
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 570

ENERGY CONSERVATION

**The Home Energy Efficiency
Scheme (Scotland) Regulations 2006**

Made - - - - 29th November 2006
Laid before the Scottish
Parliament - - - - 30th November 2006
Coming into force - - 1st January 2007

The Scottish Ministers in exercise of the powers conferred by section 15 of the Social Security Act 1990(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Home Energy Efficiency Scheme (Scotland) Regulations 2006 and shall come into force on 1st January 2007.

Interpretation

2. In these Regulations—

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992(2);

“administering agency” means a person or a body of persons appointed under regulation 3(1);

“dwelling” does not include a caravan, mobile home or houseboat;

“energy advice” means advice on reducing or preventing the wastage of energy in a dwelling;

“partner” means a spouse or civil partner or any person who lives with the applicant as husband or wife or in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex;

(1) 1990 c. 27; section 15 was amended by section 142 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). The requirement to obtain Treasury consent was removed by section 55 of that Act.

(2) 1992 c. 4.

“registered installer” means a person or body of persons appointed under paragraph 8 of Schedule 1;

“roof space” 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; and

“service occupant” means a tenant who occupies a dwelling in terms of a contract of employment.

Administering agencies

3. –

(1) The Scottish Ministers shall appoint a person or body of persons, known as an administering agency, to perform such functions as they may determine for the purpose of, or otherwise in connection with, the making of grants towards the cost of works specified in regulations 8 and 13.

(2) Schedule 1 shall have effect with respect to each administering agency.

Conditions of grant

4. –

(1) Works for which a grant is made shall only be carried out by persons appointed by the administering agency.

(2) If access is not made available to the dwelling or the applicant for a grant fails to co-operate with the administering agency or its agents to allow works to be carried out, a grant may be withdrawn.

(3) If the applicant occupies a dwelling as a tenant the grant shall only be made if the landlord consents to the work.

Applications for grant

5. An application for a grant shall be made to the administering agency.

Revocations and transitional provisions

6. –

(1) Subject to paragraph (2), the Regulations listed in Schedule 2 in so far as they apply to Scotland are hereby revoked.

(2) Those Regulations shall continue to apply in any case where an application for a grant was made and approved under those Regulations on or before 31st December 2006.

(3) These Regulations shall apply to applications for a grant made, but not approved, on or before 31st December 2006.

PART 2

Insulation and Energy Efficiency Works

Persons who may apply for a grant under this Part

7. –

(1) An application for a grant towards the cost of the works specified in regulation 8 may be entertained from a person who is the owner or tenant of the dwelling, either alone or jointly with others, who lives in the dwelling as an only or main residence and either—

- (a) has attained, or lives with a partner who has attained, the age of 60; or
- (b) satisfies one of the conditions in paragraph (2).

(2) The conditions are that the applicant must—

- (a) be, or live with a partner who is, in receipt of a benefit to which paragraph (3) applies;
- (b) be, or live with a partner who is, in receipt of a guarantee credit as mentioned in section 1 of the State Pension Credit Act 2002(3);
- (c) be, or live with a partner who is, in receipt of child tax credit or working tax credit under the Tax Credits Act 2002(4) and have a relevant income of less than £15,460 and for these purposes “relevant income” has the same meaning as in Part 1 of that Act; or
- (d) have a child living in the dwelling, or live with a partner who has a child living in the dwelling, who has been awarded a disability living allowance under section 71 of the 1992 Act(5).

(3) This paragraph applies to—

- (a) an attendance allowance, that is to say—
 - (i) an attendance allowance under section 64 of the 1992 Act(6);
 - (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 1 of Schedule 8 to the 1992 Act(7);
 - (iii) a payment made under article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(8) or any analogous payment;
 - (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);
- (b) a disability living allowance (under section 71 of the 1992 Act)(9), council tax benefit, housing benefit and income support (each as provided for in Part VII of the 1992 Act)(10), industrial injuries disablement benefit under sections 103 to 105 of the 1992 Act (where it includes constant attendance allowance) and an income-based jobseeker’s allowance (within the meaning of the Jobseekers Act 1995(11)); and

(3) 2002 c. 16. There are amendments not relevant to these Regulations.

(4) 2002 c. 21; section 1 makes provision for child tax credit and working tax credit. There are amendments not relevant to these Regulations.

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

(6) Section 64 was amended by section 66(1) of the Welfare Reform and Pensions Act 1999 (c. 30).

(7) 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).

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

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

(10) Section 124, which deals with income support, was amended by Schedule 2, paragraph 30 to the Jobseekers Act 1995 (c. 18) and by section 70 of and Schedule 8, paragraph 28 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 130, which deals with housing benefit, was amended by Schedule 9 to the Local Government Finance Act 1992 (c. 14) and Schedule 13, paragraph 174 to the Local Government etc. (Scotland) Act 1994 (c. 39). Section 130 was repealed in part by Schedule 19, Part VI of the Housing Act 1996 (c. 52). Section 131, which deals with council tax benefit, was substituted by Schedule 9 to the Local Government Finance Act 1992 (c. 14).

(11) 1995 c. 18. There are amendments not relevant to these Regulations.

- (c) a war disablement pension within the meaning of section 139(11) of the Social Security Administration Act 1992(12) or under article 10 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(13), so far as that Order is made otherwise than under the Air Force (Constitution) Act 1917(14), together with—
- (i) a mobility supplement under article 20 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006(15) (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)(16), 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).
- (4) For the purposes of this regulation—
- “owner” includes any person who under the Lands Clauses Acts(17) would be enabled to sell and convey land to the promoters of an undertaking; and
- “tenant” includes a person who—
- (i) is a service occupant;
 - (ii) has a licence to occupy a dwelling; or
 - (iii) is a cottar within the meaning of section 12(5) of the Crofters (Scotland) Act 1993(18),
- and, in any case, a sub-tenant.

Works for which a grant may be made

8. –

- (1) A grant may be made for one or more of the following types of work—
- (a) to provide insulation in any accessible roof space in the dwelling, including the insulation of any cold water tank and any water supply, overflow and expansion pipes in such a space;
 - (b) to provide insulation between the internal and external leaves of cavity walls of the dwelling;
 - (c) to improve the energy efficiency of any space or water heating system installed in the dwelling; and
 - (d) 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.
- (2) Where a grant is made for one or more of the purposes set out in paragraph (1), grant may also be made for the provision of any of the following—
- (a) energy advice;
 - (b) energy efficient lamps; and

(12) 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.

(13) S.I. 1983/883; article 10 was amended by S.I. 1993/598, S.I. 1996/1638 and S.I. 2005/851. There are amendments not relevant to these Regulations.

(14) 1917 (c. 51) (7 & 8 Geo. 5). There are amendments not relevant to these Regulations.

(15) S.I. 2006/606.

(16) S.I. 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, 1995/445 and 2001/420. There are other amendments to S.I. 1983/686 not relevant to these Regulations.

(17) Defined in Schedule 1 to the Interpretation Act 1978 (c. 30).

(18) 1993 c. 44.

(c) insulation to any water heating system or part of such system installed in the dwelling.

(3) No grant shall be made 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 administering agency with the consent of the Scottish Ministers.

(4) No grant shall be made in respect of any dwelling where a grant has been made previously for the same or similar works.

(5) All works shall comply with such standards as to materials and workmanship as may be laid down from time to time by the administering agency with the consent of the Scottish Ministers.

Calculation of amount of grant

9. –

(1) The total amount of grant payable by the administering agency in respect of an application shall be the amount properly charged for the works carried out or £500, whichever is the lesser.

(2) Subject to paragraph (1), an administering agency shall have power, with the consent of the Scottish Ministers, to specify a grant-calculation basis, expressed in terms of amounts per unit of measurement, for any category or combination of categories of works.

(3) Where the applicant qualifies for grant by virtue only of regulation 7(1)(a), the maximum amount of grant and the grant-calculation basis applicable to any category of works, shall be one-quarter of the amount or basis which would otherwise apply.

PART 3

Central Heating Programme

Interpretation

10. In this Part of these Regulations–

“central heating system” means a system which provides warmth to 2 or more rooms in a dwelling through a series of connected radiators or ducts linked to a central boiler or from a series of electric storage heaters and controlled from one central point;

“electric storage heater” means–

- (a) a free-standing storage heater;
- (b) an electric fan-assisted storage warm air system;
- (c) an electric wired underfloor heating system, set in solid floors; or
- (d) an electric ceiling heating system;

“inefficient central heating system” means–

- (a) a central heating system that is unable to deliver a satisfactory heating regime;
- (b) a central heating system that consists of or includes–
 - (i) a solid fuel boiler with a seasonal efficiency of less than 55%;
 - (ii) a natural gas boiler with a seasonal efficiency of 55% or less;
 - (iii) an oil-fired boiler with a seasonal efficiency of less than 65%; or
 - (iv) a gravity or semi-gravity solid fuel heating system which was manufactured at least 20 years before the date of application; or

- (c) a central heating system that consists of or includes electric storage heaters which were manufactured at least 20 years before the date of application;

“partial central heating system” means a system that does not provide warmth to one or more of the following rooms–

- (a) the main living room;
 (b) the main and any second bedroom;
 (c) the main bathroom; and
 (d) the main hallway;

“satisfactory heating regime” means a temperature of 23°C in a living room and 18°C in all other rooms sustained for at least 16 hours in every period of 24 hours;

“seasonal efficiency” means the efficiency of a boiler as determined using the 2005 edition of the Government's Standard Assessment Procedure for Energy Rating of Dwellings⁽¹⁹⁾; and

“self-contained dwelling” includes any part of a building which is occupied as a separate dwelling.

Persons who may apply for a grant under this Part

11. –

(1) An application for a grant towards the cost of the works specified in regulation 13 may be entertained from a person who–

- (a) has attained, or lives with a partner who has attained, the age of 60;
 (b) alone or jointly with others owns the dwelling or occupies it–
 (i) under a lease from a private individual, partnership or from a limited company which is not a registered housing association;
 (ii) as a service occupant; or
 (iii) as a cottar within the meaning of section 12(5) of the Crofters (Scotland) Act 1993;
 and
 (c) at the time the application is made has occupied the dwelling for at least one year and does not expect to cease to occupy the dwelling within the period of twelve months beginning with the date on which the works are completed.

(2) If the application is for a grant for the works specified in regulation 13(1)(c) the applicant must–

- (a) have attained the age of 80; or
 (b) be in receipt of guarantee credit as mentioned in section 1 of the State Pension Credit Act 2002⁽²⁰⁾.

Dwellings eligible for grant

12. An application for a grant under this part may only be entertained in respect of a dwelling which–

- (a) (i) does not have a central heating system;
 (ii) has a partial central heating system or an inefficient central heating system; or
 (iii) has a central heating system that does not function;

⁽¹⁹⁾ Published by the Building Research Establishment.

⁽²⁰⁾ 2002 c. 16. There are amendments not relevant to these Regulations.

- (b) is self-contained; and
- (c) is not the subject of any order or resolution which may lead to its demolition.

Works for which grant may be made

13. –

- (1) Subject to paragraph (2) below, a grant may only be made for the purpose of–
 - (a) providing a type of central heating system approved by the administering agency and any new fuel source;
 - (b) repairing a central heating system that does not function if it is reasonable to do so having regard to the likely lifespan and efficiency of the system; or
 - (c) replacing or upgrading a partial or inefficient central heating system.
- (2) Where an application is approved for a purpose mentioned in paragraph (1) grant may also be made for the purpose of providing–
 - (a) insulation between the internal and external leaves of cavity walls of the dwelling;
 - (b) insulation to any water heating system or any part of such a system;
 - (c) insulation in any accessible roof space in the dwelling, including the insulation of any cold water tank and any water supply, overflow and expansion pipes in such a space;
 - (d) draughtproofing to or in the dwelling together with additional means of ventilation for any rooms which would otherwise be inadequately ventilated after such provision;
 - (e) energy advice;
 - (f) a cold alarm;
 - (g) a smoke detector; and
 - (h) a carbon monoxide detector.

Limits of grant

14. –

- (1) The maximum amount of grant payable under regulation 13(1)(a) is £3,500 but, if no central heating system approved by the administering agency can be installed for that amount, the lowest costing approved system may be installed where costs do not exceed £5,500.
- (2) Grant may only be paid under regulation 13(1)(b) if the cost of repairing the central heating system is between £400 and £750, but where the cost exceeds £750, grant may be made under regulation 13(1)(a).

Conditions of grant

- 15.** The making of a grant may be made conditional on the carrying out of works listed in regulation 13(2).

St Andrew's House, Edinburgh
29th November 2006

MALCOLM CHISHOLM
A member of the Scottish Executive

SCHEDULE 1

Regulation 3(2)

ADMINISTERING AGENCIES

Duties, powers and funding

1. The appointment of, or the conferring of functions upon, an administering agency may be effected in whole or in part by or under a written contract entered into between the Scottish Ministers and the administering agency.

2. The Scottish Ministers may include such terms and conditions in any contract pursuant to paragraph 1 as they see fit.

3. The following provisions of this Schedule are without prejudice to such duties and powers as the Scottish Ministers may confer by contract pursuant to paragraphs 1 and 2.

4. The Scottish Ministers may allocate to an agency sums which are to be available to the agency in any period for the purpose of making grants in that period, and may withdraw any sums so allocated.

5. Nothing in these Regulations shall require the Scottish Ministers to allocate any sums to an agency.

6. The Scottish Ministers may make arrangements, or authorise an agency to make arrangements, for the agency to receive in any period sums from a third party for the purpose of making grants in that period.

7. No agency shall allocate amounts or approve grants unless money for that purpose has been made available to them by the Scottish Ministers or by a third party in accordance with arrangements made or authorised under paragraph 4 or 6.

Duties and powers with reference to registered installers

8. An administering agency shall, in accordance with criteria laid down from time to time by the Scottish Ministers (whether in the written contract provided for in paragraphs 1 and 2, or otherwise)–

- (a) determine the extent of each locality within its area;
- (b) invite applications for appointment as the registered installer, or one of the registered installers, for each locality so determined;
- (c) appoint as the registered installer (or one of the registered installers) for each locality, a person or body of persons capable of carrying out (or arranging for the carrying-out of) the works specified in regulations 8 and 13; and
- (d) establish procedures for supervising the functions of, and for verifying claims made and grant monies received or paid out, and information supplied by, the registered installers in its area.

9. An agency may require a registered installer to submit a written estimate of the works which, in the installer's opinion, the installer is likely to carry out in a locality during any future period.

10. An agency may, in respect of any future period, allocate to a registered installer an amount which is to be the total sum, or that registered installer's share of the total sum, available for grants in respect of works to be carried out in the locality during that period pursuant to applications under regulations 7 and 11.

11. An agency may terminate or suspend the appointment of a registered installer for reasonable cause.

SCHEDULE 2

Regulation 6(1)

REVOCATIONS

<i>Regulations revoked</i>	<i>References</i>
The Home Energy Efficiency Scheme Regulations 1997	S.I.1997/790
The Home Energy Efficiency Scheme (Amendment) (Scotland) Regulations 1999	S.I. 1999/1018
The Home Energy Efficiency Scheme Amendment (Scotland) Regulations 2001	S.S.I. 2001/267
The Home Energy Efficiency Scheme Amendment (Scotland) Regulations 2003	S.S.I. 2003/284
The Home Energy Efficiency Scheme Amendment (No. 2) (Scotland) Regulations 2003	S.S.I. 2003/529
The Home Energy Efficiency Scheme Amendment (Scotland) Regulations 2004	S.S.I. 2004/188
The Home Energy Efficiency Scheme Amendment (Scotland) Regulations 2005	S.S.I. 2005/144

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the making of grants for insulation and energy efficiency works and to install, repair or replace central heating systems. They replace the Home Energy Efficiency Scheme Regulations 1997 (S.I. 1997/790), as amended. These Regulations extend the central heating programme to allow for the upgrading of partial or inefficient systems to persons entitled to claim the guarantee element of pension credit and they extend eligibility for insulation and energy efficiency measures to families with disabled children.

In Part 1, regulations 1–6 deal with interpretation, the appointment of agencies to administer the grant, general conditions of grant and the revocation of the Home Energy Efficiency Scheme Regulations 1997 (S.I. 1997/790), as amended, except for applications which have been approved on or before 31st December 2006.

In Part 2, which deals with insulation and energy efficiency works, regulation 7 makes provision for the persons who are eligible for a grant for such works. Regulation 8 lists the type of works for which grant may be made and regulation 9 provides for the calculation of the grant.

In Part 3, which deals with the central heating programme, regulation 10 deals with interpretation. Regulation 11 provides for persons who are eligible to apply for a grant and regulation 12 for dwellings which are eligible. Regulation 13 lists the works for which grant may be made. Regulations

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14 and 15 deal with the limits of grant and the conditions of grant in respect of the central heating programme respectively.

Schedule 1 provides for the duties, powers and funding of the administering agencies who will receive the applications for grant and duties and powers of registered installers.

Schedule 2 lists the regulations which will be revoked on the coming into force of these Regulations and provides that those Regulations will continue to apply in the case of grants made under them.