WELSH STATUTORY INSTRUMENTS

2011 No. 656 (W.94)

ENERGY CONSERVATION, WALES

The Home Energy Efficiency Schemes (Wales) Regulations 2011

Made - - - -	*6 March 2011*
Laid before the National Assembly for Wales - -	*8 March 2011*
Coming into force - -	*1 April 2011*

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 [F1] which is now exercisable by the Welsh Ministers in relation to Wales [F2].

Annotations:

F1 1990 c. 27; section 15 was amended by section 142 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53).

F2 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.

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 [F3];

"the 2010 Amendment Regulations" ("*Rheoliadau Diwygio 2010*") means the Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2010 [F4];

"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;

"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 **[**F5Energy Performance of Buildings (England and Wales) Regulations 2012**]**;

"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 F6;

[F7"Means-tested benefit" ("*budd-daliad sy'n dibynnu ar brawf modd*") means—

(a) income support and housing benefit (each as defined in Part VII of the Social Security Contributions and Benefits Act 1992);

(b) council tax reduction scheme (as defined in Local Government Finance Act 1992);

(c) state pension credit (as defined in the State Pension Credit Act 2002);

(d) working tax credit and child tax credit (each as defined in the Tax Credits Act 2002) provided that in each case the income of the applicant does not exceed the relevant income threshold;

(e) income-related employment and support allowance (as defined in the Welfare Reform Act 2007); and

(f) universal credit (as defined in the Welfare Reform Act 2012);**]**

"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;

F8...

"private occupancy" ("*meddiannaeth breifat*") 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 F9...;

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

"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.

Annotations:

F3 S.I. 2007/375 (W.35).

F4 S.I. 2010/453 (W.49).

F5 Words in reg. 2 substituted (1.4.2018) by The Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2018 (S.I. 2018/319), regs. 1(2), **3(a)** (with reg. 7)
F6 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.
F7 Words in reg. 2 substituted (30.11.2013) by The Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2013 (S.I. 2013/2843), regs. 1(2), **3(1)**
F8 Words in reg. 2 omitted (1.4.2018) by virtue of The Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2018 (S.I. 2018/319), regs. 1(2), **3(b)** (with reg. 7)
F9 Words in reg. 2 omitted (30.11.2013) by virtue of The Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2013 (S.I. 2013/2843), regs. 1(2), **3(2)**

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 **[**F10**]**54**]** or less.

[F11**]**(3A) A works application may not be made in respect of a dwelling where—

(a) a works application has previously been made in respect of the same dwelling;

(b) the application has been approved;

(c) the carrying out of works in relation to that application has been completed.**]**

F12(3) . . . . . .

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

Annotations:

F10 Word in reg. 5(2)(c) substituted (1.4.2018) by The Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2018 (S.I. 2018/319), regs. 1(2), **4(a)** (with reg. 7)

F11 Reg. 5(3A) inserted (1.4.2018) by The Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2018 (S.I. 2018/319), regs. 1(2), **4(b)** (with reg. 7)

F12 Reg. 5(3) omitted (1.4.2018) by virtue of The Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2018 (S.I. 2018/319), regs. 1(2), **4(c)** (with reg. 7)

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 [F13];"

(n) the provision of water-saving measures;

[[F14](na) the provision of low energy light bulbs;**]**

(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.

(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.

Annotations:

F13 1976 c. 76.

F14 Reg. 6(1)(na) inserted (1.4.2018) by The Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2018 (S.I. 2018/319), regs. 1(2), **5** (with reg. 7)

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; [F15]...

[[F16](ba) by reference to the asset rating of a dwelling; and

(bb) by reference to whether a dwelling is or is not connected to the gas network.**]**

[F17](c) . . . . . .

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