
WELSH STATUTORY INSTRUMENTS

2007 No. 375 (W.35)

ENERGY CONSERVATION, WALES

The Home Energy Efficiency
Schemes (Wales) Regulations 2007

Made - - - - 13 February 2007

Coming into force - - 14 February 2007

The National Assembly for Wales makes the following Regulations in exercise of the power conferred on the Secretary of State by section 15 of the Social Security Act 1990(1), which is now exercisable by the National Assembly in relation to Wales(2):

Title, commencement and application

1.—(1) The title of these Regulations is the Home Energy Efficiency Schemes (Wales) Regulations 2007 and they come into force on 14 February 2007.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the 1992 Act” (“*Deddf 1992*”) means the Social Security Contributions and Benefits Act 1992(3);

“the 2000 Regulations” (“*Rheoliadau 2000*”) means the Home Energy Efficiency Schemes (Wales) Regulations 2000(4);

“area agency” (“*asiantaeth ardal*”) means, except in paragraph (1) of Regulation 4, the person or body of persons for the time being appointed and responsible for the area in question under that Regulation;

“the Assembly” (“*y Cynulliad*”) means the National Assembly for Wales;

“energy advice” (“*cyngor ynni*”) means advice on reducing or preventing the wastage of energy in a dwelling;

(1) 1990 c. 27; section 15 was amended by section 142 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53).
(2) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).
(3) 1992 c. 4. Part VII (income related benefits) was amended by the Tax Credits Act 2002 (c. 21) section 60. There are numerous other amendments to this Act.
(4) S.I. 2000/2959 (W. 190).

“HEES” (“*HEES*”) means the categories of works available under the Home Energy Efficiency Scheme as determined by the Assembly in accordance with Regulation 7(2);

“HEES Plus” (“*HEES a Mwy*”) means the categories of works available under the Home Energy Efficiency Plus Scheme as determined by the Assembly in accordance with Regulation 7(2);

“partial grant application” (“*cais am grant rhannol*”) means an application in which the applicant does not propose that an area agency will arrange for the carrying out of the works in respect of which a grant is sought;

“works” (“*gweithfeydd*”) means any of the works, materials or energy advice specified in Regulation 6; and

“works application” (“*cais gweithfeydd*”) means an application in which the applicant proposes that an area agency will arrange for the carrying out of the works in respect of which a grant is sought.

Revocation and Transitional Provisions

3.—(1) Subject to paragraph (2), the 2000 Regulations are revoked.

(2) Subject to paragraph (3), the 2000 Regulations continue to apply to any case where an application for a grant was made before 14 February 2007 under those Regulations.

(3) Where a person has applied for a grant under the 2000 Regulations but the application has not been approved or refused before these Regulations come into force, or if the application has been approved but none of the works have been commenced, the area agency must, at the request of the applicant, treat the application as having been made under these Regulations.

Powers of the Assembly

4.—(1) The Assembly may appoint one or more person or persons, each such person to be known as an area agency, to perform in relation to Wales or any area of Wales such functions as the Assembly may specify for the purpose of, or otherwise in connection with, the making of grants and arranging for the carrying out of works under HEES and HEES Plus.

(2) An appointment under paragraph (1) may be terminated by the Assembly.

(3) In making or arranging for the making of any grant, the Assembly may impose such conditions as it sees fit.

(4) Where the Assembly has made an arrangement with a person other than the applicant, for financing works in respect of which a grant is payable, it may pay all or part of any grant to that other person.

Persons who may apply for a grant

5.—(1) A works application for a grant under HEES in respect of a dwelling may be entertained from a person who is the householder of the dwelling and occupies the dwelling as that person’s only or main residence and who, at the time the application is made—

- (a) is, or is living with a partner who is, in receipt of a benefit to which paragraph (3) applies, and who is, or is living with a partner who is, in receipt of child benefit (under section 141 of the 1992 Act) in relation to a child under 16 years of age; or
- (b) is, or is living with a partner who is, in receipt of a benefit to which paragraph (3) applies and who is, or is living with a partner who is, a pregnant woman in respect of whom a maternity certificate (which certificate is provided for in regulation 2(3) of the

Social Security (Medical Evidence) Regulations 1976⁽⁵⁾ and regulation 2 of the Statutory Maternity Pay (Medical Evidence) Regulations 1987⁽⁶⁾ has been given in relation to the pregnancy concerned; or

- (c) is a person who has a relevant income of less than £15,460 and who is in receipt of child tax credit or working tax credit (each as provided for in the Tax Credits Act 2002⁽⁷⁾); or
- (d) is a person who has a relevant income of less than £15,460 and who is, or is living with a partner who is, in receipt of child benefit (under section 141 of the 1992 Act) in relation to a child who is under 16 years of age.

(2) A works application for a grant under HEES Plus in respect of a dwelling may be entertained from a person who is the householder of the dwelling and occupies the dwelling as that person's only or main residence and who, at the time the application is made—

- (a) is, or is living with a partner who is, aged 80 years or over; or
- (b) is, or is living with a partner who is, in receipt of a benefit to which paragraph (4) applies; or
- (c) is, or is living with a partner who is, in receipt of a benefit to which paragraph (3) applies and who has attained, or is living with a partner who has attained, the age of 60; or
- (d) is, or is living with a partner who is, in receipt of state pension credit (as provided in the State Pensions Credit Act 2002⁽⁸⁾); or
- (e) is a lone parent and who is in receipt of a benefit to which paragraph (3) applies; or
- (f) is, or is living with a partner who is, in receipt of child benefit (under section 141 of the 1992 Act) in relation to a child under 16 years of age and a benefit to which paragraph (4) applies is being paid to or in respect of that child.

(3) This paragraph applies to council tax benefit, housing benefit and income support (each as provided for in Part VII of the 1992 Act) and an income-based jobseeker's allowance (within the meaning of the Jobseekers Act 1995⁽⁹⁾).

(4) This paragraph applies to—

- (a) a working tax credit which includes a disability element;
- (b) an attendance allowance, that is to say—
 - (i) an attendance allowance under section 64 of the 1992 Act; or
 - (ii) an increase of an allowance which is payable in respect of constant attendance under a scheme under, or having effect under, paragraph 4 of Part I of Schedule 8 to the 1992 Act⁽¹⁰⁾; or
 - (iii) a payment made under article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983⁽¹¹⁾ or any analogous payment; or
 - (iv) any payment based on need for attendance which is paid with a war disablement pension; or
 - (v) any payment intended to compensate for the non-payment of a payment, allowance or pension mentioned in any of sub-paragraphs (i) to (iv) of this definition;

⁽⁵⁾ S.I. 1976/615; regulation 2(3) has been amended by S.I. 1987/409 and 2001/2931.

⁽⁶⁾ S.I. 1987/235; regulation 2 was amended by S.I. 2001/2931.

⁽⁷⁾ 2002 c. 21; section 1 makes provision for child tax credit and working tax credit, and section 11 and regulation 9 of S.I. 2002/2005 as substituted by regulation 8 of S.I. 2003/701 makes provision for the disability element. The Act was last amended by Part 1 of Schedule 2 to the Child Benefit Act 2005 (c. 6).

⁽⁸⁾ 2002 c. 16. The Act was last amended by S.I. 2006/343.

⁽⁹⁾ 1995 c. 18 as amended by section 254 of, and Part 7 of Schedule 24 to, the Civil Partnership Act 2004.

⁽¹⁰⁾ See section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975 (c. 16) which was repealed, with savings, by the Social Security (Consequential Provisions) Act 1992 (c. 6).

⁽¹¹⁾ S.I. 1983/686; articles 14, 15 and 16 were amended by S.I. 2001/420 and article 16 by S.I. 1984/1675.

- (c) disability living allowance (under section 71 of the 1992 Act⁽¹²⁾);
- (d) war disablement pension within the meaning of section 139(11) of the Social Security Administration Act 1992⁽¹³⁾ or under article 10 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983⁽¹⁴⁾ so far as that Order is made otherwise than under the Air Force (Constitution) Act 1917⁽¹⁵⁾ together with—
- (i) a mobility supplement under article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983⁽¹⁶⁾ (including such a supplement payable by virtue of the application of that article by any other scheme or order) or under Article 25A of the Personal Injuries (Civilians) Scheme 1983 (including that article as applied by article 48A of that scheme)⁽¹⁷⁾, or a payment intended to compensate for the non-payment of such a supplement; or
- (ii) a payment under regulations made under paragraph 7(2)(b) of Schedule 8 to the 1992 Act (constant attendance allowance);
- (e) council tax benefit, housing benefit and income support (in each case where payment includes a disability premium as provided for in the Housing Benefit Regulations 2006⁽¹⁸⁾, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006⁽¹⁹⁾, the Council Tax Benefit Regulations 2006⁽²⁰⁾, the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006⁽²¹⁾, and the Income Support (General) Regulations 1987⁽²²⁾ respectively) and industrial injuries disablement benefit under sections 103 to 105 of the 1992 Act (where it includes constant attendance allowance).
- (5) A partial grant application may be entertained from a person who has attained, or who is living with a partner who has attained, the age of sixty and who occupies the dwelling as that person's only or main residence and who either owns the freehold of it or has a leasehold interest in it of not less than 21 years.
- (6) In the case of dwellings in multiple occupation, the area agency is to determine the number of eligible householders in the dwelling which is the subject of an application. If the number of eligible householders exceeds 50% of the total number of householders in the dwelling, an application in respect of the dwelling may be entertained.
- (7) For the purposes of this Regulation—
- “householder” (“*deiliad*”) means a person who, alone or jointly with others, is a freeholder or tenant;
- “lone parent” (“*rhiant unigol*”) means a parent or other person who is not living with a partner, and who is in receipt of child benefit (under section 141 of the 1992 Act) in relation to a child under 16 years of age and who is responsible for and a member of the same household as that child;
- “partner” (“*partner*”) means the spouse, civil partner or person with whom the applicant lives as husband or wife or as civil partner;

(12) Section 71(3) was amended by section 67(1) of the Welfare Reform and Pensions Act 1999 (c. 30).

(13) 1992 (c. 5); section 139(11) was amended by section 722 of, and Schedule 6 to, the Income Tax (Earnings and Pensions) Act 2003 (c. 1), and by section 254 of, and paragraph 65 of Part 4 of Schedule 24 to, the Civil Partnership Act 2004.

(14) S.I. 1983/883; article 10 was amended S.I. 2005/851, 1996/1638 and 1993/598.

(15) 1917 c. 51, to which there are amendments not relevant to these Regulations.

(16) S.I. 1983/883; article 26A was added by S.I. 1983/1116 and amended by S.I. 1983/1521, 1986/592, 1990/1308, 1991/766, 1992/710, 1995/766, 1997/286 and 2001/409.

(17) SI 1983/686; article 25A was added by S.I. 1983/1164 and amended by S.I. 1983/1540, 1986/628, 1990/1300, 1991/708, 1992/702, 1995/455, 1997/812 and 2001/420.

(18) S.I. 2006/213.

(19) S.I. 2006/214.

(20) S.I. 2006/215.

(21) S.I. 2006/216.

(22) S.I. 1987/1967 as last amended by S.I 2005/337.

“relevant income” (“*incwm perthnasol*”) has the same meaning as in Part 1 of the Tax Credits Act 2002; and

“tenant” (“*tenant*”) includes a sub-tenant and a person who has—

- (a) a protected occupancy or a statutory tenancy under the Rent (Agriculture) Act 1976⁽²³⁾;
- (b) a statutory tenancy under the Rent Act 1977⁽²⁴⁾;
- (c) a secure tenancy under Part IV of the Housing Act 1985⁽²⁵⁾ or an introductory tenancy under Chapter I of Part V of the Housing Act 1996⁽²⁶⁾;
- (d) a licence to occupy which meets the conditions in paragraph 12(a) and (b) (Almshouses) of Schedule 1 to the Housing Act 1985⁽²⁷⁾; or
- (e) an assured agricultural occupancy under Part I of the Housing Act 1988⁽²⁸⁾.

Purposes for which a grant may be approved

6.—(1) An application for a grant may be approved for one or more of the following purposes—

- (a) to provide insulation in any accessible roof space in the dwelling, including the insulation of any cold water tank and any water pipe in such a space;
- (b) to provide insulation between the internal and external leaves of external cavity walls of the dwelling;
- (c) to provide draught proofing to or in the dwelling together with additional means of ventilation for any rooms which would otherwise be inadequately ventilated after such provision;
- (d) to provide insulation to any water heating system or accessible hot water pipes associated with the heating system;
- (e) to provide gas room convector heaters with thermostat control;
- (f) to provide electric storage heaters;
- (g) to provide either an electric dual-element immersion heater and a factory-insulated tank or an electric or gas immersion heater within an existing hot water cylinder;
- (h) to provide timer controls for electric space and water heaters;
- (i) to improve the energy efficiency of, or replace any part of, or repair any space or water heating system installed in the dwelling;
- (j) to provide a gas, solid fuel or oil central heating system (including systems which generate electricity);
- (k) to convert open solid fuel room fires to closed solid fuel room fires;
- (l) to provide a central heating system connected to the local community heating grid;
- (m) to provide space or water heating systems which use energy from renewable sources; and for these purposes—

(23) 1976 c. 80; sections 2 and 3 make provision for protected occupancy, and sections 4 and 5 for statutory tenancy. Section 3 has been amended by section 76(3) of the Housing Act 1980 (c. 51) and section 81 of, and Schedule 8 to, the Civil Partnership Act 2004, section 4 by those provisions and section 155, and paragraph 72 of Schedule 23, to the Rent Act 1977 (c. 42) and sections 39 and 140 of, and Schedule 4 (Part II) and Schedule 18, to the Housing Act 1988 (c. 50), and section 5 was last amended by sections 128 and 137 of, and Schedule 6 to, the Criminal Justice and Police Act 2001 (c. 16). There are other amendments to the 1976 Act not relevant to these Regulations.

(24) 1977 c. 42, as last amended by paragraph 94 of Part 1 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4).

(25) 1985 c. 68, as last amended by S.I. 2005/1379.

(26) 1996 c. 52, as last amended by sections 179 of the Housing Act 2004 (c. 34).

(27) 1985 c. 68; paragraph 12 of Schedule 1 was substituted by paragraph 12 of Schedule 6 to the Charities Act 1992 (c. 41).

(28) 1988 c. 50, as last amended by S.I. 2005/1379.

“renewable sources” (“*ffynonellau adnewyddadwy*”) means sources of energy other than peat, fossil fuel or nuclear fuel; and

“fossil fuel” (“*tanwydd ffosil*”) means coal, substances produced directly or indirectly from coal, lignite, natural gas, crude liquid petroleum, or petroleum products (and “natural gas” and “petroleum products” have the same meanings as in the Energy Act 1976(29)).

(2) Where an application is approved for one or more of the purposes set out in paragraph (1) a grant may also be approved for the provision of any of the following—

- (a) energy advice;
- (b) energy efficient lamps.

(3) No application is to be approved unless the dwelling and the subject matter of each category of works mentioned in the application meets such conditions as may be specified from time to time by the area agency with the consent of the Assembly.

(4) All works must comply with such standards as to materials, workmanship and energy efficiency performance of the subject matter of the works as may be laid down from time to time by the area agency with the consent of the Assembly.

(5) For the purposes of this Regulation, “roof space” (“*gwagle to*”) means space between the roof of a dwelling and the ceiling of any room used or available for use for the purpose of living accommodation, that space not being wholly separated from the roof by any other room.

Maximum amount of grant

7.—(1) An area agency may not pay a total amount of grant in respect of a works application under HEES or HEES Plus which exceeds the lower of—

- (a) the amount properly charged for the works carried out; or
- (b) the maximum amount of grant under HEES or HEES Plus as determined from time to time by the Assembly in accordance with—
 - (i) the cost and/or availability of works and materials of the types required by or in connection with the purposes set out in Regulation 6; and
 - (ii) the current policy and priorities of the Assembly in relation to energy conservation.

(2) The Assembly may determine different maximum amounts under paragraph (1)—

- (a) for grants in respect of dwellings in multiple occupation;
- (b) by reference to any category or combination of categories of works contained within the HEES Scheme or the HEES Plus Scheme as determined by the Assembly; and
- (c) by reference as to whether the application is a works application or a partial grant application.

(3) Subject to paragraphs (1) and (2) of this Regulation, an area agency may, with the consent of the Assembly, specify—

- (a) a maximum amount of grant which may be paid; and
- (b) a grant-calculation basis, expressed in terms of amounts per unit of measurement,

for any category or combination of categories of works contained within the HEES Scheme or the HEES Plus Scheme.

(4) In the case of a partial grant application, the maximum grant which may be paid to an applicant is 25% of the maximum grant determined by the Assembly in respect of HEES.

Applications for grant

8.—(1) An application for a grant is to be made to the area agency for the area in which the dwelling is situated.

(2) An application must be in writing, signed either by the applicant or by a person specified or of a description specified by the area agency and must be in such form, subject to paragraph (3) of this Regulation, as is laid down by the area agency.

(3) The application must contain such particulars as may be specified from time to time by the area agency with the consent of the Assembly and must include—

- (a) particulars of the dwelling in respect of which the grant is sought and if the applicant is a tenant, the name and address of the landlord;
- (b) information about the applicant sufficient for the area agency to determine whether the applicant meets the criteria of eligibility set out in Regulation 5;
- (c) a statement that reasonable access to the dwelling in respect of which an application is made will be given to a representative of the area agency to inspect the dwelling and carry out the works; and
- (d) a statement as to whether the applicant or, to the applicant's knowledge, any other person has received or applied for a grant or assistance under these Regulations in respect of the dwelling which is the subject of the application.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(30).

13 February 2007

D. Elis-Thomas
The Presiding Officer of the National Assembly

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 15(1) of the Social Security Act 1990 (as amended by section 142 of the Housing Grants, Construction and Regeneration Act 1996) provides that the Secretary of State may make, or arrange for the making of, grants towards the cost of work or advice to improve thermal insulation or otherwise to reduce or prevent energy wastage in dwellings.

The Secretary of State's power under this section is now exercisable by the National Assembly for Wales in relation to Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999.

The Home Energy Efficiency Schemes (Wales) Regulations 2000 ("the 2000 Regulations") set out the schemes for providing grants to persons on low incomes who have children, or are elderly, disabled or in poor health. The 2000 Regulations provided for eligibility to receive a grant, determination by the Assembly of the categories of works, the maximum levels of grants available, the purposes for which grants may be approved and the method of applying for a grant.

These Regulations revoke the 2000 Regulations and re-enact them with amendments.

Regulation 3 contains revocation and transitional provisions. A person who applied for a grant under the 2000 Regulations may, where the works have not been commenced, have the application dealt with in accordance with these Regulations.

By virtue of section 17 of the Interpretation Act 1978, determinations made under Regulation 7(2) of the 2000 Regulations continue to have effect as if made under Regulation 7(2) of these Regulations.

In addition to minor and drafting amendments, the following changes of substance are made to the 2000 Regulations.

Regulation 5(1) includes in the list of persons eligible to apply for a Home Energy Efficiency Scheme ("HEES") grant (a) any person who is in receipt of child tax credit and working tax credit (provided for by the Tax Credits Act 2002) and who has a relevant income of less than £15,460 and (b) a person who is, or who is living with a partner who is, in receipt of one of certain specified benefits and who is, or who is living with a partner who is, a pregnant woman in respect of whom a maternity certificate has been given.

Regulation 5(2) provides that those who are, or whose partners are, 80 and over, qualify for assistance under HEES Plus.

Regulation 5(2) also alters the list of persons eligible to apply for a HEES Plus Grant to include those in receipt of State Pension Credit.

The Regulations refer to "partner" in place of "spouse" and Regulation 5(7) provides that "partner" includes a civil partner.

Regulation 6(1)(j) extends the list of purposes for which grant may be approved to include solid fuel central heating and systems which generate electricity.

Regulation 6(1)(m) extends the list of purposes for which grant may be approved to include space and water heating systems based on renewable sources of energy.