

FUEL POVERTY (TARGETS, DEFINITION AND STRATEGY) (SCOTLAND) ACT 2019

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

The fuel poverty strategy

Section 6

46. Section 6 puts the Scottish Ministers under a duty to prepare a fuel poverty strategy. It should be read in conjunction with sections 7 and 8 which set out the requirements as to consultation and publication. The strategy relates predominantly to the fuel poverty targets: under the definition in section 19, these are the 2040 targets set out in section 1 and the interim targets set out in section 2.
47. The strategy must set out the following—
- the approach that Ministers intend to take or consider should be taken to ensure that the fuel poverty targets are met (which, under subsection (3), must include provision for how to remove low energy efficiency as a driver of fuel poverty) and the cost of that approach,
 - the approach that Ministers intend to take in relation to the four drivers of fuel poverty to ensure that the fuel poverty targets are met,
 - the approach that Ministers intend to take or consider should be taken towards meeting the fuel poverty targets in each local authority area,
 - the types of organisations with which Ministers intend to work (for example, local authorities or third sector bodies),
 - how Ministers intend to identify households in fuel poverty,
 - characteristics of households for which fuel poverty is a particular problem (for example, there are particular issues which arise for rural Scotland and the islands),
 - the approach that Ministers intend to take to identifying residential buildings which are used as homes by a household in fuel poverty and which would need improvements in order to achieve an energy performance certificate of band C or higher by 2030 (but only where it is technically feasible, cost effective and affordable to achieve such a rating),
 - how Ministers intend to assess whether the fuel poverty targets are met and what the rates of fuel poverty are (and, as the policy memorandum notes, the intention is to use the Scottish House Condition Survey¹ in order to measure fuel poverty).

¹ <http://www.gov.scot/Topics/Statistics/SHCS>

48. There is an element of overlap among some of the things which the strategy must set out. The approach that Ministers intend to take or consider should be taken to ensure that the fuel poverty targets are met will necessarily overlap with their approach to addressing the drivers of fuel poverty. The drivers of fuel poverty are set out in section 14(10). Of these four drivers, the final one (inefficient use of fuel in homes) will not in practice have a bearing on whether the fuel poverty targets are met as the targets are based on reasonable, rather than actual, fuel use.
49. It should also be noted that subsection (2)(c) requires the strategy to set out the approach that Ministers intend to take or consider should be taken towards meeting the fuel poverty targets in each local authority area. This means that, although (in contrast with the 2040 targets) there is no local authority area target in relation to the interim targets, the strategy must still set out what will be done towards meeting the interim targets at a local authority level. However, there is no formal target and so the approach will not be being taken with a view to ensuring that a target is met.
50. Other relevant information may also be included in the strategy. This might include, for example, information about how the strategy interacts with other related strategies or statutory requirements, such as the targets relating to climate change. A commitment was also given to set out in the strategy, under this provision, what Ministers intend to do to help people who are in fuel poverty as a result of being in a household for which enhanced heating temperatures or enhanced heating hours is appropriate².
51. Ministers must keep the strategy under review and may at any time revise it. Within 5 years of publication, Ministers must either revise the strategy or publish an explanation of why they do not consider it necessary to revise it. This duty applies equally following the publication of a revised strategy. Subsection (6) provides that, unless the context requires otherwise, a reference in the Act to the strategy includes a reference to a revised strategy. This means that the same requirements as to content, consultation and publication etc. will apply (subject to, for example, the specific deadlines which apply only to the first strategy).

Section 7

52. In accordance with section 7, the Scottish Ministers must, when preparing the fuel poverty strategy, consult such persons as they consider appropriate. This must include individuals who currently live, or have previously lived, in fuel poverty. It must also include local authorities and individuals drawn from the following categories: those with disabilities, those with long-term illness, older people, and those living in rural areas. The Scottish Fuel Poverty Advisory Panel (established under section 14) must also be consulted. Subsection (3) ensures that any consultation which was carried out prior to the Act coming into force is not invalidated simply by reason of when it was carried out. This would include any consultation that occurred at the same time as the Bill was going through Parliament or shortly after the Bill was passed, but before it came into force.
53. Once the strategy has been prepared, it must be laid in draft before the Scottish Parliament. In the case of the first strategy, that must be done within one year of section 6 of the Act (preparation of the strategy) coming into force. There is then a standstill period of 40 days during which the Parliament can consider the draft strategy, before Ministers are allowed to finalise it. Where the Parliament is dissolved or in recess for a prolonged period (that is to say, for more than 4 days), that is taken into account and the standstill period is extended accordingly.

2 <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12167&mode=pdf> at column 67.

Section 8

54. Section 8 requires the finalised strategy to be both published and laid before the Scottish Parliament. This must be done as soon as reasonably practicable after the end of the period given to the Parliament under section 7(5) for its consideration of the draft.
55. As soon as reasonably practicable after that, Ministers must also publish and lay before the Scottish Parliament a report setting out the consultation process that was carried out in accordance with section 7 and how views expressed during that process were taken into account. Ministers must also make a statement to the Parliament about the strategy.