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WELSH STATUTORY INSTRUMENTS

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**2011 No. 656 (W.94)**

**ENERGY CONSERVATION, WALES**

The Home Energy Efficiency  
Schemes (Wales) Regulations 2011

<i>Made</i>	- - - -	<i>6 March 2011</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>8 March 2011</i>
<i>Coming into force</i>	- -	<i>1 April 2011</i>

The Welsh Ministers make the following Regulations in exercise of the power conferred on the Secretary of State by section 15 of the Social Security Act 1990<sup>(1)</sup> which is now exercisable by the Welsh Ministers in relation to Wales<sup>(2)</sup>.

**Title, commencement and application**

1.—(1) The title of these Regulations is the Home Energy Efficiency Schemes (Wales) Regulations 2011 and they come into force on 1 April 2011.

(2) These Regulations apply in relation to Wales.

**Interpretation**

2. In these Regulations—

“the 2007 Regulations” (“*Rheoliadau 2007*”) means the Home Energy Efficiency Schemes (Wales) Regulations 2007<sup>(3)</sup>;

“the 2010 Amendment Regulations” (“*Rheoliadau Diwygio 2010*”) means the Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2010<sup>(4)</sup>;

“advice” (“*cyngor*”) means advice on reducing or preventing the wastage of energy in dwellings in respect of which any works are carried out or contemplated;

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<sup>(1)</sup> 1990 c. 27; section 15 was amended by section 142 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53).

<sup>(2)</sup> The National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672) directed that the functions under section 15 were to be exercisable in relation to Wales by the National Assembly for Wales concurrently with the Secretary of State. By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (2006 c. 32), those functions are now exercisable by the Welsh Ministers in relation to Wales.

<sup>(3)</sup> S.I.2007/375 (W.35).

<sup>(4)</sup> S.I. 2010/453 (W.49).

“advice application” (“*cais am gyngor*”) means an application which is for a grant in relation to advice and in which the applicant proposes that an area agency will arrange for the giving of advice;

“area agency” (“*asiantaeth ardal*”) means, except in paragraph (1) of regulation 4, the person or body of persons for the time being appointed and responsible for the area in question under that Regulation;

“asset rating” (“*dosbarthiad ased*”) has the meaning given in regulation 2(1) of the Energy Performance of Buildings (Certificates and Inspections)(England and Wales) Regulations 2007(5);

“dwelling” (“*annedd*”) includes any building in multiple occupation; and for this purpose “building in multiple occupation” means a building which is occupied by persons who do not form a single household, exclusive of any part of the building which is occupied as a separate dwelling by persons who form a single household;

“eligibility criteria” (“*meini prawf cymhwystra*”) means the criteria determined for the time being by or (as the case may be) in accordance with Regulation 5;

“income threshold” (“*trothwy incwm*”) means the income threshold as determined from time to time pursuant to Section 7(1)(a) of the Tax Credits Act 2002(6);

“means-tested benefit” (“*budd-daliad sy'n dibynnu ar prawf modd*”) means—

- (a) income support, housing benefit and council tax benefit (each as defined in Part VII of the Social Security Contributions and Benefits Act 1992(7));
- (b) income-based jobseeker’s allowance (as defined in the Jobseekers Act 1995(8));
- (c) state pension credit (as defined in the State Pension Credit Act 2002(9));
- (d) working tax credit and child tax credit (each as defined in the Tax Credits Act 2002)(10) provided that in each case the income of the applicant does not exceed the relevant income threshold; and
- (e) income-related employment and support allowance (as defined in the Welfare Reform Act 2007(11));

“occupant” (“*meddiannydd*”) means a person who lawfully occupies a dwelling as his or her only or main residence and who intends to continue in occupation of the dwelling in the long term;

“partial grant application” (“*cais am grant rhannol*”) means a works application limited to the purposes set out in Regulation 6(1)(a) and (b);

“private occupancy” (“*meddiannaeth breifaf*”) means occupancy of a dwelling such that none of the occupants occupies that dwelling as a tenant or licensee of a county council, county borough council or registered social landlord (including under shared equity arrangements);

“works” (“*gweithfeydd*”) means works falling within the types of work specified by or (as the case may be) pursuant to Regulation 6;

(5) S.I. 2007/991.

(6) 2002 c. 21. The levels of income threshold for Child Tax Credit and Working Tax Credit are currently provided for in the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002 (S.I.2002/2008) as amended, the latest relevant amending instrument being S.I.2009/2008.

(7) 1992 c. 4.

(8) 1995 c. 18.

(9) 2002 c. 16.

(10) 2002 c. 21.

(11) 2007 c. 5.

“works application” (“*cais gweithfeydd*”) means an application in which the applicant proposes that an area agency will arrange for the carrying out of the works in respect of which a grant is sought.

### **Revocation and Transitional Provisions**

- 3.—(1) Subject to paragraph (2)—
- (a) the 2007 Regulations; and
  - (b) the 2010 Amendment Regulations

are revoked.

(2) Where a person has applied for a grant under the 2007 Regulations (as amended) but the application has not been approved or refused before these Regulations come into force, or if the application has been approved but none of the works have been commenced, the application will be treated as having been made under these Regulations.

### **Powers of the Welsh Ministers**

4.—(1) The Welsh Ministers may appoint one or more person or persons, each such person to be known as an area agency, to perform in relation to Wales or any area of Wales such functions as the Welsh Ministers may confer by means of a contract upon that person or persons for the purpose of, or otherwise in connection with, providing advice, the making or administering of grants under these Regulations and arranging for the carrying out of works.

(2) An appointment under paragraph (1) may be terminated by the Welsh Ministers.

(3) The Welsh Ministers may allocate to the area agency sums which are to be available to that agency in any period for the purpose of making grants under these Regulations in that period, and for the re-allocation of sums so allocated.

(4) Where the Welsh Ministers have made an arrangement with a person other than the applicant, for financing works in respect of which a grant is payable, they may pay all or part of any grant to that other person.

### **Eligibility criteria**

5.—(1) An advice application may be entertained from a person who is an occupant of the dwelling in respect of which the application is made.

(2) A works application may be entertained in respect of a dwelling if—

- (a) the dwelling is in private occupancy;
- (b) the applicant is an occupant of the dwelling and is in receipt of a means-tested benefit; and
- (c) the area agency is satisfied that the asset rating of the dwelling is 38 or less.

(3) A partial grant application may be entertained in respect of a dwelling which is in private occupancy from an occupant of the dwelling who—

- (a) is aged 60 or over;
- (b) is disabled or chronically ill;
- (c) is pregnant; or
- (d) occupies the dwelling with a child or young person under the age of 25.

(4) The eligibility criteria may be modified, replaced or supplemented by the area agency with the consent of the Welsh Ministers.

**Purposes for which a grant may be approved**

6.—(1) An application for a grant may be approved if it relates to one or more of the following purposes—

- (a) the provision of insulation in any accessible roof space in the dwelling, including the insulation of any cold water tank and any water pipe in such a space;
- (b) the provision of insulation between the internal and external leaves of external cavity walls of the dwelling, and to any solid wall;
- (c) the provision of 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;
- (d) the provision of insulation to any water heating system or accessible hot water pipes associated with the heating system;
- (e) the provision of gas room convector heaters with thermostat control;
- (f) the provision of electric storage heaters;
- (g) the provision of either an electric dual-element immersion heater and a factory-insulated tank or an electric or gas immersion heater within an existing hot water cylinder;
- (h) the provision of timer controls for electric space and water heaters;
- (i) the provision of improvements to the energy efficiency of, or the replacement of any part of, or repair of any space or water heating system installed in the dwelling (including installation of a new boiler and any improvements to the existing space or water heating system to facilitate such installation);
- (j) the provision of a central heating system of any fuel type (including systems which generate electricity);
- (k) the conversion of open solid fuel room fires to closed solid fuel room fires;
- (l) the provision of a central heating system of any fuel type connected to the local community heating grid;
- (m) the provision of space or water heating systems (including heat pumps) which use energy from renewable sources; and for these purposes—
  - “renewable sources” (“*ffynonellau adnewyddadwy*”) means sources of energy other than peat, fossil fuel or nuclear fuel; and
  - “fossil fuel” (“*tanwydd ffosil*”) means coal, substances produced directly or indirectly from coal, lignite, natural gas, crude liquid petroleum, or petroleum products (and “natural gas” and “petroleum products” have the same meanings as in the Energy Act 1976<sup>(12)</sup>);”
- (n) the provision of water-saving measures;
- (o) the provision of any works similar to those listed in this Regulation 6(1), or which are necessary or ancillary to or associated with the carrying out of such works; and
- (p) the provision of such additional works as may be specified by the area agency with the consent of the Welsh Ministers.

(2) No application is to be approved unless the dwelling and the subject matter of each category of works mentioned in the application meet such conditions as may be specified from time to time by the area agency with the consent of the Welsh Ministers.

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(12) 1976 c. 76.

(3) All works must comply with such standards as to materials, workmanship and energy efficiency performance of the subject matter of the works as may be laid down from time to time by the area agency with the consent of the Welsh Ministers.

(4) For the purposes of this Regulation, “roof space” (“*gwagle to*”) 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.

### **Maximum amount of grant**

7.—(1) An area agency may not pay a total amount of grant in respect of a works application under these Regulations which exceeds the lower of—

- (a) the amount properly charged for the works carried out; or
- (b) the maximum amount of grant as determined from time to time by the Welsh Ministers in accordance with—
  - (i) the cost and/or availability of works and materials of the types required by or in connection with the purposes determined in accordance with Regulation 6; and
  - (ii) the current policy and priorities of the Welsh Ministers in relation to energy conservation.

(2) The Welsh Ministers may determine different maximum amounts under paragraph (1)—

- (a) for grants in respect of dwellings in multiple occupation;
- (b) by reference to any category or combination of categories of works specified by or (as the case may be) pursuant to Regulation 6; and
- (c) by reference to whether the works application is a partial grant application.

(3) Subject to paragraphs (1) and (2) of this Regulation, an area agency may, with the consent of the Welsh Ministers, specify—

- (a) a maximum amount of grant which may be paid; and
- (b) a grant-calculation basis, expressed in terms of amounts per unit of measurement,

for any category or combination of categories of works specified by or (as the case may be) pursuant to Regulation 6.

### **Applications for grant**

8.—(1) An application for a grant is to be made to the area agency for the area in which the dwelling is situated.

(2) An application must be in writing, signed either by the applicant or by a person specified or of a description specified by the area agency and must be in such form, subject to paragraph (3) of this Regulation, as is laid down by the area agency.

(3) The application must contain—

- (a) particulars of the dwelling in respect of which the grant is sought and if the applicant is not the freehold owner, the name and address of the freehold owner or landlord;
- (b) information about the applicant sufficient for the area agency to determine whether the applicant meets the eligibility criteria;
- (c) a statement that reasonable access to the dwelling in respect of which an application is made will be given to a representative of the area agency to inspect the dwelling and carry out the works;

- (d) a statement as to whether the applicant or, to the applicant's knowledge, any other person has received or applied for a grant or assistance under these Regulations or any other legislation or scheme in respect of the dwelling which is the subject of the application; and
- (e) such further particulars as may be specified from time to time by the area agency with the consent of the Welsh Ministers.

### **Conditions of grant**

9.—(1) On making any grant, the area agency—

- (a) must impose conditions relating to such of the following matters (subject to any modification made pursuant to paragraph (b) of this Regulation) as the area agency considers relevant to the circumstances of the grant—
  - (i) the circumstances in which any grant or part of a grant made under these Regulations may become repayable by the person in respect of whose application it was made;
  - (ii) the means for securing repayment of such sums as become repayable under paragraph (2)(a) of this Regulation, including (but not limited to) requiring an applicant or owner of a dwelling to enter into a charge or other security over the dwelling;
  - (iii) (where the applicant is a tenant) obtaining agreement of a landlord not to increase rent for a specified period (save in line with inflation), or not to take into account the work carried out pursuant to a grant made under these Regulations when conducting any rent review; and
- (b) may impose such conditions relating to such further, additional or modified matters as may be specified by the area agency with the consent of the Welsh Ministers.

(2) In the event of termination of the appointment of an area agency, the conditions imposed on the making of any grant by the Welsh Ministers must be in accordance with paragraph (1) of this regulation as it applied to the area agency immediately prior to the termination of its appointment.

6 March 2011

*Jane Davidson*  
Minister for Environment, Sustainability and  
Housing, one of the Welsh Ministers

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## EXPLANATORY NOTE

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

Section 15(1) of the Social Security Act 1990<sup>(13)</sup> (as amended by section 142 of the Housing Grants, Construction and Regeneration Act 1996<sup>(14)</sup>) provides that the Secretary of State may make, or arrange for the making of, grants towards the cost of work or advice to improve thermal insulation or otherwise to reduce or prevent energy wastage in dwellings.

The Secretary of State's functions under this provision were made exercisable, in relation to Wales, by the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999<sup>(15)</sup>. They are now exercisable in relation to Wales by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006<sup>(16)</sup>.

The Home Energy Efficiency Scheme (Wales) Regulations 2007 ("the 2007 Regulations")<sup>(17)</sup> set out the schemes for providing grants to persons on low incomes who have children, or are elderly, disabled or in poor health. They also provided for eligibility to receive a grant, determination by the Assembly of categories of works, the maximum levels of grants available, the purposes for which grants may be approved and the method of applying for a grant.

These regulations revoke and replace the 2007 Regulations in full.

Regulation 2 sets out the definitions of certain terms used in the regulations.

Regulation 3 contains revocation and transitional provisions. A person who applied for a grant under the 2007 Regulations will have their application dealt with in accordance with these regulations, where (at the time of these regulations coming into force) either (a) the application has not been approved or rejected, or (b) approval has been received but works have not been commenced.

Regulation 4 provides for the Welsh Ministers to appoint an area agency to administer the Home Energy Efficiency Scheme (the "Scheme"), to allocate money to the area agency for the purpose of making grants, and to pay grant monies directly to the person who undertakes the improvement work.

Regulation 5 deals with the eligibility of persons to apply for a grant or for advice under the Scheme. In general, applications may only be considered where the applicant is either the householder, or lawfully occupies the property as his or her only or main residence ("occupant") and intends to remain there for the long term. But it is not necessary for the applicant to be the freehold owner or to have a formal tenancy arrangement.

An application for advice may be considered from any person who is an occupant of the dwelling to which the application relates.

In respect of an application for works, the dwelling must be in private occupancy (i.e. not council or social housing), the occupant must be in receipt of one of the means-tested benefits listed in Regulation 2, and the dwelling must have an asset rating of 38 or less. "Asset rating" has the meaning given in regulation 2(1) of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007<sup>(18)</sup>.

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<sup>(13)</sup> 1990 c. 27.

<sup>(14)</sup> 1996 c. 53.

<sup>(15)</sup> S.I. 1999/672.

<sup>(16)</sup> 2006 c. 32.

<sup>(17)</sup> S.I. 2007/375 (W.35).

<sup>(18)</sup> S.I. 2007/991.

**Status:** This is the original version (as it was originally made).

A partial grant application (i.e. one for which only roof and wall insulation may be approved) may be considered from vulnerable households, being those where the applicant is aged 60 or over, disabled or chronically ill, pregnant, or occupies the dwelling with a child or young person under the age of 25. The eligibility criteria may be changed from time to time by the area agency, with the consent of the Welsh Ministers.

Regulation 6 sets out the purposes for which a grant may be approved for giving advice, carrying out works, or both. The area agency may add to or change these purposes, set conditions, and minimum standards of workmanship and so on, in each case with the consent of the Welsh Ministers.

Regulation 7 allows the Welsh Ministers to determine maximum amounts of grant, or for the area agency to do so with the Welsh Ministers' consent.

Regulation 8 sets out the procedures and requirements for making an application.

Regulation 9 requires the area agency to impose such conditions on the giving of any grant as are relevant, including the circumstances in which a grant might become repayable, the means of securing any such repayment (for example by a charge on the property), and the securing of landlord's consent (where the applicant is not the freehold owner) not to increase the rent as a result of the improvements carried out. Further conditions may be imposed by the area agency with the consent of the Welsh Ministers.