

EXPLANATORY MEMORANDUM TO
THE BOILER UPGRADE SCHEME (ENGLAND AND WALES) (AMENDMENT)
REGULATIONS 2024

2024 No. 524

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Lord Callanan, Minister for Energy Efficiency and Green Finance at the Department for Energy Security and Net Zero, confirms that this Explanatory Memorandum meets the required standard.

2.2 Lowri Gilbert, Deputy Director for Electrification, Products, Buildings and Delivery, at the Department for Energy Security and Net Zero, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Bethan Ellis at the Department for Energy Security and Net Zero Telephone: 07742766747 or email: BoilerUpgradeScheme@energysecurity.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Boiler Upgrade Scheme (BUS), introduced in April 2022, supports the installation of heat pumps and biomass boilers in domestic and small non-domestic buildings in England and Wales. This statutory instrument makes changes to the Boiler Upgrade Scheme (BUS) Regulations 2022 to amend the eligibility criteria and to clarify existing requirements to improve scheme administration. It will introduce measures to increase flexibility to respond to market changes. It will also remove potential barriers to scheme uptake in response to feedback, including from the Boiler Upgrade Scheme Regulations Consultation which closed on 12 October 2023, and from the Environment and Climate Change Committee Inquiry. This is in relation to:

- Removing the requirement to fulfil the recommendations for loft and cavity wall insulation provided on the Energy Performance Certificate (EPC), required under Regulation 6, which were determined a barrier to scheme uptake.
- Increasing the capacity limit for shared ground loops from 45kW to 300kW (the capacity limit for individual systems will be maintained at 45kW), making ground source heat pumps more financially viable.
- Making biomass boilers with an integrated cooking function eligible for support where the cooking function cannot be controlled independently to the space heating and hot water function of the system.

- Introducing new grant categories in line with the existing grant change process set out in Regulation 13, enabling the Department to differentiate the grant levels for properties determined as off the gas grid and/or self-build.
- Amending the eligibility of plants to restrict applications to systems which were commissioned no more than 120 days prior to the application (or have not yet been commissioned). Previously any system installed after 1st April 2022 was eligible to apply.

4.2 This instrument will also make the necessary amendments to the regulations to allow for the scheme to be administered up to April 2028, in accordance with the extension of the scheme announced in the government's 'Powering up Britain' plans¹ published in March 2023.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 The Environment and Climate Change Committee published the conclusions from its Inquiry into the Boiler Upgrade Scheme in February 2023² and recommended that the use of EPC ratings and the associated insulation requirements as an eligibility criterion for the scheme should be removed. In our response³ we agreed to consult on changes to the EPC requirements to assess whether their removal would improve scheme uptake.

5.2 We consulted on the EPC requirements, further grant differentiation and biomass boiler eligibility in August 2023.

5.3 This instrument implements proposals that were supported by stakeholders through the public consultation. This includes the proposal to introduce additional categories to differentiate grant levels under the scheme, if deemed necessary in the future; to remove the requirement to fulfil recommendations for insulation on an EPC; to permit biomass boilers with an integrated cooking function and to increase the capacity limit for shared ground loops from 45kW to 300kW. The amendments will make the scheme more flexible to market changes, for example, if we determined in future that properties off the gas grid and/or self-build properties should be subject to a different grant level. The amendments will also improve scheme accessibility by simplifying the application process and thus will impact users of the scheme including installers who apply for grants and property owners as potential future scheme beneficiaries.

5.4 This instrument will also introduce some amendments to the regulations to ensure that public funding is being spent in accordance with scheme objectives and thus the scheme continues to deliver value for money.

¹ <https://www.gov.uk/government/publications/powering-up-britain>

² <https://committees.parliament.uk/committee/515/environment-and-climate-change-committee/news/186300/the-boiler-upgrade-scheme-is-failing-to-deliver-says-lords-committee/>

³ <https://committees.parliament.uk/work/6858/boiler-upgrade-scheme/publications/2/government-response/>

What was the previous policy, how is this different?

- 5.5 The BUS was introduced in April 2022 to support the installation of heat pumps and in limited circumstances, biomass boilers in domestic and small non-domestic buildings in England and Wales. The scheme offers a grant payment to help customers overcome the high upfront capital costs of low carbon heat technologies in the transition away from fossil fuel systems. £450 million was committed for the BUS to run for three years, from 2022/23 to 2024/25. Under the previous policy, grant levels were differentiated solely by technology type; a property was required to have no outstanding recommendations on an EPC for loft and/or cavity wall insulation; biomass boilers with a cooking function were not eligible for support, and the capacity limit for shared ground loops was 45kW.
- 5.6 The changes will broaden support to more properties and provide more solutions to transition to low carbon heat.
- 5.7 This instrument will give effect to the changes referenced in section 4.1. It will also enable the extension of the scheme announced in March 2023 for a further three years from 2025/26-2027/28. The scheme extension will be supported by an additional £1.5bn, as announced in December 2023⁴.

6. Legislative and Legal Context

How has the law changed?

- 6.1 Section 100 of the Energy Act 2008 enables the Secretary of State to make regulations establishing a scheme to encourage the renewable generation of heat and to provide for the administration and financing of the scheme. The instrument amends the Boiler Upgrade Scheme Regulations (2022), as laid under S.100, to implement policy amendments that were supported in the 2023 Regulations Consultation and to further clarify existing eligibility requirements within the regulations. These measures are intended to encourage further uptake of the scheme and increase flexibility, whilst ensuring the scheme continues to meet its objectives.

Why was this approach taken to change the law?

- 6.2 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 A consultation was open on GOV.UK from August-October 2023 for scheme participants and stakeholders to respond to three proposals. The proposals explored whether government should:

- differentiate grant levels in different circumstances;
- retain or amend the existing EPC requirements;
- permit biomass boilers with a cooking function to be eligible under the scheme.

A total of 205 individual responses were received from a wide range of organisations, representative and trade bodies, industry professionals, and individual members of the public. All views shared were taken into consideration, as well as feedback received through other channels, such as stakeholder forums, during the period that the

⁴ <https://www.gov.uk/government/news/families-business-and-industry-to-get-energy-efficiency-support>

consultation was open. The government response to the consultation was published on 14 March⁵.

8. Applicable Guidance

- 8.1 Ofgem, the scheme administrator, is responsible for running the day-to-day operations of the scheme, including performing functions such as handling enquiries, reviewing applications, making payments, and monitoring compliance with the scheme rules. Ofgem will publish revised guidance on the administration of the scheme, reflecting scheme amendments implemented through this instrument, on their website ahead of the new regulations coming into force to provide clarity to installers and consumers.
- 8.2 The Department will update scheme guidance on GOV.UK to reflect the amendments made through this instrument and will publish the approved standards, as approved by the Secretary of State.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because there is a low level of impact per business.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The Department is undertaking an evaluation of the BUS to assess the extent to which the objectives and expected impacts of the scheme are realised, as well as to collect evidence that will support wider learning in relation to low carbon heat and other relevant policy areas (such as energy efficiency, net-zero behaviour change etc.). The evaluation is currently due to conclude in 2026, shortly after the original BUS end date, however the BUS extension period will be evaluated through a further evaluation either individually or as part of a wider evaluation of overall heat pump deployment. The ongoing monitoring will also support the management of the scheme, including tracking of delivery, financial management and future amendments.
- 10.2 The instrument does not include a statutory review clause. The requirement under section 28(2) of the Small Business, Enterprise and Employment Act 2015 to make provision for review does not apply to this instrument as it falls within an exception in section 28(3) of that Act.

⁵ <https://assets.publishing.service.gov.uk/media/65ef7a57133c220011cd37d2/boiler-upgrade-scheme-regulations-government-response.pdf>.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Lord Callanan has made the following statement regarding Human Rights:

“In my view the provisions of the Boiler Upgrade Scheme (England and Wales) Amendment Regulations 2024 are compatible with the Convention rights.”

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).