

**EXPLANATORY MEMORANDUM TO
THE HOME ENERGY EFFICIENCY SCHEMES (WALES) (AMENDMENT)
REGULATIONS 2010**

2010 No. 453 (W.49)

This Explanatory Memorandum has been prepared by the Climate Change and Water Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Home Energy Efficiency Schemes (Wales) (Amendment) Regulations 2010 and I am satisfied that the benefits outweigh any costs.

Jane Davidson

Minister for Environment, Sustainability and Housing

24 February 2010

1. Description

In November 2009 Jane Davidson launched a Fuel Poverty Strategy consultation in which interim changes to the Home Energy Efficiency Scheme (HEES) were proposed. The proposed changes included the piloting of whole house assessments and energy performance improvement packages in a small number of households to test costs, benefits and operational processes. The purpose of the proposed piloting exercise is to gather information from the management and delivery of the energy improvement packages to help inform the development of an improved all Wales programme to replace HEES. These Regulations amend the legislation which establishes HEES to enable the piloting exercise to proceed.

2. Matters of special interest to the Subordinate Legislation Committee

The amendment Regulations:

- Enable individual whole house energy improvement packages of up to £12,000 per property to be offered to a small number of householders who are eligible to apply for the existing HEES grants and live in privately owned or privately rented properties which are particularly energy inefficient (properties with an energy performance rating of F or G);
- Enable solid wall insulation to be offered under the Scheme as part of the individual whole house energy improvement packages;
- Increase the “relevant income” threshold which applies to applicants applying for a grant on the basis of their eligibility for a child tax credit or a working tax credit (to reflect the increase to those thresholds made by the Treasury in consequence of its annual review of those thresholds under the Tax Credits Act 2002);
- prescribe the categories of works for which grant can be approved;
- enable grant to be paid for additional minor works if grant has been approved for any of the categories of works set out in the Scheme Regulations;
- Make transitional arrangements so that applicants who would be eligible to apply for the energy improvement package under the amended Regulations, can still be considered for an energy improvement package, notwithstanding that they applied before the amendments come into force; but only if the decision to approve or decline their application falls to be made after the amendments come into force;
- do not affect the eligibility of applicants to be considered for existing HEES grants when the funding available for energy improvement packages has been utilised or the required number of households assisted;

3. Legislative background

Section 15(1) of the 1990 Social Security Act (as amended by section 142 of the Housing Grants, Construction and Regeneration Act 1996) provides that the Secretary of State may make, or arrange for the making of, grants towards the cost of work or advice to improve thermal insulation or otherwise to reduce or prevent energy wastage in dwellings. The Secretary of State's functions under this provision were made exercisable, in relation to Wales, by the Assembly concurrently with the Secretary of State by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999. They are now exercisable in relation to Wales by the Welsh Ministers 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.

The instrument is subject to the negative resolution procedure.

4. Purpose & intended effect of the legislation

The purpose of the amended Regulations is to enable a project to be carried out to assess the technical and operational aspects of providing individual whole house energy improvement packages under the Home Energy Efficiency Scheme (HEES). The project will help inform the development of a new programme of support to replace HEES.

HEES is the Welsh Assembly Government's main vehicle for tackling fuel poverty in Wales. The scheme provides insulation and heating measures to eligible households in receipt of certain qualifying benefits and credits that are set out in *The Home Energy Efficiency Schemes (Wales) Regulations 2007*. HEES has been successful in assisting over 105,000 households to improve the energy efficiency of their properties and reduce their fuel bills since it was established in 2000, but it has been less successful in targeting households who are fuel poor and in assisting households living in hard to treat properties.

Significant increases in fuel prices in recent years have led to an increase in the number of households in Wales living in fuel poverty. The Assembly Government is committed to tackling fuel poverty and if it is to meet its target to eradicate fuel poverty, as far as is reasonably practicable, in all households in Wales by 2018, action needs to be taken to focus resources on those households most in need. Households most likely to be in fuel poverty are those on the lowest incomes, living in the most energy inefficient properties.

The Assembly Government's draft Fuel Poverty Strategy proposes to replace HEES with a new, improved programme of support that will provide advice to all householders on reducing their fuel bills, ensure better co-ordination of energy supplier and Assembly Government funding, and provide Assembly Government funded whole house energy improvement packages to eligible householders who are most in need and living in the most energy inefficient properties. The draft Fuel Poverty Strategy sets out proposals to undertake a project to test the delivery of the energy improvement packages to help inform the development of the new programme.

The eligibility criteria and range of energy efficiency measures available under HEES are set out in Regulations. In order to test the costs, benefits and processes involved in the delivery of energy improvement packages, the existing Regulations need to be amended to expand the range of measures available and to specify that a higher level of funding is available to eligible households living in F or G rated properties.

5. Consultation

Details of consultations undertaken are included in the RIA below.

PART 2 – REGULATORY IMPACT ASSESSMENT

7. Options

Two main options have been considered for taking forward a project to test individual whole house energy improvement packages. These are:

Option 1 - Do Nothing/status quo

If a project to test individual whole house energy improvement packages is undertaken without amending the existing Regulations for HEES, and householders are offered energy efficiency measures that are not listed in the Regulations, or the cost of measures provided exceeds the existing grant maximum, the Assembly Government will be acting outside its legal powers. 'Do nothing' is not therefore considered to be an acceptable option.

Option 2 - Amend Regulations

Identifying the most appropriate and cost effective package of measures for different property types will require a wider range of measures and a higher funding maximum than is currently available under HEES. The eligibility criteria and range of measures available under HEES is set out in Regulations so an amendment to the Regulations is required to provide a legal basis on which the project can be undertaken. In addition, the Regulations need to be amended to reflect recent changes to the income thresholds for child tax credits and working tax credits so both changes can be covered under the same Regulations.

8. Costs & benefits

Option 1- Do Nothing/status quo

No additional direct costs would be incurred under Option 1. However, no additional environmental or social benefits would be realised. Households living in the most energy inefficient properties would not receive the increased support to reduce their energy use and fuel bills, no additional improvements would be made in achieving the Assembly Government's fuel poverty targets or

reductions in carbon emissions, and no evidence would be gathered on the operational and technical aspects of delivering whole house energy improvement packages to inform the development of a new programme to replace HEES.

Option 2 - Amend Regulations

Direct costs will be incurred under this option as the average expenditure per household under the existing HEES grants is around £1,400 while it is assumed that the average expenditure per household for the improvement packages will be around £7,500. In order to ensure that there is no reduction in the number of households that can be assisted under HEES while the energy improvement packages are tested, additional funding for the project is being made available by the Climate Change and Water Department from the £26 million funding provided under the Strategic Capital Investment Fund (SCIF). The estimated total expenditure on the project is expected to be around £2 million, depending on actual spend required per household. The funding will be one-off and once it has been utilised, eligible applicants will be offered the support available through the existing HEES grants. This means that the number of households who can receive help under the HEES Scheme will be unaffected and that the whole house energy improvement packages will result in additional households receiving assistance.

It is estimated that the £2 million investment will provide total savings in energy bills of around £1.3 million and savings in CO₂ emissions of 8,300 tonnes by 2020.

In addition to financial and environmental benefits, improving the energy efficiency of homes and reducing the likelihood of fuel poverty will provide a number of social benefits. Living in a cold home is known to impact adversely on the health and well being of householders and this investment will help minimise the risks of:

- increased respiratory illnesses including asthma
- Increased blood pressure and risk of heart attack and stroke
- Increased levels of slips, trips and falls, particularly in older people as cold can reduce mobility and cause a worsening in the symptoms of arthritis
- Social isolation leading to impaired mental health because of a reluctance to invite friends into a cold, damp home
- In direct health impacts as householders have less money available for food, other day to day expenses and social activity
- Stress and mental health issues driven by concerns over bills and/or energy debt
- Impacts on education where only one room may be properly heated, resulting in the lack of a quiet, warm space to study or increased levels of absenteeism as a result of sickness
- Impacts on the economy because of increased levels of sickness. Reducing money spent on energy bills can have positive effects on local

regeneration because people have more money to spend in the local economy

- Increased pressure and cost on health and care services

9. Competition Assessment

We do not consider there to be any competition issues. The proposed amendments to the HEES Regulations will have no detrimental effect on business, charities or the voluntary sector

10. Consultation

No separate consultation has been undertaken in respect of these Regulations as the changes which they make to HEES are solely for the purposes of enabling information to be gathered by means of the piloting exercise. The piloting exercise will be temporary in nature and will last until the allocated funds are exhausted, or until two hundred and fifty households have had energy improvement packages based on a whole house assessment. The information gathered from the piloting exercise will inform the new programme of measures to replace HEES and that programme of measures will be subject to a full consultation exercise.

Initial proposals for revising HEES were set out in the draft National Energy Efficiency and Savings Plan (NEESP), which was published for consultation in 2009. A copy of the NEESP consultation document and a summary of the responses received to the consultation can be accessed from the following link:

<http://wales.gov.uk/consultations/environmentandcountryside/energysavingsplan/?lang=en&status=closed>

Elements within NEESP that focussed on fuel poverty, and the responses received to the consultation, were taken forward in a new draft Fuel Poverty Strategy that went out to consultation in November 2009. A copy of the draft Strategy can be accessed from the link below:

<http://wales.gov.uk/consultations/environmentandcountryside/fuelpoverty/?lang=en&status=closed>

The draft Strategy set out the Assembly Government's approach to tackling fuel poverty in Wales. Proposals included setting up a new, improved all Wales programme of support to replace HEES that will offer advice to all households on reducing their fuel bills and provide Assembly Government funded energy improvement packages to households most in need and living in the most energy inefficient properties. The Strategy proposed undertaking a project to test the delivery of the packages to help inform the development of the new programme.

Consultation on the Fuel Poverty Strategy closed on 4 January 2010 and responses are being considered.

10. Post implementation review

The amended Regulations will be reviewed once the target number of households has been reached or the funding available for the project has been utilised.

New Regulations will be drafted when the Fuel Poverty Strategy is finalised and a new all Wales programme to replace HEES has been developed. The new Regulations will be subject to consultation and will revoke the HEES Regulations, as amended by these Regulations.

11. Summary

For the reasons set out above, the Assembly Government considers that the right option is Option 2.