
DRAFT STATUTORY INSTRUMENTS

2022 No.

**The Boiler Upgrade Scheme (England
and Wales) Regulations 2022**

PART 5

Compliance and enforcement

Obligations on installers

- 17.—**(1) An installer who has been issued a boiler upgrade voucher must —
- (a) retain a copy of any information relied on when making the grant application and any redemption application for six years from the date on which the grant application or the redemption application (as the case may be) was made,
 - (b) if they become aware that any of the information provided in support of the grant application or any redemption application—
 - (i) was incorrect at the time it was relied on, or
 - (ii) has materially changed since it was relied on such that, had the application been made after the change, it would not comply with the requirements in these Regulations,notify the Authority of that fact no more than 14 days after becoming so aware,
 - (c) provide to the Authority, within 14 days of a request by the Authority, any information which the installer holds in relation to the installation to which the boiler upgrade voucher relates and which the Authority requires in order to discharge its functions under these Regulations.
- (2) Paragraph (1) applies regardless of whether the boiler upgrade voucher has—
- (a) expired in accordance with regulation 15(2),
 - (b) been redeemed in accordance with regulation 16(6), or
 - (c) been revoked in accordance with regulation 16(8) or 21.

Inspection of property

- 18.—**(1) The Authority or its authorised agent may request access at any reasonable hour to inspect a property to which a boiler upgrade voucher relates to do any one or more of the following—
- (a) verify an eligible plant,
 - (b) verify that a property is an eligible property or a property to which regulation 14(1)(b) applies,
 - (c) take photographs, measurements, or video or audio recordings in relation to that verification,
 - (d) ensure that there is no contravention of these Regulations.

(2) The request referred to in paragraph (1) must be made by a notice to the owner of the property which—

- (a) specifies the reason for the proposed inspection,
 - (b) is given to the owner no less than two days before the proposed inspection is to take place, and
 - (c) informs the owner of their right to refuse the request.
- (3) Paragraph (1) applies regardless of whether the boiler upgrade voucher has—
- (a) expired in accordance with regulation 15(2),
 - (b) been redeemed in accordance with regulation 16(6), or
 - (c) been revoked in accordance with regulation 16(8) or 21.

Power to temporarily withhold grant payment during investigation

19.—(1) Where the Authority has reasonable grounds to suspect that—

- (a) an installer—
 - (i) has failed or is failing to comply with an installer obligation, or
 - (ii) has been issued a voucher, or has been paid a boiler upgrade grant, as a result of the provision of information which was incorrect in a material particular,
- (b) the person who is specified in a boiler upgrade voucher as an installer is not an installer,
- (c) the property specified in a boiler upgrade voucher is not an eligible property where regulation 14(1)(b) (property not eligible at the time of the grant application) does not apply,
- (d) regulation 16(2) is not satisfied, where regulation 14(1)(b) applies, or
- (e) the plant specified in a boiler upgrade voucher is not eligible, or not eligible in relation to the property specified in the voucher,

and it requires time to investigate, it may decide to withhold one or more payments of a boiler upgrade grant which would otherwise be payable to the installer, pending the outcome of that investigation.

(2) For the purposes of paragraph (1), the Authority is deemed to have reasonable grounds to suspect the matters mentioned in paragraph (1)(a) or (b) if it receives notification from the Microgeneration Certification Scheme or an equivalent scheme or a consumer code that the installer is under investigation by them for breach of a requirement of the Microgeneration Certification Scheme, the equivalent scheme or the consumer code.

(3) Within 14 days of a decision to withhold a payment of a boiler upgrade grant under paragraph (1), the Authority must send a notice to the installer which specifies—

- (a) which of the grounds in paragraph (1)(a) to (e) apply,
- (b) the boiler upgrade grant payment which will be withheld and the next steps in the investigation,
- (c) where applicable, the information the installer must provide to the Authority,
- (d) the date by which the information mentioned in sub-paragraph (c) must be provided, and
- (e) the consequences of the installer failing to provide the information mentioned in sub-paragraph (d) by the date specified.

(4) The Authority's investigation must be commenced and completed as soon as is reasonably practicable, and immediately on conclusion of its investigation the Authority must inform the installer of—

- (a) the outcome of the investigation, and

(b) the action the Authority proposes to take under this Part, if any.

(5) Where the Authority concludes that none of the grounds in paragraph (1)(a) to (e) is satisfied, it must make payment of any grant withheld during the course of its investigation.

(6) Within three months of sending a notice under paragraph (3), the Authority must either make payment in accordance with paragraph (5) or must send the installer a notice under regulation 20, 21, or 22.

Power to withhold grant payment in the case of non-compliance

20.—(1) Where the Authority is satisfied that—

- (a) an installer—
 - (i) has failed or is failing to comply with an installer obligation, or
 - (ii) has been issued a voucher, or has been paid a boiler upgrade grant, as a result of the provision of information which was incorrect in a material particular,
- (b) the person who is specified in a boiler upgrade voucher as the installer is not an installer,
- (c) the property specified in a boiler upgrade voucher is not an eligible property where regulation 14(1)(b) (property not eligible at the time of the grant application) does not apply,
- (d) regulation 16(2) is not satisfied (where regulation 14(1)(b) applies), or
- (e) the plant specified in a boiler upgrade voucher is not eligible, or not eligible in relation to the property specified in the voucher,

it may decide to withhold one or more boiler upgrade grant payments which would otherwise be payable to the installer.

(2) Within 14 days of a decision to withhold a payment of a boiler upgrade grant under paragraph (1), the Authority must send a notice to the installer specifying—

- (a) which of the grounds in paragraph (1)(a) to (e) apply,
- (b) where there has been a failure to comply with an installer obligation, the respect in which the Authority is satisfied that the installer has failed or is failing to comply with that obligation,
- (c) where the installer has been issued a boiler upgrade voucher as a result of the provision of information which was incorrect in a material particular, details of the respect in which the information was incorrect,
- (d) the number, and total value, of boiler upgrade grant payments the Authority intends to withhold,
- (e) where applicable, the steps that the installer must take to satisfy the Authority that it is complying with the installer obligation,
- (f) where applicable, the steps that the installer must take to satisfy the Authority that, notwithstanding the provision of information which was incorrect in a material particular, the Authority should not withhold the boiler upgrade grant payments,
- (g) where applicable, the information the installer must provide to the Authority,
- (h) the date by which the steps referred to in sub-paragraph (e) or (f) must be completed, or the information mentioned in sub-paragraph (g) must be provided, which must be within 14 days beginning with the date the notice is issued, and
- (i) the consequences of the installer failing to take the steps referred to in sub-paragraph (e) or (f), or to provide the information mentioned in sub-paragraph (g), by the date specified.

(3) The Authority may extend the time specified in the notice in accordance with paragraph (2)(h) where it is satisfied that it is reasonable to do so.

(4) Where the Authority is satisfied that the installer has taken the steps specified in the notice in accordance with paragraph (2)(e) or (f), or provided the information specified in the notice in accordance with paragraph (2)(g), as applicable, within the time specified, it must notify that installer that the boiler upgrade grant payments will not be withheld in accordance with this regulation.

(5) Where the Authority is not satisfied as described in paragraph (4), the Authority—

- (a) must notify the installer of that fact,
- (b) may revoke a boiler upgrade voucher, and
- (c) may refuse any subsequent grant application by that installer or by a connected person.

Revocation of vouchers

21.—(1) The Authority may revoke a boiler upgrade voucher—

- (a) where it is no longer satisfied that the conditions in regulation 14(2) are met in relation to the boiler upgrade voucher,
- (b) where it is no longer satisfied that any information required by a notice given under regulation 14(4) in relation to the boiler upgrade voucher is accurate,
- (c) where it is satisfied that the installer to whom it has issued the boiler upgrade voucher—
 - (i) has failed or is failing to comply with an installer obligation, or
 - (ii) has been issued the voucher as a result of the provision of information which was incorrect in a material particular,
- (d) where it is satisfied that—
 - (i) the person who is specified in the boiler upgrade voucher as the installer is not an installer,
 - (ii) the property specified in the boiler upgrade voucher is not an eligible property where regulation 14(1)(b) (property not eligible at the time of the grant application) does not apply,
 - (iii) regulation 16(2) is not satisfied, where regulation 14(1)(b) applies, or
 - (iv) the plant specified in the boiler upgrade voucher is not eligible, or not eligible in relation to the property specified in the voucher, or
- (e) at the request of the installer.

(2) Where the Authority is satisfied as set out in paragraph (1)(c) or (d)(i), it may also revoke all other boiler upgrade vouchers issued to the installer.

(3) Within 14 days of a decision to revoke the boiler upgrade voucher under paragraph (1), the Authority must send a notice to the installer specifying—

- (a) where paragraph (1)(a) or (b) applies—
 - (i) the respect in which the Authority is satisfied that the condition is no longer met, or the information is no longer accurate, and
 - (ii) where applicable, the steps that the installer must take to satisfy the Authority that the condition is met or the information is accurate,
- (b) where paragraph (1)(c)(i) applies—
 - (i) the respect in which the Authority is satisfied that the installer has failed or is failing to comply with the installer obligation, and

- (ii) where applicable, the steps that the installer must take to satisfy the Authority that it is complying with the installer obligation,
 - (c) where paragraph (1)(c)(ii) applies—
 - (i) details of the respect in which the information was incorrect, and
 - (ii) where applicable, the steps that the installer must take to satisfy the Authority that, notwithstanding the provision of incorrect information, the boiler upgrade voucher should not be revoked,
 - (d) where paragraph (1)(c) or (d)(i) applies, details of any other boiler upgrade vouchers issued to the installer that the Authority has decided to revoke under paragraph (2),
 - (e) where paragraph (1)(d) applies, details of the respect in which the Authority is satisfied as to the matters described in paragraph (1)(d)(i), (ii), (iii) or (iv) (as applicable),
 - (f) where applicable, any further information the installer must provide to the Authority,
 - (g) the date by which the steps referred to in sub-paragraph (a)(ii), (b)(ii) or (c)(ii) must be completed, or the information mentioned in sub-paragraph (f) must be provided, which must be within 14 days beginning with the date the notice is issued,
 - (h) the consequences of the installer failing to take the steps referred to in sub-paragraph (a)(ii), (b)(ii) or (c)(ii), or to provide the information mentioned in sub-paragraph (f), by the date specified, and
 - (i) where paragraph (1)(a), (b), (c) or (d) applies, details of the installer’s right of review under regulation 25.
- (4) The Authority may extend the time specified in the notice in accordance with paragraph (3)(g) where it is satisfied that it is reasonable to do so.
- (5) Where the Authority is satisfied that the installer has taken the steps specified in the notice in accordance with sub-paragraph (a)(ii), (b)(ii) or (c)(ii) or provided the information specified in the notice in accordance with sub-paragraph (f), as applicable, within the time specified, it must notify that installer that the boiler upgrade voucher will not be revoked in accordance with this regulation.
- (6) Where the Authority revokes a boiler upgrade voucher in accordance with this regulation, regulation 16(8) or 20(5) it—
- (a) must update the register, maintained under regulation 28, accordingly, and
 - (b) may refuse any subsequent grant application by that installer or by a connected person, except where paragraph (1)(e) applies (installer request to revoke).

Repayment notices and offsetting

22.—(1) Where the Authority is satisfied that an installer has received payments under these Regulations which—

- (a) exceed the amount to which the installer was entitled under these Regulations,
- (b) were paid whilst there was a failure by the installer to comply with an installer obligation, or following such a failure, or
- (c) were paid as a result of the provision of information by the installer which was incorrect in a material particular,

it may take one of the actions set out in paragraph (2).

- (2) The actions in this paragraph are that the Authority may—
 - (a) require the installer to repay an amount in relation to some or all of those payments, or
 - (b) offset an amount in relation to some or all of those payments against future payments to the installer under these Regulations.

(3) Before taking either of the actions set out in paragraph (2), the Authority must send a notice to the installer specifying—

- (a) the amount it is seeking to recover,
- (b) the basis on which that amount is calculated,
- (c) whether the amount must be repaid or will be offset,
- (d) where applicable, the date by which the amount must be repaid, which must be not less than 28 days after the date on which the notice is sent, and
- (e) details of the installer’s right of review under regulation 25.

(4) Subject to regulation 25(7), where an installer, who is required to repay an amount under this regulation fails, to make payment in full by the date specified under paragraph (3)(d), the Authority may recover any outstanding amount as a civil debt.

Revocation of sanctions

23.—(1) The Authority may at any time revoke a sanction imposed in accordance with any of regulations 16(8) and 20 to 22 if it is satisfied that—

- (a) there was an error involved in the original imposition of the sanction, or
- (b) it is just and equitable in the particular circumstances of the case to do so.

(2) Within 14 days of a decision to revoke a sanction, the Authority must send a notice to the installer specifying—

- (a) the sanction which has been revoked, and
- (b) the reason for the revocation.

(3) Where a sanction is revoked, the Authority must, where applicable, update the register maintained under regulation 28.

Application of this Part in relation to persons who are not or cease to be installers

24.—(1) If a person to whom a boiler upgrade voucher has been issued ceases to be an installer, any installer obligations, and the requirement to comply with those obligations, continue to apply to that person as if they were an installer.

(2) If any person who makes an application under regulation 14 or 16 is not, or ceases to be, an installer, the Authority may commence or continue compliance or enforcement action under this Part in relation to any breach of these Regulations by them, and they are an installer for the purposes of any such action.