

**EXPLANATORY MEMORANDUM TO**  
**THE HOUSING RENEWAL GRANTS (AMENDMENT) (ENGLAND) REGULATIONS**  
**2009**

**2009 No. 1807**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government (“the Department”) and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the Instrument**

2. This instrument makes changes to the means test for disabled facilities grant, as it applies in England, which is set out in the Housing Renewal Grants Regulations 1996 (S.I. 1996/2890) (“the 1996 Regulations”) to take account of new benefits and allowances introduced by the Welfare Reform Act 2007.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3. None

**4. Legislative Context**

4.1 The Housing Grants, Construction and Regeneration Act 1996 (“the 1996 Act”) introduced various forms of grant for improvement of housing stock, including grants to provide better facilities for disabled occupants (“disabled facilities grant”). Following extensive amendments made to the 1996 Act by the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), disabled facilities grant is the only form of grant which now remains available.

4.2 Section 30 of the 1996 Act gives the Secretary of State power, as regards England, to make regulations, with the consent of the Treasury, setting out the means testing regime to be applied in the case of an application for a disabled facilities grant. The means testing regime is set out in the 1996 Regulations. Regulations may, in particular, make provision for account to be taken of the income, assets, needs and outgoings of the applicant, the applicant’s spouse or civil partner, any person living with the applicant or intending to live with the applicant and any person on whom the applicant is dependent or who is dependent on the applicant. They may also make provision for amounts specified in or determined under the regulations to be taken into account for particular purposes.

**5. Territorial Extent and Application**

5. This instrument applies to England.

**6. European Convention on Human Rights**

6. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 Employment and support allowance is a new social security benefit introduced by the Welfare Reform Act 2007. There are two kinds of employment and support allowance: contributory employment and support allowance, and income-related employment and support allowance.

7.2 Contributory employment and support allowance replaces incapacity benefit for new claims made on or after 27 October 2008. Income-related employment and support allowance replaces income support for most new claims made on the grounds of incapacity for work on or after 27 October 2008.

7.3 Applications for disabled facilities grants are subject to a means test conducted in accordance with the 1996 Regulations. Under those Regulations if the relevant person is in receipt of, and legally entitled to, income support, the whole of that person's income and capital are disregarded when calculating their means. They are thereby entitled to a disabled facilities grant without the need to make a contribution towards the cost of the works.

7.4 Incapacity benefit is not disregarded for means-testing purposes. However, receipt of incapacity benefit can trigger entitlement to the disability premium and consequently to a higher earnings disregard of £20.

7.5 The policy intent of the accompanying instrument is to give a person who is in receipt of income-related employment and support allowance access to disabled facilities grant without the need to make a contribution towards the cost of the works.

7.6 In making this change the Department has also amended the definition of "young person". The definition needs to reflect changes made to the definition of "young person" in social security legislation in respect of various benefits and allowances referred to in the 1996 Regulations.

### **Consolidation**

7.7 The 1996 Regulations have been amended on numerous occasions and so the Department is currently preparing consolidating Regulations which will be made later this year. However, the Department considers that the amendments made by these Regulations should be made now in order to ensure that applicants for disabled facilities grants who are in receipt of any of the benefits and allowances recently introduced will have them disregarded, where appropriate, when determining the amount of grant to be given.

## **8. Consultation outcome**

8. There has been no formal consultation on these changes as they are being introduced to reflect the changes made by social security legislation and to simplify the process for applying for a disabled facilities grant when in receipt of certain benefits and allowances.

## **9. Guidance**

9. The Department will be writing to all local housing authorities to advise them of these Regulations and to explain their effect.

**10. Impact**

10.1 The instrument has no impact on business, charities or voluntary bodies.

10.2 These changes are not estimated to impact on the public sector.

10.3 An impact assessment has not been prepared for this instrument.

**11. Regulating small business**

11. The legislation does not apply to small business.

**12. Monitoring & review**

12. The Department will be reviewing the means test set out in the 1996 Regulations over the course of the next year and in particular will be looking at the fairness and appropriateness of the test.

**13. Contact**

Dylan Grimes at the Department for Communities and Local Government Tel: 020 7944 6544 or e-mail: [Dylan.Grimes@communities.gsi.gov.uk](mailto:Dylan.Grimes@communities.gsi.gov.uk) can answer any queries regarding the instrument.

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