

Draft Regulations laid before Parliament under section 105(3) of the Energy Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2022 No. 0000

ENERGY, ENGLAND AND WALES

The Boiler Upgrade Scheme (England and Wales) Regulations 2022

| | | | | | |
|--------------------------|---|---|---|---|-----|
| <i>Made</i> | - | - | - | - | *** |
| <i>Coming into force</i> | - | - | | | *** |

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 100 and 104(2) of the Energy Act 2008⁽¹⁾. In accordance with section 105(3)(2) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament. In accordance with section 148A of the Government of Wales Act 2006⁽³⁾ the Secretary of State has consulted the Welsh Ministers.

PART 1

Introductory provisions

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Boiler Upgrade Scheme (England and Wales) Regulations 2022 and come into force on the day after the day on which they are made.

(2) These Regulations extend to England and Wales only.

Interpretation

2.—(1) In these Regulations—

-
- (1) [2008 c. 32](#). Section 100 was amended by section 51 of the Infrastructure Act [2015 \(c. 7\)](#) and by [S.I. 2011/2195](#).
- (2) Section 105 (Parliamentary control of subordinate legislation) was amended by section 51 of the Infrastructure Act 2015 which inserted subsections (3A) to (3I) concerning provisions which require the affirmative resolution procedure.
- (3) [2006 c. 32](#). Section 148A, which was added by section 55(1) of the Wales Act [2017 \(c. 4\)](#), requires the Secretary of State to consult the Welsh Ministers before establishing a renewable energy incentive scheme under section 100 of the Energy Act 2008 (the “2008 Act”) that applies in Wales, but not in relation to any levy in connection with such a scheme.

“air source heat pump” means a plant⁽⁴⁾ which generates heat using a thermodynamic cycle by transferring energy stored in the form of heat in the ambient air outside a property and uses that energy to heat a liquid;

“boiler upgrade grant” means the grant, the value of which has been published under regulation 13(1) or (4), which is payable by the Authority⁽⁵⁾ to an installer under these Regulations in relation to the installation of—

- (a) an air source heat pump,
- (b) a ground source heat pump, or
- (c) a biomass boiler;

“boiler upgrade voucher” has the meaning given in regulation 15(1);

“biomass boiler” means a plant which—

- (a) is designed and installed to burn solid biomass⁽⁶⁾ to provide heat,
- (b) is designed to minimise direct heat loss to the immediate area in which it is installed,
- (c) is not capable of providing heat to a property without using a liquid to deliver that heat, and
- (d) is not designed to generate heat for the purpose of cooking food;

“building” means a roofed construction having walls, for which energy is used to condition the indoor climate, and reference to a building includes reference to a building unit in that building;

“building unit” means a section, floor or apartment within a building which is designed or altered to be used separately;

“commencement date” means the day on which these Regulations come into force;

“commissioned”, in relation to a plant, means the completion of such procedures and tests as constitute, at the time they are undertaken, the usual industry standards and practices for that type of plant which demonstrate that it is capable of operating and generating heat;

“connected person”, in relation to an installer, means any person connected to them within the meaning of section 1122 of the Corporation Tax Act 2010⁽⁷⁾;

“consumer code” means a code of practice approved by the Chartered Trading Standards Institute⁽⁸⁾;

“eligible plant” has the meaning given in regulation 8;

“eligible property” has the meaning given in regulation 5;

“energy performance certificate” has the meaning given in regulation 2(1) of the EPB Regulations;

“the EPB Regulations” means the Energy Performance of Buildings (England and Wales) Regulations 2012⁽⁹⁾;

“financial year” means—

- (a) the period beginning with the commencement date and ending with 31st March 2023, or
- (b) any subsequent 12 month period beginning with 1st April and ending with the following 31st March;

(4) And see section 100(3) of the 2008 Act for the definition of “plant”.

(5) And see section 100(3) of the 2008 Act for the definition of “Authority”.

(6) And see section 100(3) of the 2008 Act for the definition of “biomass”.

(7) 2010 c. 4.

(8) The Chartered Trading Standards Institute is a Royal Charter company registered in England and Wales with company no. RC000879.

(9) S.I. 2012/3118, as amended by S.I. 2013/10, 181 and 603, 2014/880, 2015/609 and 1681, 2016/284 and 888, 2017/368, 2018/362, 2020/1422, and 2021/370 and 439.

- “grant application” has the meaning given in regulation 14(1);
- “grant change notice” has the meaning given in regulation 13(4);
- “ground source heat pump” means a plant which generates heat using a thermodynamic cycle by transferring energy stored in the form of heat from the ground, including water in the ground or surface water or both, and uses that energy to heat a liquid;
- “heat pump” means a plant which is an air source heat pump or a ground source heat pump but not both;
- “installer” means a person who is certified by the Microgeneration Certification Scheme⁽¹⁰⁾ or a scheme—
- (a) which is equivalent to the Microgeneration Certification Scheme, and
 - (b) under which installers are certified to standards equivalent to the Microgeneration Certification Scheme’s standards by a certification body or organisation accredited by UKAS to the standard approved by the Secretary of State under regulation 4(1)(a);
- “installer obligation” means an obligation specified in regulation 17;
- “mains gas” means a supply of the kind mentioned in section 5(1)(b) of the Gas Act 1986⁽¹¹⁾;
- “NOx” means oxides of nitrogen;
- “original heating system” has the meaning given in regulation 5(1)(c)(ii);
- “PM” means particulate matter;
- “properly made”—
- (a) in the case of a grant application, means an application which provides the information required by regulation 14(3), and in relation to which any information specified in a notice issued in accordance with regulation 14(4) or (5) has been received by the Authority,
 - (b) in relation to a redemption application, means an application which provides the information required by regulation 16(3), and in relation to which any information required by a notice issued in accordance with regulation 16(4) has been received by the Authority;
- “quarter” means a period of three months beginning with 1st January, 1st April, 1st July, or 1st October;
- “recommendation report” has the meaning given in regulation 4(1) of the EPB Regulations;
- “redemption application” has the meaning given in regulation 16(1);
- “related property”, in relation to an eligible property, or property to which regulation 14(1)(b) applies, means any building or swimming pool which is used by, or available for the use of, an owner or occupier of that property and where the building, building unit or swimming pool is not covered by the valid energy performance certificate for that property;
- “relevant installation standard” has the meaning given in paragraph 2 of Schedule 4;
- “relevant financial year” means a financial year beginning with—
- (a) the commencement date,
 - (b) 1st April 2023, or
 - (c) 1st April 2024;
- “the Scheme” has the meaning given in regulation 3;

⁽¹⁰⁾ Details of the scheme are available at www.mscertified.com.

⁽¹¹⁾ 1986 c. 44. Section 5 was substituted by section 3 of the Gas Act 1995, and sub-section (1)(b) was amended by S.I. 2012/2400.

“UKAS” means the United Kingdom Accreditation Service, a company limited by guarantee and incorporated in England and Wales under number 3076190;

“urban area” means an area classified as urban in the “2011 rural-urban classification of output areas” published by the Office for National Statistics in August 2013⁽¹²⁾.

(2) For the purposes of these Regulations, an energy performance certificate for a property is “valid” if—

- (a) it was entered on the register required to be maintained under regulation 27(1) of the EPB Regulations no more than 10 years before the date on which it is relied on for the purposes of a grant application in relation to that property, and
- (b) no other energy performance certificate for the property has since been entered on the register.

(3) Where there is more than one owner of a property, then any reference in these Regulations to the owner of the property includes any person who is an owner of the property.

(4) For the purposes of these Regulations, a scheme is equivalent to the Microgeneration Certification Scheme if it is approved as equivalent by the Secretary of State.

(5) For the purposes of these Regulations, a property does not cease to be “fuelled by mains gas” if the supply meter point in relation to the property is capped or clamped, where “supply meter point” has the meaning given in the Uniform Network Code (as defined in section 36C(7) of the Gas Act 1986)⁽¹³⁾.

The Boiler Upgrade Scheme

3. A scheme to be known as the Boiler Upgrade Scheme, which is a scheme to facilitate and encourage the use of heat pumps and biomass boilers in the space and water heating of certain properties (“the Scheme”), is established by these Regulations.

Approval of standards or schemes by the Secretary of State

4.—(1) The Secretary of State must approve—

- (a) a standard for the purposes of—
 - (i) the definition of “installer” in regulation 2(1), and
 - (ii) paragraph 1(b)(i) of Schedule 4,
- (b) one or more standards for heat pumps for the purposes of regulation 9(1)(c),
- (c) a standard for the purposes of regulation 9(1)(d),
- (d) one or more standards for biomass boilers for the purposes of regulation 10(1)(c),
- (e) a standard for the purposes of paragraph 1 of Schedule 1,
- (f) a standard for the purposes of paragraph 2 of Schedule 1,
- (g) a standard in relation to NO_x emissions and a standard in relation to PM emissions for the purposes of paragraph 3(a) of Schedule 1,
- (h) one or more installation standards for—
 - (i) biomass boilers, and
 - (ii) heat pumps,

⁽¹²⁾ ISBN 978 0 580 78472 9. This international standard was published by the British Standards Institution on 31st October 2012; which defines an urban area as one with a population of 10,000 people or more.

⁽¹³⁾ Section 36C(7) was inserted by section 81(1) of the Energy Act 2011 (c. 16). See paragraph A4.1.1 of the Transportation Principal Document of the Uniform Network Code, issued on 24th July 2020, for the definition of “supply meter point”. Copies of that document are available at www.gasgovernance.co.uk/TPD. Hard copies are not available.

for the purposes of paragraph 2(a) of Schedule 4, and

- (i) a scheme deemed to be equivalent to the Microgeneration Certification Scheme by the Secretary of State.
- (2) The Secretary of State may withdraw the approval of any standard or scheme under paragraph (1).
- (3) The Secretary of State must—
 - (a) publish the details of the standards or schemes first approved under paragraph (1) before the end of the commencement date to have effect from that date,
 - (b) publish the details of any subsequent standard or scheme which is approved under paragraph (1), and the date from which it is approved, and
 - (c) where the approval of a standard or scheme is withdrawn under paragraph (2), publish that fact together with the date on which it ceased to be approved.

PART 2

Eligible properties

Eligible properties

- 5.—(1) For the purposes of these Regulations, a property is an eligible property where—
- (a) it is a building,
 - (b) it is not social housing,
 - (c) if it was, or will be, first occupied or used before the date on which the relevant eligible plant is commissioned—
 - (i) it meets the requirements in regulation 6 (insulation requirements), and
 - (ii) the system providing space heating or water heating, or both, of the property prior to the installation and commissioning of the eligible plant (the “original heating system”) is—
 - (aa) fuelled by fossil fuel⁽¹⁴⁾, or
 - (bb) an electric heating system, and
 - (d) if it will be first occupied or used on or after the date on which the relevant eligible plant is commissioned, it meets the requirements in regulation 7 (requirements for new build properties).
- (2) For the purposes of this regulation—
- (a) “electric heating system” means a heating system which provides heat generated wholly or mainly from electricity, but does not include a heat pump,
 - (b) “relevant eligible plant”, in relation to a property, means the eligible plant which is installed in relation to that property,
 - (c) “social housing” has the meaning given in section 68 of the Housing and Regeneration Act 2008⁽¹⁵⁾.

⁽¹⁴⁾ See section 100(3) of the 2008 Act for the definition of “fossil fuel”.

⁽¹⁵⁾ 2008 c. 17.