

**EXPLANATORY MEMORANDUM TO
THE HOUSING RENEWALS GRANTS (AMENDMENT) (No. 2) (ENGLAND)
REGULATIONS 2008**

2008 No. 3104

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government (“the Department”) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2. This instrument makes changes to the means test for disabled facilities grant which is set out in the Housing Renewal Grants Regulations 1996 (S.I. 1996/2890) (“the 1996 Regulations”).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3. Regulation 3(2)(a) of this instrument corrects the drafting error made in regulation 4(8)(a) of the Housing Renewals Grants (Amendment) (England) Regulations 2008 (S.I. 2008/1190) which was reported in the Joint Committee’s 21st report of the 2007/08 session.

4. Legislative Context

4.1 The Housing Grants, Construction and Regeneration Act 1996 (“the 1996 Act”) introduced various forms of grant for improvement of housing stock, including grants to provide better facilities for disabled occupants (“disabled facilities grant”). Following extensive amendments made to the 1996 Act by the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), disabled facilities grant is the only form of grant which now remains available.

4.2 Section 30 of the 1996 Act gives the Secretary of State in England power to make regulations, with the consent of the Treasury, setting out the means testing regime to be applied in the case of an application for a disabled facilities grant. The means testing regime is set out in the 1996 Regulations. Regulations may, in particular make provision for account to be taken of the income, assets, needs and outgoings of the applicant, his spouse or civil partner, any person living with him or intending to live with him and any person on whom he is dependent or who is dependent on him. They may also make provision for amounts specified in or determined under the regulations to be taken into account for particular purposes.

5. Territorial Extent and Application

5. This instrument applies to England.

6. European Convention on Human Rights

6. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Department has two objectives in making this instrument, firstly to make the disabled facilities grant means test fairer to those people who work, but are on a low income, and secondly to enable severely disabled former armed-services personnel to be potentially eligible for a disabled facilities grant, despite benefiting from payments made to them under Ministry of Defence compensation schemes.

7.2 Changes already made to the means test by the Housing Renewals Grants (Amendment) (England) Regulations 2008 (S.I. 2008/1190), following the consultation referred to in paragraph 8, include no longer requiring additional financial information to be provided for the purpose of assessing eligibility from applicants who receive council tax benefit, housing benefit, or for those who receive working tax or child tax credits and who are on a low income (under £15,050 per year). The effect of the amendments made by regulations 2, 3(1)(a) and 3(2)(a) and (b) in the Regulations that are the subject of this memorandum is that such payments are totally disregarded: applicants entitled to working tax credit and child tax credit will no longer have the payments they receive taken into account for the purpose of assessing eligibility for a disabled facilities grant, regardless of their income.

7.3 A number of Government commitments have been made to provide greater assistance to armed-services personnel and former personnel in the Ministry of Defence's command paper number 7424 "The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans", published in July 2008. One such commitment made (at paragraph 2.17 and paragraph A3 of Annex A of the paper) is to disregard certain payments under the Armed Forces Compensation Scheme and the War Pensions Scheme when calculating a person's means for the purpose of determining eligibility for a disabled facilities grant.

7.4 The policy intent is to ensure that if a person is in receipt of retired pay or a pension under the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I. No 2006/1455) in respect of disablement the degree of which is not less than 80% and he also receives a constant attendance allowance paid under that Order then both the pension payments and the constant attendance allowance will be disregarded for the purposes of assessing his eligibility for disabled facilities grant. If a person receives a lump sum payment, an additional multiple injury lump sum payment or an additional lump sum payment, or guaranteed income payment, then any such payments that are assessed to be payable for injuries on any of levels 1 to 6 of the tariff set out in any of Tables 1 to 9 in Schedule 4 to the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 (SI No 2005/439), will be disregarded for the purposes of assessing that person's eligibility for grant. The payments are assessed according to the level of injuries on a scale of 1 to 15, level 1 being the most serious.

Consolidation

7.5 The 1996 Regulations have been subject to much amendment over the years. The Department intends to repeal the 1996 Regulations and the 2005 Regulations and to make

consolidation regulations during the next eighteen months. However, the Department considers that the changes made by this instrument should not be delayed.

8. Consultation outcome

8.1 A number of proposed changes to the disabled facilities grant means test were consulted on in spring 2007 including disregarding as income working tax credit and child tax credit. The respondents to the consultation were predominantly local housing authorities. The consultation was concerned with the most appropriate way of simplifying the means test. The Department consulted on four proposals, but it was not proposed that all of the proposals would be implemented. Overall, 98% of respondents were in favour of adjusting the means test by implementing at least one of the proposals. 47% of the respondents supported extending the number of benefits that would enable a disabled facilities grant applicant to be passported through for maximum assistance, and 12% specifically supported disregarding tax credits as income. The two other proposals consulted on were to disregard the first element of earned income (11% support) and to allow average or actual housing costs to be taken into consideration (30% support).

9. Guidance

9.1 The Department will be writing to all local housing authorities to advise them of these regulations and to explain their effect.

10. Impact

10.1 The instrument has no impact on business, charities or voluntary bodies.

10.2 The impact of both these changes on the public sector is estimated to be £7 million per annum. The increase in the national disabled facilities budget covers this increase cost.

10.3 An impact assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Department will be reviewing the means test set out in the 1996 Regulations over the course of the next year and in particular will be looking at the fairness and appropriateness of the test. During that time the Department will monitor the impact that these Regulations have had and in particular will examine whether the regulations have had the intended effects of making the means test fairer to those people who work, but are on a low income, and enabling severely disabled former armed-services personnel to be potentially eligible for a disabled facilities grant, despite benefiting from payments made to them under Ministry of Defence compensation schemes.

13. Contact

Dylan Grimes at the Department for Communities and Local Government Tel: 020 7944 6544 or e-mail: Dylan.Grimes@communities.gsi.gov.uk can answer any queries regarding the instrument.