

EXPLANATORY MEMORANDUM TO
THE HOUSING RENEWAL GRANTS (AMENDMENT) (WALES)
REGULATIONS 2010

This Explanatory Memorandum has been prepared by the Housing and Communities Policy Team of the Housing Directorate and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

1. These Regulations amend (in relation to Wales) the Housing Renewal Grants Regulations 1996 (S.I. 1996/2890) (“the 1996 Regulations”), which set out the means test for determining the amount of grant which may be paid by local housing authorities under Chapter 1 of Part 1 of the Housing Grants, Construction and Regeneration Act 1996 (“the 1996 Act”).

Matters of special interest to the Subordinate Legislation Committee

2. None at this stage.

Legislative Background

3. This SI is made under Sections 30 (means testing in case of application by owner-occupier or tenant) and 146 (general provisions as to making regulations under the 1996 Act) of the 1996 Act. Section 30(4) states that if in the case of an application for a disabled facilities grant, the financial resources of any person of a description specified by regulations exceed the applicable amount, the amount of any grant which may be paid shall, in accordance with regulations, be reduced from what it would otherwise have been. Under subsection (5) the Secretary of State has power to make regulations for the determination of the amount which is to be taken to be the financial resources of any person, the determination of the applicable amount and circumstances in which the financial resources of a person are to be assumed (by the reason of his receiving a prescribed benefit or otherwise) not to exceed the applicable amount. This is known as ‘means testing’ which is applied in the case of an application by an owner occupier or tenant for a grant under Chapter 1 of Part 1 of the 1996 Act (in this case a Disabled Facilities Grant, which is the only form of grant now formally available). Under subsection (6), regulations may make provision for account to be taken of the income, assets, needs and outgoings not only of the person himself, but also his spouse, civil partner, any person living with him, or intending to live with him and any person on whom he is dependent or who is dependent on him and make provision for amounts specified in regulations to be taken into account for particular purposes.

4. The powers of the Secretary of State under the 1996 Act, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. No. 1999/672 and have been transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
5. These Regulations follow the negative resolution procedure.

Purpose and intended effect of legislation

6. These draft Regulations amend the 1996 Regulations so that any payments of contributory employment and support allowance, and income-related employment and support allowance are disregarded in the determination of income other than earnings or capital in the test of resources for disabled facilities grants (“DFG”). Employment and support allowance is a new allowance payable under Part 1 of the Welfare Reform Act 2007, which replaces incapacity benefit and income support on grounds of incapacity for work or disability. The replacement benefit will have a new benefit structure, incorporating both a contributory allowance and an income-related allowance. There are two kinds of employment and support allowance: contributory employment and support allowance, and income-related employment and support allowance. 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. There have also been recent changes to the English system for funding students. This means that minor amendments are needed to Regulation 41 of the 1996 Regulations. Regulation 41 defines terms which are used when means-testing student applicants for DFG, including English students studying in Wales. Therefore there needs to be an amendment to refer to the new English funding bodies.
8. Applications for DFGs 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 DFG without the need to make a contribution towards the cost of the works. The policy intent of these Regulations is to give a person who is in receipt of income-related employment and support allowance access to a DFG without the need to make a contribution towards the cost of the works.

Implementation

9. These Regulations ensure that applicants for DFGs in Wales are not at a disadvantage compared to those applicants in England.

10. The same SI came into force in England on 5 August 2009 (the Housing Renewal Grants (Amendment) (England) Regulations 2009 (S.I. No 2009/1807)).

Consultation

11. Consultation is not considered necessary on the draft Regulations as the changes are routine and the impact of them is considered to be of a relatively minor nature. The 1996 Regulations are being amended to reflect recent changes made to social security benefits introduced by the Welfare Reform Act 2007.

Regulatory Impact Assessment

12. A regulatory impact assessment is not regarded as being necessary for these Regulations as they will have very limited effect on the current arrangements relating to the provision of DFGs.

Post Implementation Review

13. The impact of the policy contained in these Regulations is predictable. They are not likely to need review in the near future but may be updated if further changes to the Gross Domestic Product Deflator in relation to the level of inflation are made. The administration of the policy relating to these Regulations will be a matter for local authorities to consider.

Summary

14. These Regulations will have a limited impact on local housing authorities who are responsible for the delivery and administration of DFGs. The Regulations will benefit applicants for grants where they receive the payment(s) of the allowances referred to in paragraphs 6 and 7 above in that they will be disregarded in the means test.