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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 34**

**ENERGY CONSERVATION**

**The Home Energy Assistance Scheme  
(Scotland) Amendment Regulations 2012**

*Made* - - - - 8th February 2012  
*Laid before the Scottish  
Parliament* - - - - 10th February 2012  
*Coming into force* - - 1st April 2012

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 15(1), (2)(a) and (c) and (9)(b) of the Social Security Act 1990<sup>(1)</sup> 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 2012 and come into force on 1st April 2012.

**Interpretation**

2. In these Regulations “the 2009 Regulations” means the Home Energy Assistance Scheme (Scotland) Regulations 2009<sup>(2)</sup>.

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

3. The 2009 Regulations are amended in accordance with regulations 4 to 6.
4. In regulation 2 (interpretation)—
- (a) in paragraph (a) of the definition of “energy inefficient dwelling”<sup>(3)</sup>, after “above” insert “using the Reduced Data SAP calculation”, and
  - (b) in the definition of “Standard Assessment Procedure”, for “2005 Edition” substitute “2009 Edition, as updated in March 2011 and “Reduced Data SAP calculation” refers to methodology in Appendix S of that Edition”.

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(1) 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.

(2) S.S.I. 2009/48, as amended by S.S.I. 2009/392, 2010/110, 2011/56 and 2011/350.

(3) The definition of “energy inefficient dwelling” was substituted by SSI 2009/392.

5. In regulation 6 (persons eligible to apply for grant)—

(a) after paragraph (4A)(4) insert—

“(4AA) The criteria are that the person—

- (a) is or lives with a partner who is in receipt of a mobility supplement of the type described in paragraph (5)(e) or who is in receipt of the intermediate rate or exceptional rate of a constant attendance allowance as described in that paragraph;
- (b) is or lives with a partner who is in receipt of a benefit listed in paragraph (5), other than those set out in sub-paragraph (e); and
- (c) lives in an energy inefficient dwelling.”;

(b) in paragraph (4B), after “allowance” insert “or the benefits set out in sub-paragraph (e) of that paragraph”; and

(c) for paragraph (5)(e) substitute—

“(e) “a mobility supplement under article 20 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006(5) (including such a supplement payable by virtue of the application of that article by any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983(6) (including that article as applied by article 48A of that Scheme), or a payment intended to compensate for the non-payment of such a supplement, or a payment of constant attendance allowance under article 8 of that Order(7);”.

6. In regulation 8(2)(a) (amount of grant), after “above” insert “using the Reduced Data SAP calculation”.

**Applications prior to 1st April 2012**

7. The amendments made to the 2009 Regulations by these Regulations do not apply in relation to any application submitted prior to 1st April 2012 in accordance with regulation 5 (applications) of the 2009 Regulations.

St Andrew’s House,  
Edinburgh  
8th February 2012

*KEITH BROWN*  
Authorised to sign by the Scottish Ministers

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(4) Paragraphs (4A) and (4B) were inserted by S.S.I. 2011/56.

(5) S.I. 2006/606.

(6) S.I. 1983/686; article 25A was added by S.I. 1983/1164 and amended by S.I. 1983/1540, 1986/628, 1990/1300, 1991/708, 1992/702, 1995/445, 1997/812 and 2001/420. Article 48A was added by S.I. 1984/1289. There are other amendments to S.I. 1983/686 not relevant to these Regulations.

(7) Article 8 was amended by S.I. 2009/706.

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## 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.

Regulations 4 and 6 amend the principal Regulations to provide for use of an updated version of the procedure used to assess the energy efficient of dwellings. They also clarify which methodology within that procedure is to be used. This is in consequence of the Building Research Establishment updating the procedure, which is contained in the publication “The Government’s Standard Assessment Procedure for Energy Rating of Dwellings”, published by the Building Research Establishment, Garston, Watford WD25 9XX, 2009 Edition, as updated in March 2011. It is available online at <http://www.bre.co.uk/sap2009>.

Regulation 5 introduces a new category of person in relation to whom an application for a grant may be entertained. New paragraph (4AA) extends eligibility to a person who is, or lives with a person who is, in receipt of an armed forces mobility supplement, or some equivalent payments, or constant attendance allowance at the two highest rates at which that allowance is paid. These are payments that are additional to war disablement pension. Such a person must also be in receipt of another specified benefit, live in an energy inefficient dwelling and satisfy the criteria in regulation 6(1) of the principal Regulations.

There is a consequential change to paragraph (4B) of regulation 6 of the principal Regulations and the wording of paragraph (5) of that regulation has been updated to refer to the legislation under which armed forces mobility supplement and equivalent payments, and constant attendance allowance, are now paid.

Regulation 7 provides that the existing assessment procedure will apply in relation to applications submitted prior to the date these Regulations come into force.