
STATUTORY INSTRUMENTS

2005 No. 1530

ENERGY CONSERVATION, ENGLAND

The Home Energy Efficiency
Scheme (England) Regulations 2005

<i>Made</i>	- - - -	<i>6th June 2005</i>
<i>Laid before the House of Commons</i>	- - - -	<i>9th June 2005</i>
<i>Coming into force</i>	- -	<i>1st July 2005</i>

The Secretary of State, in exercise of the powers conferred upon her by section 15 of the Social Security Act 1990(1), and with the consent of the Treasury, makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Home Energy Efficiency Scheme (England) Regulations 2005 and shall come into force on 1st July 2005.

(2) These Regulations apply to England only.

Interpretation

2. In these Regulations—

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992(2);

“the 2000 Regulations” means the Home Energy Efficiency Scheme (England) Regulations 2000(3);

“energy advice” means advice on reducing or preventing the wastage of energy in a dwelling (whether in connection with space or water heating, lighting, the use of domestic appliances or otherwise);

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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 under section 15 are, so far as exercisable in or as regards Scotland, devolved to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). As regards Wales, those functions are exercisable by the National Assembly for Wales concurrently with the Secretary of State; see the reference to the Social Security Act 1990 in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).
- (2) 1992 c. 4; Part VII (income related benefits) was amended by the Tax Credits Act 2002 (c. 21) section 60. There are numerous other amendments to this Act; the latest was made by regulation 2 of S.I. 2005/682, which amended Schedule 4 with effect on 11th April 2005.
- (3) S.I. 2000/1280, as amended by S.I. 2002/115, 2003/1017, 2003/2263 and 2004/2430.

“administering agency” means, except in paragraph (2) of regulation 3, the scheme manager, person or body of persons for the time being appointed and responsible for the area in question under that regulation;

“works” means any of the works, materials or energy advice specified in regulation 5; and

“works application” means an application in which the applicant proposes that an administering agency will arrange for the carrying out of the works in respect of which a grant is sought.

Powers of the Secretary of State

3.—(1) The Secretary of State may impose such conditions on which grants may be made as she sees fit.

(2) The Secretary of State shall appoint one or more persons or bodies of persons, each such person or body to be known as an administering agency, to perform in an area specified in the appointment (which may be the whole of England) such functions as she may determine in connection with the making of grants, and shall exercise this function so that an administering agency is in place for each area in England.

(3) An appointment under paragraph (2) may be terminated by the Secretary of State.

Persons who may apply for a grant

4.—(1) A works application for a grant in respect of a dwelling may be entertained from a person who is the householder of the dwelling and occupies the dwelling as his only or main residence and who, at the time the works application is made—

- (a) is, or is living with a partner who is, in receipt of a benefit to which paragraph (2) applies, and who is, or is living with a partner who is, in receipt of child benefit (under section 141 of the 1992 Act) in relation to a child under sixteen years of age;
- (b) is, or is living with a partner who is, in receipt of a benefit to which paragraph (3) applies;
- (c) is, or is living with a partner who is, in receipt of a benefit to which paragraph (2) applies and has attained, or is living with a partner who has attained, the age of 60;
- (d) is, or is living with a partner who is, in receipt of a benefit to which paragraph (2) applies, and who is, or is living with a partner who is, a pregnant woman in respect of whom a maternity certificate given under regulation 2(3) of the Social Security (Medical Evidence) Regulations 1976⁽⁴⁾ and regulation 2 of the Statutory Maternity Pay (Medical Evidence) Regulations 1987⁽⁵⁾ has been given in relation to the pregnancy concerned; or
- (e) is in receipt of
 - (i) child tax credit; or
 - (ii) working tax credit including a disability element,
 under the Tax Credits Act 2002⁽⁶⁾, and has a relevant income of less than £15,050; and for these purposes, “relevant income” has the same meaning as in section 7(3) of that Act.

(2) This paragraph applies to—

- (a) income support, housing benefit and council tax benefit (referred to in Part VII of the 1992 Act);

⁽⁴⁾ S.I. 1976/615; regulation 2(3) has been amended by S.I. 1987/409 and 2001/2931.

⁽⁵⁾ S.I. 1987/235; regulation 2 was amended by S.I. 2001/2931.

⁽⁶⁾ 2002 c. 21; section 1 makes provision for child tax credit and working tax credit, and section 11 and regulation 9 of S.I. 2002/2005 as substituted by regulation 8 of S.I. 2003/701 makes provision for the disability element. The Act was last amended by Part 1 of Schedule 2 to the Child Benefit Act 2005 (c. 6).

- (b) state pension credit (referred to in the State Pension Credit Act 2002(7)); and
 - (c) an income-based jobseeker's allowance (within the meaning of section 1(4) of the Jobseekers Act 1995(8)).
- (3) This paragraph applies to—
- (a) an attendance allowance, that is to say—
 - (i) an attendance allowance under section 64 of the 1992 Act(9);
 - (ii) an increase of an allowance which is payable in respect of constant attendance under a scheme under, or having effect under, paragraph 4 of Part I of Schedule 8 to the 1992 Act(10);
 - (iii) a payment made under article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(11) or any analogous payment; or
 - (iv) any payment based on need for attendance which is paid with a war disablement pension; or
 - (v) any payment intended to compensate for the non-payment of a payment, allowance or pension mentioned in any sub-paragraphs (i) to (iv);
 - (b) a disability living allowance under section 71 of the 1992 Act(12);
 - (c) a war disablement pension within the meaning of the section 139(11) of the Social Security Administration Act 1992(13) or under article 10 of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983(14) so far as that Order is made otherwise than under the Air Force Constitution Act 1917(15), together with—
 - (i) a mobility supplement under article 26A of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983(16) (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(17) (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
 - (ii) a payment under regulations made under paragraph 7(2)(b) of Schedule 8 to the 1992 Act (constant attendance allowance);
 - (d) council tax benefit, housing benefit and income support (in each case where payment includes a disability premium as provided for in the Council Tax Benefit (General) Regulations 1992(18), the Housing Benefit (General) Regulations 1987(19) and the Income Support (General) Regulations 1987(20) respectively) and industrial injuries disablement benefit under sections 103 to 105 of the 1992 Act (where it includes constant attendant allowance).

(7) 2002 c. 16, as last amended by Part 13 of Schedule 24 to the Civil Partnership Act 2004 (c. 33)..

(8) 1995 c. 18, as last amended by section 254 of, and Part 7 of Schedule 24 to, the Civil Partnership Act 2004 (to be commenced).

(9) Section 64 was amended by Welfare Reform and Pensions Act 1999 (c. 30) section 66(1).

(10) See section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975 (c. 16) which was repealed, with savings, by the Social Security (Consequential Provisions) Act 1992 (c. 6).

(11) S.I.1983/686; articles 14, 15 and 16 were amended by S.I. 2001/420 and article 16 by 1984/1675.

(12) Section 71(3) was amended by section 67(1) of the Welfare Reform and Pensions Act 1999 (c. 30).

(13) 1992 c. 5; section 139 (11) was amended by section 722 of and Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1), and by section 254 of and paragraph 65 of Part 4 of Schedule 24 to the Civil Partnership Act 2004 (to be commenced).

(14) S.I. 1983/883; article 10 was amended by S.I. 1996/1638 and 1993/598. There are other amendments to S.I. 1983/883 not relevant to these Regulations.

(15) 1917 c. 51, to which there are amendments not relevant to these regulations .

(16) S.I. 1983/883, article 26A was last amended by S.I. 2001/409.

(17) S.I. 1983/686; article 25A was last amended by S.I. 2001/420. There are other amendments to S.I. 1983/686 not relevant to these Regulations.

(18) S.I.1992/1814, as last amended by S.I. 2005/573.

(19) S.I. 1987/1971 as last amended by S.I. 2005/573.

(20) S.I. 1987/1967 as last amended by S.I. 2005/337.

(4) For the purposes of this regulation—

“householder” means a person who, alone or jointly with others, is a freeholder or a leaseholder with term of 21 years or more unexpired at the time of making the application for grant or a tenant, and

“tenant” includes a sub-tenant and a person who has—

- (a) a protected occupancy or statutory tenancy under the Rent (Agriculture) Act 1976(21);
- (b) a statutory tenancy under the Rent Act 1977(22);
- (c) a secure tenancy under Part IV of the Housing Act 1985(23) or an introductory tenancy under Chapter I of Part V of the Housing Act 1996(24);
- (d) a licence to occupy which meets the conditions in paragraph 12(a) and (b) Schedule 1 to the Housing Act 1985(25) (almshouse licences); or
- (e) an assured agricultural occupancy under Part I of the Housing Act 1988(26).

(5) For the purposes of this regulation, “partner” means—

- (a) on and before 4th December 2005, the spouse or person with whom the applicant lives as husband or wife, or the person with whom the applicant lives in a same-sex relationship such that they would be regarded as living together as husband or wife if that person and the applicant were two adults of the opposite sex;
- (b) on and after 5th December 2005, the spouse, civil partner or person with whom the applicant lives as husband or wife or as civil partner.

Purposes for which a grant may be approved

5.—(1) A works application for a grant may be approved for one or more of the following purposes—

- (a) to provide insulation in any accessible roof space in the dwelling, including the insulation of any cold-water tank and any water supply, overflow and expansion pipes in such a space;
- (b) to provide insulation between the internal and external leaves of cavity walls of the dwelling;
- (c) to provide 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) to provide insulation to any water heating system or to provide any part of such a system with insulation incorporated in it;
- (e) to provide gas room convector heaters with thermostat control;
- (f) to provide electric storage heaters;
- (g) to provide dual electric immersion water heaters with factory-insulated tank or electric or gas multipoint water heaters;

(21) 1976 c. 80; sections 2 and 3 make provision for protected occupancy, and sections 4 and 5 for statutory tenancy. Section 3 has been amended by section 76(3) of the Housing Act 1980 (c. 51) and section 81 of and Schedule 8 to the Civil Partnership Act 2004 (c. 33), section 4 by those provisions and section 155 and paragraph 72 of Schedule 23 to the Rent Act 1977 (c. 42) and sections 39 and 140 of and Schedule 4 (Part II) and Schedule 18 to the Housing Act 1988 c. 50, and section 5 was last amended by sections 128 and 137 of and Schedule 6 to the Criminal Justice and Police Act 2001 (c. 16). There are other amendments to the 1976 Act not relevant to these Regulations.

(22) 1977 c. 42, as last amended by paragraph 94 of Part 1 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4).

(23) 1985 c. 68, as last amended by paragraph 4 of the Schedule to S.I. 2005/1379.

(24) 1996 c. 52, as last amended by paragraphs 256 to 258 of Part 1 of Schedule 4 to the Constitutional Reform Act.

(25) Paragraph 12 of Schedule 1 to 1985 c. 68 was amended by section 78(1) of and paragraph 12 of Schedule 6 to the Charities Act 1992 (c. 41).

(26) 1988 c. 50, as last amended by paragraph 6 of the Schedule to S.I. 2005/1379.

- (h) to provide timer controls for electric space and water heaters;
- (i) to improve the energy efficiency of, or replace any part of, or repair any space or water heating system installed in the dwelling;
- (j) to provide a mains gas or oil-fired central heating system (including systems which generate electricity) with no more than six radiators;
- (k) to convert open solid fuel room fires to closed solid fuel room fires;
- (l) to provide a central heating system connected to the local community-heating grid, with no more than six radiators;
- (m) to provide space or water heating systems which use energy from renewable sources including solar, wind and hydro-electric power and near renewable resources including ground and air heat.

(2) Where a works application is approved for one or more of the purposes set out in paragraph (1), grant may also be approved for the provision of any of the following—

- (a) energy advice;
- (b) up to two energy efficient light bulbs.

(3) For the purposes of this regulation, “roof space” 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.

Grant maximum

6. An administering agency shall not pay a total amount of grant in respect of a works application exceeding the following amounts—

- (a) except where paragraph (b) applies, the amount properly charged for the works or £2,700, whichever is the less; or
- (b) where the work approved is to install oil fired central heating, the amount properly charged for the works or £4,000, whichever is the less.

Additional grants

7.—(1) An applicant may apply for an additional grant in respect of a dwelling for which grant has already been paid under either the 2000 Regulations or these Regulations, whether or not there has been a change of freeholder or leaseholder since grant was last paid, if the applicant meets the requirements of regulation 4 and, if applicable, satisfies the condition in paragraph (2) of this regulation.

(2) The condition referred to in paragraph (1) is that if the works application for additional grant is in respect of any one or more of the purposes in sub-paragraphs (a), (b), (e), (f), (g), (j) or (l) of regulation 5(1), the applicant has not previously received grant for that or those purposes, either under the 2000 Regulations or these Regulations.

(3) The amount of the additional grant shall be determined at the date of the works application for additional grant and calculated as the grant maximum determined under regulation 6 less the amount of grant already paid in respect of the dwelling (whether to the applicant or a previous freeholder or leaseholder) under either or both of the 2000 Regulations or these Regulations.

Grants received by instalments

8.—(1) An applicant may choose to have works provided, and thus for the grant to be made, over a period, not exceeding seven years, as may be agreed in writing with the administering agency.

(2) In such a case the works may be provided, and the grant made, in instalments.

(3) The total grant made shall not exceed the grant maximum calculated under regulation 6 at the date of the application for the grant.

Application for, and payment of, grant

9.—(1) A works application shall be made to the administering agency for the area in which the dwelling is situated.

(2) A works application shall be in writing, signed either by the applicant or by a person specified or of a description specified by the administering agency and shall be in such form and contain such particulars, subject to paragraph (3), as are laid down by the administering agency.

(3) The works application shall contain the following—

- (a) particulars of the dwelling in respect of which the grant is sought;
- (b) information about the applicant sufficient for the administering agency to check whether the applicant meets the criteria of eligibility set out in regulation 4;
- (c) a statement of the purposes for which the grant is sought;
- (d) a statement that reasonable access to the dwelling in respect of which the works application is made will be given to a representative of the administering agency to inspect the dwelling and carry out the works;
- (e) where the applicant wishes to receive grant over a period of time, a statement to that effect and the suggested period.

(4) The Secretary of State shall pay the grant to the administering agency.

Revocation and transitional provisions

10.—(1) Subject to paragraph (2), the following Regulations are revoked—

- (a) the 2000 Regulations;
- (b) the Home Energy Efficiency Scheme (England) (Amendment) Regulations 2002(27) ;
- (c) the Home Energy Efficiency Scheme (England) (Amendment) Regulations 2003(28);
- (d) the Home Energy Efficiency Scheme (England) (Amendment) (No. 2) Regulations 2003 (29);
- (e) the Home Energy Efficiency Scheme (England) (Amendment) Regulations 2004(30).

(2) The 2000 Regulations shall, subject to paragraph (3), continue to apply to any case where an application for a grant was made to a scheme manager under those Regulations before 1st July 2005.

(3) Where a person has applied for a grant under the 2000 Regulations, 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 administering agency shall, at the request of the applicant, treat the application as having been made under these Regulations.

(27) S.I. 2002/115.

(28) S.I.2003/1017.

(29) S.I. 2003/2263.

(30) S.I. 2004/2430.

1st June 2005

Elliot Morley
Minister of State
Department for Environment, Food and Rural
Affairs

We consent,

6th June 2005

Gillian Merron
Joan Ryan
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enable the Secretary of State to make or arrange for the making of grant for the improvement of energy efficiency in dwellings occupied by persons on low incomes with children, elderly persons on low incomes or persons in receipt of benefit relating to ill health. These Regulations extend to England only. They revoke and re-enact, with changes, in so far as they apply to England, the Home Energy Efficiency Scheme Regulations 2000 (S.I.2000/1280; the “2000 Regulations”).

Among the changes made by these Regulations are the following —

- (a) the qualifying cut-off point in relevant income for households in receipt of Working Tax and Child Tax Credit is increased to £15,050 (regulation 4(1)(e));
- (b) all eligible households under these Regulations will be eligible for either gas or oil-fired mains central heating where gas central heating is impractical (regulation 5(1)(j) and 6(b));
- (c) the maximum grant available under these Regulations is increased to £2,700, and £4,000 for households to be offered oil central heating (regulation 6);
- (d) where assistance has already been received in respect of a dwelling under the 2000 Regulations or these Regulations, it will also be able to apply, if eligible, for further assistance under these new Regulations (regulation 7); and
- (e) it is made clear that grant is paid to the administering agency (and not the applicant) (regulation 9(4)).

Regulation 10 contains revocation and transitional provisions. A person who applied for a grant under the 2000 Regulations may, where the works have not been commenced, have the application dealt with in accordance with these Regulations.