

**2011 No. 56**

**ENERGY CONSERVATION**

**The Home Energy Assistance Scheme (Scotland) Amendment  
Regulations 2011**

<i>Made</i>	- - - -	<i>1st February 2011</i>
<i>Laid before the Scottish Parliament</i>		<i>3rd February 2011</i>
<i>Coming into force</i>	- -	<i>15th March 2011</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 15 of the Social Security Act 1990(a) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Home Energy Assistance Scheme (Scotland) Amendment Regulations 2011 and come into force on 15th March 2011.

**Amendments to the Home Energy Assistance Scheme (Scotland) Regulations 2009**

2. The Home Energy Assistance Scheme (Scotland) Regulations 2009(b) are amended as follows.

3. In regulation 2 (interpretation), after the definition of “tenant” insert ““terminally ill” has the meaning given in section 66(2)(a) of the 1992 Act”.

4. In regulation 4 (conditions of grant)—

- (a) in paragraph (5), for “No” substitute “Subject to paragraph (5A), no”;
- (b) after paragraph (5) insert—

“(5A) Where the circumstances in paragraph (5B) are met in respect of a dwelling, paragraph (5) will apply to that dwelling from the date on which a second grant is made under these Regulations in respect of it.

(5B) The circumstances are that—

- (a) a grant of an amount not exceeding £750 has been made under these Regulations in respect of the dwelling; and
- (b) prior to the making of that grant, no grant had been made under these Regulations in respect of the dwelling.”.

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(a) 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.

(b) S.S.I. 2009/48, as amended by S.S.I. 2009/392 and S.S.I. 2010/110.

5. In regulation 6 (person eligible to apply for a grant)—
- (a) in paragraph (1)(b) after “year” insert “, except where the circumstances in paragraph (1A) apply”;
  - (b) in paragraph (1)(c) after “completed” insert “, except where that person, or a partner living with that person, is terminally ill”;
  - (c) in paragraph (1)(d) for “(4)” substitute “(4B)”;
  - (d) after paragraph (1) insert—
    - “(1A) The circumstances are that—
    - (a) the person making the application, or a partner living with that person, is terminally ill; and
    - (b) no applicant has previously been excepted from the condition in paragraph (1)(b) in respect of any other dwelling by virtue of that person being terminally ill.”;
  - (e) after paragraph (4) insert—
    - “(4A) The criteria are that the person—
    - (a) is or lives with a partner who is in receipt of the highest rate of the care component of disability living allowance as mentioned in section 72(4)(a) of the 1992 Act or the higher rate of the mobility component of disability living allowance as mentioned in section 73(11)(a) of the 1992 Act;
    - (b) is or lives with a partner who is in receipt of a benefit listed in paragraph (5) other than disability living allowance; and
    - (c) lives in an energy inefficient dwelling.
    - (4B) The criteria are that the person—
    - (a) is or lives with a partner who is terminally ill;
    - (b) is or lives with a partner who is in receipt of a benefit listed in paragraph (5) other than disability living allowance; and
    - (c) lives in an energy inefficient dwelling.”.
6. In regulation 8 (amount of grant)—
- (a) for paragraph (1) substitute—
    - “(1) Subject to paragraph (4), the maximum amount of grant which may be made in respect of an application is—
    - (a) £4,000; or
    - (b) where paragraph (2) applies, £6,500.”;
  - (b) after paragraph (3) insert—
    - “(4) Where, in respect of any dwelling—
    - (a) the circumstances in regulation 4(5B) apply; and
    - (b) an application for a further grant under these Regulations is made within 10 years of the date of the grant referred to in regulation 4(5B)(a),the maximum amount of grant which may be made in respect of that application is to be calculated in accordance with paragraph (5);

(5) The maximum amount of grant in paragraph (1) is reduced by the amount of the previous grant.”.

St Andrew's House,  
Edinburgh  
1st February 2011

*ALEX NEIL*  
Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Home Energy Assistance Scheme (Scotland) Regulations 2009 (“the principal Regulations”), which make provision for the making of grants to improve the thermal insulation and energy efficiency of dwellings and to provide advice to reduce or prevent the wastage of energy in a dwelling.

Regulation 4 amends regulation 4 of the principal Regulations, introducing an exception to the condition that no grant may be made in respect of any dwelling for which a grant under the principal Regulations has been made within the previous 10 years. The exception allows a second grant to be made in respect of a dwelling within 10 years of the first grant, provided that the amount of that first grant did not exceed £750. The 10 year period restriction on the making of grants in respect of that dwelling will apply as of the date on which the second grant is made.

Regulations 5 amends regulation 6 of the principal Regulations to introduce two new categories of person in relation to whom an application for a grant may be entertained. New paragraph (4A) extends eligibility to a person who is or lives with a person who is, in receipt of the highest rate of the care component or the higher rate of the mobility component of disability living allowance and also is or lives with a partner who is in receipt of another benefit. New paragraph (4B) extends eligibility to a person who is or lives with a partner who is, terminally ill and is or lives with a partner who is in receipt of a benefit other than disability living allowance. Both new categories of person must also live in an energy inefficient dwelling and satisfy the criteria in regulation 6(1) of the principal Regulations.

Two further amendments have been made as a consequence of extending eligibility to a person who is, or lives with a partner who is, terminally ill. Firstly, the eligibility requirement in regulation 6(1)(c) of the principal Regulations, that the applicant must not expect to cease to occupy the dwelling within the period of twelve months beginning with the date on which the works are completed, does not apply to such persons. Secondly, a person who is, or lives with a partner who is, terminally ill is excepted from the requirement that they have lived in the dwelling for 12 months prior to application. This exception applies only in relation to one dwelling.

Regulation 6 amends regulation 8 of the principal Regulations to ensure that where a second grant is made under the principal Regulations in respect of a dwelling within 10 years of the date on which the first grant was made by virtue of new paragraph (5A), the total amount of those two grants does not exceed the relevant maximum amount of grant specified in regulation 8(1).

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