

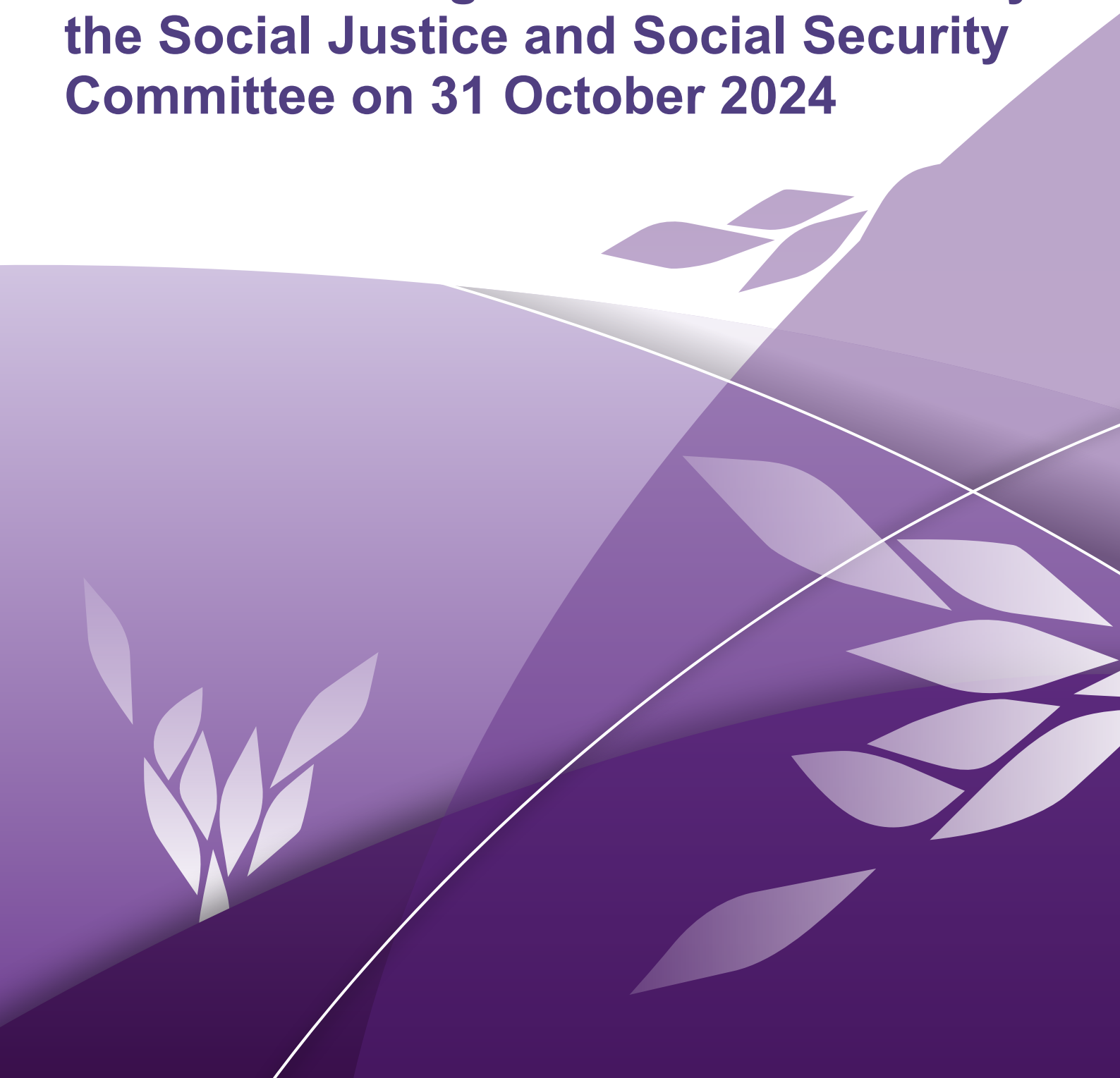


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Pàrlamaid na h-Alba

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## **Social Justice and Social Security Committee**

# **Subordinate Legislation considered by the Social Justice and Social Security Committee on 31 October 2024**



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# Contents

<b>Introduction</b>	<b>1</b>
<b>About the instrument</b>	<b>2</b>
<b>Consideration by the DPLR Committee</b>	<b>3</b>
<b>Consideration by the Social Justice and Social Security Committee</b>	<b>4</b>
<b>Recommendation</b>	<b>6</b>

# Social Justice and Social Security Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Social Justice excluding matters relating to housing and tenants' rights.



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# Committee Membership



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Scottish Labour



**Liz Smith**  
Scottish Conservative  
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**Kevin Stewart**  
Scottish National Party

# Introduction

1. This report concerns [the Winter Heating Assistance \(Pension Age\) \(Scotland\) Regulations 2024](#), laid before the Parliament by the Scottish Government on 25 September 2024. The instrument, which was laid in draft, is subject to the affirmative procedure – which means it cannot be made unless it has been approved by a resolution of the Parliament.
2. It is for the Social Justice and Social Security Committee, as lead committee, to decide whether or not to recommend approval.

## About the instrument

3. In July 2024, the UK Government announced that the Winter Fuel Payment would be means tested in England and Wales. This resulted in a reduction of a funding for Scotland by around £150 million. As under the fiscal framework, the UK Government provides enough funding to follow UK policy, the Scottish Government would have to fund changes in policy itself.
4. These Regulations, laid under the [Social Security \(Scotland\) Act 2018](#), introduce a means-tested payment on the same basis as the UK-wide Winter Fuel Payment and set out the rules and eligibility criteria for Pension Age Winter Heating Payment (PAWHP) for winter 2024/25.
5. PAWHP is a form of assistance to mitigate some of the impact of additional domestic heating costs for those of state pension age who are in receipt of relevant benefits. Following the recent changes to Winter Fuel Payment, this will be administered by the Department for Work and Pensions (DWP) in 2024/25 through an agency agreement laid out under a section 93 Scotland Act Order.

## Consideration by the DPLR Committee

6. The Delegated Powers and Law Reform (DPLR) Committee is required to consider every instrument laid before the Parliament and decide whether to draw it to the attention of the Parliament on any of the “reporting grounds” set out in Rule 10.3 of the Parliament's standing orders.
7. The DPLR Committee considered this instrument at its meeting on [8 October 2024](#). It raised no point in relation to the instrument but noted that "it gives effect to a decision of the Scottish Ministers which is the subject of judicial review proceedings. The petitioners are understood to be asking the court, among other things, to reduce the decision on the basis that it is unlawful by reason of procedural unfairness due to a lack of consultation". <sup>1</sup>



# Consideration by the Social Justice and Social Security Committee

8. At its meeting on [31 October 2024](#), the Social Justice and Social Security Committee took evidence on the instrument from the Cabinet Secretary for Social Justice and officials.
9. In her opening statement, the Cabinet Secretary stated that the change in policy decided by the UK Government shortly before the original regulations were to be laid, had "a devastating consequence for our delivery of a universal benefit".<sup>2</sup>
10. She added that the regulations will help some eligible pensioners with their fuel bills this winter but that others are likely to face financial difficulty without this support. She emphasised that—

” given the significant reduction in the funding that we expect to deliver the pension-age winter heating payment, it is no longer practicable to deliver the benefit on a universal basis. We will continue to call on the UK Government to reverse its decision to means test winter fuel payments and to reinstate the payment for all pensioners, and I have committed to keeping the eligibility and the scope of the pension-age winter heating payment under review, to ensure that, where possible, we maximise the benefit’s impact.”<sup>3</sup>
11. On the possibility to widen the criteria for eligibility to maximise the impact of the benefit, the Cabinet Secretary said that the Scottish Government is still working on the details of its budget as the UK budget has just been announced but that it would consider how to use some of the extra Barnett consequentials flowing from the Household Support Fund to support pensioners.
12. She also warned that there will be calls to spend the consequentials on other areas of policy and she therefore thinks it is important to be cautious about making financial decisions before the budget available is clear.
13. Members discussed the lack of flexibility of the Social Security Scotland system to deal with the change in universality approach to the delivery of the benefit.
14. The Cabinet Secretary explained that "the Scottish system was built on the assumption that the Scottish Government's policy intent of a universal benefit would be carried out."<sup>4</sup> She added that the system will now have to change and this will require funding and time. This is why the Scottish Government had to rely on the DWP under an agency agreement to deliver the benefit in the same way it does for the rest of the UK this year because of the short notice given.
15. Members asked how much notice would have been required from the UK Government to allow the Scottish Government to consider alternatives and mitigations to the current payment. Also, how much notice would be needed about the financial settlement for the current and following financial years to budget appropriately for alternatives. The Cabinet Secretary agreed to write to the Committee on this matter.

16. Members expressed concern about how quickly Social Security Scotland can redesign and amend the system so it has the built-in flexibility to make sure another agreement with DWP is not needed next year and asked the Cabinet Secretary to write about the required timescales for Social Security Scotland to deliver.
17. Following the oral evidence, the Cabinet Secretary moved motion [S6M-14682](#)— That the Social Justice and Social Security Committee recommends that the Winter Heating Assistance (Pension Age) (Scotland) Regulations 2024 [draft] be approved.
18. The motion was agreed to by division (For 3, Against 0, Abstentions 4).

# Recommendation

19. Accordingly, the Committee recommends to the Parliament that the draft the Winter Heating Assistance (Pension Age) (Scotland) Regulations 2024 be approved.

**Social Justice and Social Security Committee**

Subordinate Legislation considered by the Social Justice and Social Security Committee on 31 October 2024, 11th Report, 2024 (Session 6)

- 1 [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 8 October 2024](#), p1
- 2 Social Justice and Social Security Committee, Official Report, 31 October 2024, Col 2
- 3 Social Justice and Social Security Committee, Official Report, 31 October 2024, Col 3
- 4 Social Justice and Social Security Committee, Official Report, 31 October 2024, Col 7

