EXPLANATORY MEMORANDUM TO

THE BOILER UPGRADE SCHEME (AMENDMENT TO THE ENERGY ACT 2008 ETC.) REGULATIONS 2026

2026 No. 1121

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Martin McCluskey, Minister for Energy Consumers at the Department for Energy Security and Net Zero, confirms that this Explanatory Memorandum meets the required standard.

2.2 Lowri Gilbert, Deputy Director for Electrification, Products, Buildings and Delivery, at the Department for Energy Security and Net Zero, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Michael Shea, Head of Boiler Upgrade Scheme (BUS) Policy at the Department for Energy Security and Net Zero can be contacted with any queries regarding the instrument via email: BoilerUpgradeScheme@energysecurity.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations add Thermal Energy Storage Systems (TESS) as a listed technology under section 100 of the Energy Act 2008. This will enable the Secretary of State to make regulations to provide support for heat batteries, a type of TESS product, within financial schemes that facilitate and encourage the use of renewable heat, including the BUS Regulations 2022.

4.2 The Regulations also amend the BUS Regulations 2022 to clarify that where an installer has received an ineligible payment, the scheme administrator may require an installer to repay the required grant value, offset the amount against future grant payments or a combination of both.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is as follows:

4.4 Regulation 2 extends to England, Wales and Scotland.

4.5 Regulation 3 extends to England and Wales only.

4.6 The territorial application of this instrument (that is, where the instrument produces a practical effect) is as follows:

4.7 Regulation 2 applies to the territory of England, Wales and Scotland.

4.8 Regulation 3 applies to the territory of England and Wales only.

5. Policy Context

What is being done and why?

5.1 BUS derives its powers from section 100 in the Energy Act 2008. BUS provides grant funding for properties in England and Wales to replace their existing fossil fuel systems with a low carbon alternative, such as heat pumps. Whilst heat pumps will work well for the majority of homes, we recognise that they may not offer the best option for every building. Electric heating technologies can be an alternative low carbon heating solution as they can reduce carbon emissions over time as more renewable sources like wind and solar power are connected to the electricity grid, replacing fossil fuels.

5.2 TESS are electric heating technologies that can take advantage of time-of-use electricity tariffs, charging at off-peak times when the grid has a larger proportion of electricity from renewable sources. TESS can store and then make use of this low carbon electricity during peak times when electricity production is more carbon intensive. Heat batteries are a hydronic TESS and therefore provide a viable replacement for fossil fuel boilers, where a heat pump may not be suitable.

5.3 The Government consulted in April 2025 on a suite of proposed changes to the BUS including expanding the list of eligible low carbon heating technologies on the scheme. In the Government Response to the consultation, we confirmed our intention to begin to support heat batteries through the scheme once appropriate product and installation standards are in place.

5.4 We are adding TESS to subsection (4) of section 100. This provides the necessary powers to amend the Boiler Upgrade Scheme Regulations to allow support for heat batteries, which are a subset of thermal energy storage systems[1].

5.5 BUS supports the installation of low carbon heating in domestic and small non-domestic buildings in England and Wales by providing a grant to property owners to help them with the upfront cost transition away from fossil fuel systems. BUS has been extended to 2030, with funding increasing each year totalling around £2.7 billion over the extension period (2025/26 to 2029/30).

5.6 The delivery model is an installer-led, two stage voucher system. The installer applies for a voucher as the first stage, pre-installation, where they undergo basic eligibility checks. In the second stage, post-installation, the installer provides evidence of the installation and any required eligibility criteria and is then paid the grant by the scheme administrator (the Office of Gas and Electricity Markets, Ofgem). Where an installer is overpaid, Ofgem, the scheme administrator has the powers to require the installer repays the amount owed or offset the amount owed against future vouchers.

5.7 This statutory instrument amends the BUS Regulations 2022 to clarify these existing powers in order to improve scheme administration. It will allow the scheme administrator to issue a single notice that requires installers to pay back the total amount due through a combination of repayment and offsetting. This will allow the scheme administrator to choose the most effective and efficient method of recouping any public funds owed and enable recovery to be managed efficiently through one structured notice. The administrator cannot seek to recover more than the amount due.

[1] https://www.legislation.gov.uk/ukpga/2008/32/section/100/4

What was the previous policy, how is this different?

5.8 Subsection 4 of the Energy Act 2008 lists sources of energy and technologies which can be supported through schemes which facilitate and encourage the renewable generation of heat. TESS is a new addition to subsection 4 of section 100. TESS products can help in the decarbonisation of heat and by providing an alternative solution for buildings where a heat pump installation might be unsuitable.

5.9 The BUS provides support for heat pumps and in limited circumstances biomass boilers. The current technologies supported by BUS are covered by subsection 4 of the Energy Act 2008 as heat pumps draw their heat from the air, water or ground (g) and biomass boilers use biomass (a) as their fuel source. However, the current list does not allow for scheme which use section 100 to support TESS products.

5.10 The amendment will include TESS products in subsection (4) of section 100 in the Energy Act. This will allow BUS to provide grant support for TESS products, such as heat batteries, subject to updates to the BUS regulations.

5.11 Previously regulation 22 meant that Ofgem, the BUS administrator, had only been able to choose one method at a time to recoup payments which had been overpaid, by requiring installers to either repay any amount due or offset any amount due. The new approach will mean that the scheme administrator can choose a combination of both methods to recoup the amount due. This will enable the administrator to choose the most effective and efficient method of recouping any public funds owed, in line with original policy intent.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 100 of the Energy Act 2008 enables the Secretary of State to make regulations establishing a scheme to facilitate and encourage the renewable generation of heat and to provide for the administration and financing of the scheme. The sources of energy and technologies that can be within the scope of such schemes are listed at subsection (4). This instrument amends the Energy Act 2008, to add TESS to this list to enable the intended changes to the BUS regulations 2022 to bring TESS within the scope of the scheme.

6.2 The instrument also amends the BUS Regulations (Regulation 22) to clarify existing powers to recoup the grant value where the installer was not eligible for the payment.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 A consultation was open on GOV.UK from April to June 2025 for scheme participants and stakeholders to respond to four proposals, including expanding eligibility for low carbon heating technologies. This amendment to the Energy Act seeks to facilitate the expansion to more low carbon heating technologies.

7.2 We asked three questions around the inclusion of other electric technologies such as heat batteries.

- Do you have any views on whether government should provide grants to support the installation of electric heating technologies that are not heat pumps (e.g. heat batteries)? Yes/No.
- What eligibility criteria should apply to other electric heating technologies?
- Do you have views on the appropriate grant levels to support the installation of other electric heating technologies (e.g. heat batteries) if supported by the scheme?

7.3 The three questions received between 154 and 206 responses each from a wide range of organisations, representative and trade bodies, industry professionals, and individual members of the public.

7.4 All views were taken into consideration, as well as feedback received through other channels, such as stakeholder forums, during the period that the consultation was open. The Government Response to the consultation was published on 18 November 20252.

7.5 There was broad support for the inclusion of alternative electric technologies on the scheme, with heat batteries being the most cited technology. Particular emphasis was placed on the ability of heat batteries to shift electricity demand to off-peak times. There was a range of views on the appropriate level of support for heat batteries, with a range of grant levels suggested. As stated in the Government Response, we intend to support the installation of heat batteries through BUS with an initial grant value of £2,500, once appropriate product and installation standards are in place. Further details of the responses received is included in the Government Response.

8. Applicable Guidance

8.1 None.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there are no significant impacts expected on businesses.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring the legislation is that the Department is undertaking an impact and economic evaluation of the extended BUS (as part of a wider Electrification of Heat Multi-Policy Evaluation) to assess the extent to which the objectives and expected impacts of the scheme (post-March 2025) have been realised,

[2] https://www.gov.uk/government/consultations/boiler-upgrade-scheme-and-certification-requirements-for-clean-heat-schemes

including as a result of the changes implemented by this legislation. The original duration of the BUS (2022-2025) was subject to an initial process, impact and economic evaluation and has published two interim reports to date, with a final report expected in due course. The ongoing monitoring will also support the management of the scheme, including tracking of delivery, financial management and future amendments.

10.2 The instrument does not include a statutory review clause. The requirement under section 28(2) of the Small Business, Enterprise and Employment Act 2015 to make provision for review does not apply to this instrument as it falls within an exception in section 28(3) of that Act.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister has made the following statement regarding Human Rights:

"In my view the provisions of the Boiler Upgrade Scheme (Amendment to the Energy Act 2008) 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").