WELSH STATUTORY INSTRUMENTS

2007 No. 375 (W.35)

ENERGY CONSERVATION, WALES

The Home Energy Efficiency Schemes (Wales) Regulations 2007

Made - - - -	*13 February 2007*
Coming into force - -	*14 February 2007*

The National Assembly for Wales makes the following Regulations in exercise of the power conferred on the Secretary of State by section 15 of the Social Security Act 1990(**1**), which is now exercisable by the National Assembly in relation to Wales(**2**):

Title, commencement and application

1.—(1) The title of these Regulations is the Home Energy Efficiency Schemes (Wales) Regulations 2007 and they come into force on 14 February 2007.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

"the 1992 Act" ("*Deddf 1992*") means the Social Security Contributions and Benefits Act 1992(**3**);

"the 2000 Regulations" ("*Rheoliadau 2000*") means the Home Energy Efficiency Schemes (Wales) Regulations 2000(**4**);

"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;

"the Assembly" ("*y Cynulliad*") means the National Assembly for Wales;

"energy advice" ("*cyngor ynni*") means advice on reducing or preventing the wastage of energy in a dwelling;

(**1**) 1990 c. 27; section 15 was amended by section 142 of the Housing Grants, Construction and Regeneration Act 1996 (c. 53).
(**2**) *See* the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).
(**3**) 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.
(**4**) S.I. 2000/2959 (W. 190).

"HEES" ("*HEES*") means the categories of works available under the Home Energy Efficiency Scheme as determined by the Assembly in accordance with Regulation 7(2);

"HEES Plus" ("*HEES a Mwy*") means the categories of works available under the Home Energy Efficiency Plus Scheme as determined by the Assembly in accordance with Regulation 7(2);

"partial grant application" ("*cais am grant rhannol*") means an application in which the applicant does not propose that an area agency will arrange for the carrying out of the works in respect of which a grant is sought;

"works" ("*gweithfeydd*") means any of the works, materials or energy advice specified in Regulation 6; and

"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), the 2000 Regulations are revoked.

(2) Subject to paragraph (3), the 2000 Regulations continue to apply to any case where an application for a grant was made before 14 February 2007 under those Regulations.

(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 area agency must, at the request of the applicant, treat the application as having been made under these Regulations.

Powers of the Assembly

4.—(1) The Assembly 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 Assembly may specify for the purpose of, or otherwise in connection with, the making of grants and arranging for the carrying out of works under HEES and HEES Plus.

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

(3) In making or arranging for the making of any grant, the Assembly may impose such conditions as it sees fit.

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

Persons who may apply for a grant

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

(a) is, or is living with a partner who is, in receipt of a benefit to which paragraph (3) 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 16 years of age; or

(b) is, or is living with a partner who is, in receipt of a benefit to which paragraph (3) applies and who is, or is living with a partner who is, a pregnant woman in respect of whom a maternity certificate (which certificate is provided for in regulation 2(3) of the

Social Security (Medical Evidence) Regulations 1976(**5**) and regulation 2 of the Statutory Maternity Pay (Medical Evidence) Regulations 1987(**6**)) has been given in relation to the pregnancy concerned; or

(c) is a person who has a relevant income of less than £15,460 and who is in receipt of child tax credit or working tax credit (each as provided for in the Tax Credits Act 2002(**7**)); or

(d) is a person who has a relevant income of less than £15,460 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 who is under 16 years of age.

(2) A works application for a grant under HEES Plus in respect of a dwelling may be entertained from a person who is the householder of the dwelling and occupies the dwelling as that person's only or main residence and who, at the time the application is made—

(a) is, or is living with a partner who is, aged 80 years or over; or

(b) is, or is living with a partner who is, in receipt of a benefit to which paragraph (4) applies; or

(c) is, or is living with a partner who is, in receipt of a benefit to which paragraph (3) applies and who has attained, or is living with a partner who has attained, the age of 60; or

(d) is, or is living with a partner who is, in receipt of state pension credit (as provided in the State Pensions Credit Act 2002(**8**)); or

(e) is a lone parent and who is in receipt of a benefit to which paragraph (3) applies; or

(f) 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 16 years of age and a benefit to which paragraph (4) applies is being paid to or in respect of that child.

(3) This paragraph applies to council tax benefit, housing benefit and income support (each as provided for in Part VII of the 1992 Act) and an income-based jobseeker's allowance (within the meaning of the Jobseekers Act 1995(**9**)).

(4) This paragraph applies to—

(a) a working tax credit which includes a disability element;

(b) an attendance allowance, that is to say—

(i) an attendance allowance under section 64 of the 1992 Act; or

(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**); or

(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 of sub-paragraphs (i) to (iv) of this definition;

(**5**) S.I. 1976/615; regulation 2(3) has been amended by S.I. 1987/409 and 2001/2931.
(**6**) S.I. 1987/235; regulation 2 was amended by S.I. 2001/2931.
(**7**) 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).
(**8**) 2002 c. 16. The Act was last amended by S.I. 2006/343.
(**9**) 1995 c. 18 as amended by section 254 of, and Part 7 of Schedule 24 to, the Civil Partnership Act 2004.
(**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 S.I. 1984/1675.

(c) disability living allowance (under section 71 of the 1992 Act(**12**));

(d) war disablement pension within the meaning of 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 (including that article as applied by article 48A of that scheme)(**17**), 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);

(e) council tax benefit, housing benefit and income support (in each case where payment includes a disability premium as provided for in the Housing Benefit Regulations 2006(**18**), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(**19**), the Council Tax Benefit Regulations 2006(**20**), the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(**21**), and the Income Support (General) Regulations 1987(**22**) respectively) and industrial injuries disablement benefit under sections 103 to 105 of the 1992 Act (where it includes constant attendance allowance).

(5) A partial grant application may be entertained from a person who has attained, or who is living with a partner who has attained, the age of sixty and who occupies the dwelling as that person's only or main residence and who either owns the freehold of it or has a leasehold interest in it of not less than 21 years.

(6) In the case of dwellings in multiple occupation, the area agency is to determine the number of eligible householders in the dwelling which is the subject of an application. If the number of eligible householders exceeds 50% of the total number of householders in the dwelling, an application in respect of the dwelling may be entertained.

(7) For the purposes of this Regulation—

"householder" ("*deiliad*") means a person who, alone or jointly with others, is a freeholder or tenant;

"lone parent" ("*rhiant unigol*") means a parent or other person who is not living with a partner, and who is in receipt of child benefit (under section 141 of the 1992 Act) in relation to a child under 16 years of age and who is responsible for and a member of the same household as that child;

"partner" ("*partner*") means the spouse, civil partner or person with whom the applicant lives as husband or wife or as civil partner;

(**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.
(**14**) S.I. 1983/883; article 10 was amended S.I. 2005/851, 1996/1638 and 1993/598.
(**15**) 1917 c. 51, to which there are amendments not relevant to these Regulations.
(**16**) S.I. 1983/883; article 26A was added by S.I. 1983/1116 and amended by S.I. 1983/1521, 1986/592, 1990/1308, 1991/766, 1992/710, 1995/766, 1997/286 and 2001/409.
(**17**) SI 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, 1995/455, 1997/812 and 2001/420.
(**18**) S.I. 2006/213.
(**19**) S.I. 2006/214.
(**20**) S.I. 2006/215.
(**21**) S.I. 2006/216.
(**22**) S.I. 1987/1967 as last amended by S.I 2005/337.