SFC, August 2025)
- Current policy: Universal payment with clawback from those over £35,000 income threshold. Cost of £187m in 2025-26 with potential to recover £30m ([SFC August 2025](#)).

### Spending compared to Block Grant Adjustment

The regulations mirror UK Government policy with the exception that Pension Age Winter Heating Payment is uprated annually for inflation, whereas the DWP Winter Fuel Payment is paid at £200/£300 and not uprated. This creates a growing gap between BGA and spending over time.

In June, the Medium Term Financial Strategy set out the BGA for Winter Fuel Payment at £150 million in 2025-26. The SFC noted in their August 2025 costing that:

“At this point, the interaction between the BGA for this payment and recovery by HMRC is unclear. We will provide an update on this in our next forecast”

Acknowledging the above caveat from the SFC, if it's assumed that the BGA as published in June takes account of recovered payments, we can compare the £150m BGA with the £157m forecast 'net' spend on PAWHP (assuming £30m is recovered through tax). (Table 3).

**Table 3: Winter Fuel Payment BGA compared to Pension Age Winter Heating Payment forecast spend**

£m	2025-26	2026-27	2027-28	2028-29	2029-30
Spending	187	196	199	206	215
Payment recovery	30	33	36	39	43
<b>Spending minus recovery</b>	<b>157</b>	<b>162</b>	<b>163</b>	<b>167</b>	<b>172</b>
<b>BGA</b>	<b>150</b>	<b>149</b>	<b>147</b>	<b>146</b>	<b>147</b>

Sources: BGA from Scottish Government MTFS, table 2.03, PAWHP from SFC August 2025 Fiscal Update, fig B.1.

Updated BGAs will be calculated in the UK autumn budget.

The Social Security Advisory Committee has looked at the equivalent regulations for England and Wales and [raised concerns](#) about the complexity of recovering winter fuel payments through the tax system, and questioned whether the policy is cost-effective or necessary. They say:

“The transformation of a simple benefit into a complex administrative mechanism raises fundamental questions about whether the operational costs and burdens outweigh the intended policy benefits.”

## Other winter heating assistance

Pension Age Winter Heating Payment is one of three forms of winter heating assistance introduced by the Scottish Government. The other two are:

- [Child Winter Heating Payment](#) – an annual payment of £255.80 to families in receipt of a highest rate care component of Child Disability Payment. Total spend this year is forecast to be £11m with around 45,000 children receiving payments ([SFC May 2025](#))
- [Winter Heating Payment](#) – an annual payment of £59.75 to those on Pension Credit and others in receipt of means tested benefits with a focus on disabled people and young children. 30% of recipients qualified via Pension Credit. Forecast spend in 2025-26 is £28 million with around 474,000 people receiving payments ([SFC May 2025](#)).

## Suggested themes for discussion

Members may wish to discuss:

1. Can the Cabinet Secretary update the Committee on progress with negotiations with the UK Government to re-coup funds through the tax system? How will this work in practice for Social Security Scotland and how will it be accounted for in the Scottish budget?
2. The Scottish Government has mirrored UK policy – moving from universal to means tested to introducing an income threshold. What are the advantages of devolving Winter Fuel Payment?
3. The regulations would allow someone to opt-out of receiving the payment, and then opt back in again for the same year's payment. How did the Scottish Government balance the cost of administrating these provisions against the money potentially saved through opt-outs?

**Camilla Kidner, Senior Researcher, SPICe**

**Date: 10 September, 2025**

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