



# Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019

## 2019 asp 10

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 11th June 2019 and received Royal Assent on 18th July 2019**

An Act of the Scottish Parliament to set targets relating to the eradication of fuel poverty; to define fuel poverty; to require the production of a fuel poverty strategy; and to make provision about reporting on fuel poverty.

### *Fuel poverty targets*

#### **1 The 2040 targets**

- (1) This section makes provision for the 2040 fuel poverty targets.
- (2) The target is that in the year 2040, as far as reasonably possible no household in Scotland is in fuel poverty and, in any event—
  - (a) no more than 5% of households in Scotland are in fuel poverty,
  - (b) no more than 1% of households in Scotland are in extreme fuel poverty,
  - (c) the median fuel poverty gap of households in Scotland in fuel poverty is no more than £250 adjusted in accordance with section 5(5) to take account of changes in the value of money.
- (3) The target is that in the year 2040, as far as reasonably possible no household in any local authority area in Scotland is in fuel poverty and, in any event, the objectives set out in paragraphs (a) to (c) of subsection (2) are met in relation to households in each local authority area.
- (4) The Scottish Ministers may by regulations modify the target year set out in subsection (2) or (3) if they receive a report from the Scottish Fuel Poverty Advisory Panel under section 14(4) advising that the target will not be met or could reasonably be met earlier.
- (5) Regulations under subsection (4) may modify—
  - (a) the date specified in subsections (4) and (6) of section 9,
  - (b) the reporting date specified in section 12(1) or, as the case may be, section 13(1),

- (c) the years specified in section 13(2)(b).

## 2 The interim targets

- (1) This section makes provision for a number of interim fuel poverty targets.
- (2) The target is that in the year 2030—
  - (a) no more than 15% of households in Scotland are in fuel poverty,
  - (b) no more than 5% of households in Scotland are in extreme fuel poverty,
  - (c) the median fuel poverty gap of households in Scotland in fuel poverty is no more than £350 adjusted in accordance with section 5(5) to take account of changes in the value of money.
- (3) The target is that in the year 2035—
  - (a) no more than 10% of households in Scotland are in fuel poverty,
  - (b) no more than 3% of households in Scotland are in extreme fuel poverty,
  - (c) the median fuel poverty gap of households in Scotland in fuel poverty is no more than £300 adjusted in accordance with section 5(5) to take account of changes in the value of money.

## 3 Meaning of fuel poverty

- (1) A household is in fuel poverty if—
  - (a) the fuel costs necessary for the home in which members of the household live to meet the conditions set out in subsection (2) are more than 10% of the household's adjusted net income, and
  - (b) after deducting such fuel costs, benefits received for a care need or disability (if any) and the household's childcare costs (if any), the household's remaining adjusted net income is insufficient to maintain an acceptable standard of living for members of the household.
- (2) For the purpose of subsection (1)(a), the conditions are that—
  - (a) the requisite temperatures are met for the requisite number of hours, and
  - (b) the household's other reasonable fuel needs within the home are met.
- (3) For the purpose of subsection (2)(a)—
  - (a) the requisite temperatures are—
    - (i) in the case of a household for which enhanced heating temperatures are appropriate—
      - (A) 23 degrees Celsius for the living room,
      - (B) 20 degrees Celsius for any other room,
    - (ii) otherwise—
      - (A) 21 degrees Celsius for the living room,
      - (B) 18 degrees Celsius for any other room,
  - (b) the requisite number of hours is—
    - (i) in the case of a household for which enhanced heating hours are appropriate, 16 hours a day,
    - (ii) otherwise—
      - (A) 9 hours a day on a weekday,
      - (B) 16 hours a day during the weekend.

- (4) The Scottish Ministers may by regulations specify the types of household for which—
- (a) enhanced heating temperatures,
  - (b) enhanced heating hours,
- are appropriate.
- (5) Subject to subsection (6), a household's remaining adjusted net income is sufficient to maintain an acceptable standard of living for the purpose of subsection (1)(b) if it is at least 90% of the minimum income standard applicable to the household after deduction of the notional costs allocated as part of that standard to—
- (a) rent,
  - (b) council tax and water rates,
  - (c) fuel,
  - (d) childcare.
- (6) Where the home in which members of a household live is in a remote rural area, remote small town or island area, the household's remaining adjusted net income is sufficient to maintain an acceptable standard of living for the purpose of subsection (1)(b) if it is in total at least—
- (a) the amount determined in relation to the household in accordance with subsection (5), and
  - (b) such additional amount (if any) as is determined in relation to the household by or in accordance with regulations made by the Scottish Ministers.
- (7) Regulations under subsection (6)(b) must—
- (a) define “remote rural area”, “remote small town” and “island area”, and
  - (b) specify a person who is to determine, in relation to households in such areas or towns, the additional amount mentioned in subsection (6)(b).
- (8) The person specified in regulations under subsection (6)(b) must make a separate determination on the additional amount in relation to households in island areas.
- (9) In defining “island area” in regulations under subsection (6)(b), the Scottish Ministers must ensure that the definition encompasses all island areas.
- (10) In this section—
- (a) “adjusted” means adjusted by deducting housing costs,
  - (b) “benefits received for a care need or disability” means benefits received for a care need or a disability under—
    - (i) section 31 of the Social Security (Scotland) Act 2018 (disability assistance),
    - (ii) section 77 of the Welfare Reform Act 2012 (personal independence payment),
    - (iii) section 64 of the Social Security Contributions and Benefits Act 1992 (attendance allowance),
    - (iv) section 68 of the Social Security Contributions and Benefits Act 1992 (severe disablement allowance),
    - (v) section 71 of the Social Security Contributions and Benefits Act 1992 (disability living allowance),
  - (c) “childcare costs” means the costs of any care or supervised activity provided—

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*Status: This is the original version (as it was originally enacted).*

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- (i) for a child who is below school age or who is receiving primary education (within the meaning of section 135 of the Education (Scotland) Act 1980), and
  - (ii) other than care or supervised activity provided in the course of the child’s compulsory education or where the main reason for incurring the costs is the child’s participation in the activity,
- (d) “household” means—
- (i) one person living alone in a private dwelling, or
  - (ii) a group of people living together as a family or other unit (whether or not related) in a private dwelling, who—
    - (A) have the dwelling as their only or main residence, and
    - (B) share living accommodation and cooking facilities,
- (e) “housing costs” means—
- (i) rent or mortgage costs,
  - (ii) council tax (within the meaning of section 99(1) of the Local Government Finance Act 1992), and
  - (iii) charges for the provision of water services and sewerage, incurred in respect of the home in which members of the household live,
- (f) “minimum income standard” means the minimum income standard for the United Kingdom determined by—
- (i) the Centre for Research in Social Policy at Loughborough University, or
  - (ii) such other person as the Scottish Ministers may from time to time determine,
- (g) “net income” means the income of all adults in the household after deduction of—
- (i) the income tax payable on that income, and
  - (ii) the national insurance contributions for which those adults are liable under Part 1 of the Social Security Contributions and Benefits Act 1992.

#### **4 Meaning of extreme fuel poverty**

- (1) A household is in extreme fuel poverty if—
- (a) the fuel costs necessary for the home in which members of the household live to meet the conditions set out in section 3(2) are more than 20% of the household’s adjusted net income, and
  - (b) after deducting such fuel costs, benefits received for a care need or disability (if any) and the household’s childcare costs (if any), the household’s remaining adjusted net income is insufficient to maintain an acceptable standard of living for members of the household.
- (2) Subsections (2) to (10) of section 3 apply in relation to the definition of extreme fuel poverty under this section as they apply in relation to the definition of fuel poverty under that section.

## **5 Meaning of fuel poverty gap**

- (1) Where a household is in fuel poverty, the fuel poverty gap is the figure calculated in accordance with subsection (2) or the figure calculated in accordance with subsection (3), whichever is the lower.
- (2) The first figure referred to in subsection (1) is the difference between—
  - (a) the annual fuel costs necessary for the home in which members of the household live to meet the conditions set out in section 3(2), and
  - (b) 10% of the household’s annual adjusted net income.
- (3) The second figure referred to in subsection (1) is the difference between—
  - (a) the annual amount required to maintain an acceptable standard of living for members of the household, and
  - (b) the household’s annual remaining adjusted net income for the purpose of section 3(1)(b).
- (4) For the purpose of subsections (1) to (3)—
  - (a) the amount required to maintain an acceptable standard of living is to be determined in the same way as it is for the purpose of section 3,
  - (b) “adjusted”, “household” and “net income” have the same meanings as in section 3(10).
- (5) Where the fuel poverty gap is being measured against a fuel poverty target, the sums referred to in sections 1(2)(c), 2(2)(c) and 2(3)(c) are to be increased or (as the case may be) decreased by the same percentage as the percentage increase or decrease in the annual average consumer prices index over the period from 2015 to the year to which the target relates.
- (6) In subsection (5), the consumer prices index means the all consumer prices index published by the Office of National Statistics.
- (7) The Scottish Ministers may by regulations amend this section to replace references to one prices index with references to another.

### *Fuel poverty strategy*

## **6 Preparation and review of strategy**

- (1) The Scottish Ministers must prepare a fuel poverty strategy.
- (2) The fuel poverty strategy must—
  - (a) set out the approach the Scottish Ministers intend to take or consider should be taken to ensure that the fuel poverty targets are met,
  - (b) set out the approach the Scottish Ministers intend to take in relation to each of the four drivers of fuel poverty to ensure that the fuel poverty targets are met,
  - (c) set out the approach the Scottish Ministers intend to take or consider should be taken towards meeting the fuel poverty targets in each local authority area,
  - (d) set out the cost of the approach set out under subsection (2)(a),
  - (e) set out organisations, or types of organisations, with which the Scottish Ministers intend to work to ensure that the fuel poverty targets are met,
  - (f) set out how the Scottish Ministers intend to identify households in fuel poverty,

- (g) identify characteristics of households which—
    - (i) are likely to be in fuel poverty, or
    - (ii) for which getting out of fuel poverty presents particular challenges,
  - (h) set out the approach the Scottish Ministers intend to take to identifying residential buildings—
    - (i) which are used as homes by a household in fuel poverty,
    - (ii) where improvements would be required to achieve, by 2030, an energy performance certificate band C or higher (within the meaning of the Energy Performance of Buildings (Scotland) Regulations 2008), and
    - (iii) where it is technically feasible, cost effective and affordable to achieve an energy performance certificate band C or higher, and
  - (i) set out how the Scottish Ministers intend to assess—
    - (i) progress towards meeting the fuel poverty targets, and
    - (ii) whether the fuel poverty targets are met.
- (3) The approach set out under subsection (2)(a) must include provision for how to remove low levels of energy efficiency as a driver of fuel poverty.
  - (4) The fuel poverty strategy may include such other information as the Scottish Ministers consider appropriate.
  - (5) The Scottish Ministers are to keep the fuel poverty strategy under review and may at any time revise it.
  - (6) Unless the context requires otherwise, a reference in this Act to the fuel poverty strategy includes a reference to the fuel poverty strategy as revised following a review under subsection (5).
  - (7) Within 5 years after publishing the fuel poverty strategy under section 8(1)(a), the Scottish Ministers are either—
    - (a) to revise the strategy, or
    - (b) to publish an explanation of why they have decided not to revise it.
  - (8) For the purposes of subsection (2)(b), “four drivers of fuel poverty” has the same meaning as in section 14(10).

## 7 Consultation on strategy

- (1) In preparing the fuel poverty strategy, the Scottish Ministers must consult such persons as they consider appropriate.
- (2) The persons consulted under subsection (1) must include—
  - (a) individuals who are living, or have lived, in fuel poverty,
  - (b) local authorities,
  - (c) disabled people,
  - (d) people with long-term illness,
  - (e) older people,
  - (f) individuals living in rural areas, and
  - (g) the Scottish Fuel Poverty Advisory Panel.

- (3) For the purpose of subsection (1), it is immaterial that anything done by way of consultation was done—
  - (a) before the Bill for this Act was passed, or
  - (b) after that but before this section comes into force.
- (4) The Scottish Ministers must lay the proposed fuel poverty strategy before the Scottish Parliament—
  - (a) in the case of the first strategy, before the expiry of the period of 1 year beginning with the day on which section 6 comes into force,
  - (b) in the case of a revised strategy, following a review under section 6(5).
- (5) The Scottish Ministers may not complete their preparation of the fuel poverty strategy until after the expiry of the period of 40 days beginning with the day on which the proposed strategy is laid before the Scottish Parliament (taking no account of any time during which the Parliament is dissolved or in recess for more than 4 days).

## **8 Publication and laying of strategy**

- (1) As soon as reasonably practicable after the end of the period mentioned in section 7(5), the Scottish Ministers must—
  - (a) publish the fuel poverty strategy, and
  - (b) lay a copy of it before the Scottish Parliament.
- (2) As soon as reasonably practicable after complying with subsection (1), the Scottish Ministers must—
  - (a) publish a report setting out—
    - (i) the consultation process taken in order to comply with section 7, and
    - (ii) the ways in which views expressed during that process have been taken account of in preparing the fuel poverty strategy,
  - (b) lay a copy of the report published under paragraph (a) before the Scottish Parliament, and
  - (c) make a statement to the Scottish Parliament in relation to the fuel poverty strategy.

### *Reporting on fuel poverty*

## **9 Preparation of periodic reports**

- (1) The Scottish Ministers must, for each reporting period, prepare a report setting out—
  - (a) the steps that have been taken during the reporting period for the purpose of meeting the fuel poverty targets (including the costs of those steps),
  - (b) the steps that have been taken in the reporting period to address the four drivers of fuel poverty for the purpose of meeting the fuel poverty targets,
  - (c) the progress made in the reporting period towards meeting the fuel poverty targets (including what progress has been made in removing low levels of energy efficiency as a driver of fuel poverty),
  - (d) the steps that the Scottish Ministers propose to take in the next reporting period in order to meet the fuel poverty targets (including any additional funding required to take those steps), and

- (e) the steps that the Scottish Ministers propose to take in the next reporting period to address the four drivers of fuel poverty for the purpose of meeting the fuel poverty targets.
- (2) A report under subsection (1) must also set out, with respect to meeting the 2040 target in relation to each local authority area in Scotland—
- (a) the steps that have been taken during the reporting period for the purpose of meeting that target,
  - (b) the progress made in that period towards meeting that target, and
  - (c) the steps that the Scottish Ministers propose to take or consider should be taken in the next reporting period in order to meet that target.
- (3) A report under subsection (1) may include such other information as the Scottish Ministers consider appropriate.
- (4) Subsection (1) does not apply to a reporting period that ends on or after 31 December 2040.
- (5) The reporting periods are—
- (a) the period of 3 years beginning with the day on which the first fuel poverty strategy is published under section 8,
  - (b) each subsequent period of 3 years.
- (6) For the purposes of subsections (1)(d) and (2)(c), where the next reporting period would include any period after 31 December 2040—
- (a) those paragraphs are to be read as a requirement to set out the steps that the Scottish Ministers propose to take or consider should be taken in the next reporting period in relation to fuel poverty, and
  - (b) it is immaterial for the purposes of calculating the next reporting period that a report will not require to be prepared at the end of that reporting period by virtue of subsection (4).
- (7) For the purpose of subsection (1), “four drivers of fuel poverty” has the same meaning as in section 14(10).

## **10 Consultation on periodic reports**

- (1) In preparing a report under section 9, the Scottish Ministers must consult such persons as they consider appropriate.
- (2) The persons consulted under subsection (1) must include—
- (a) individuals who are living, or have lived, in fuel poverty,
  - (b) local authorities,
  - (c) disabled people,
  - (d) people with long-term illness,
  - (e) older people,
  - (f) individuals living in rural areas, and
  - (g) the Scottish Fuel Poverty Advisory Panel.

## **11 Publication and laying of periodic reports**

The Scottish Ministers must—



- (a) publish each report prepared under section 9, and
  - (b) lay a copy of it before the Scottish Parliament,
- before the end of the financial year in which the reporting period ends.

## **12 Report on the 2040 target**

- (1) The Scottish Ministers must, no later than 31 March 2042, lay before the Scottish Parliament a report on the 2040 target.
- (2) The report must include information as to—
  - (a) whether the 2040 target has been met, and
  - (b) the percentage of households in Scotland in fuel poverty in the year 2040.
- (3) The report may contain such other information as the Scottish Ministers consider appropriate.

## **13 Report on the 2040 target in relation to each local authority area**

- (1) The Scottish Ministers must, no later than 31 December 2043, lay before the Scottish Parliament a report on the 2040 target in relation to each local authority area in Scotland.
- (2) The report must include—
  - (a) such information as the Scottish Ministers can reasonably obtain as to whether the 2040 target in relation to each local authority area in Scotland has been met, and
  - (b) combined data about the percentage of households in each local authority area in fuel poverty in the period 2040 to 2042.
- (3) The report may contain such other information as the Scottish Ministers consider appropriate.

### *Independent advisory panel*

## **14 Scottish Fuel Poverty Advisory Panel**

- (1) The Scottish Fuel Poverty Advisory Panel is established.
- (2) The Panel is to meet after the publication of each periodic report under section 11 in order to consider the matters mentioned in subsection (3).
- (3) The matters are—
  - (a) progress toward meeting the fuel poverty targets,
  - (b) the likelihood of meeting the fuel poverty targets, and
  - (c) the extent to which the four drivers of fuel poverty are being addressed.
- (4) The Panel must make a report to the Scottish Ministers on its consideration of the matters under subsection (3).
- (5) A report under subsection (4) may—
  - (a) propose changes to the fuel poverty strategy,

- (b) make such other recommendations to the Scottish Ministers as the Panel considers appropriate.
- (6) The Panel may from time to time provide advice to a committee of the Scottish Parliament with the subject of fuel poverty within its remit on—
- (a) the matters mentioned in subsection (3),
  - (b) such other matters as are prescribed in regulations under subsection (7).
- (7) The Scottish Ministers may by regulations—
- (a) make further provision about the Panel,
  - (b) make provision about the dissolution of the Panel after the target year for the time being mentioned in section 1 has passed.
- (8) Regulations under subsection (7)(a) or (as the case may be) (b) may, in particular—
- (a) make provision about the membership of the Panel (including the process for appointment of members),
  - (b) make provision about the remuneration and expenses that may be paid to members of the Panel,
  - (c) make provision about the preparation and publication of reports,
  - (d) make such other provision relating to the functioning of the Panel as the Scottish Ministers consider appropriate,
  - (e) modify any enactment (including this Act).
- (9) The Scottish Ministers must bring forward regulations under subsection (7)(a) within 1 year of this section coming into force.
- (10) In this section the “four drivers of fuel poverty” are—
- (a) low net adjusted household incomes,
  - (b) high household fuel prices,
  - (c) homes having low levels of energy efficiency, and
  - (d) inefficient use of fuel in homes.
- (11) For the purpose of subsection (10), “adjusted”, “household” and “net income” have the same meanings as in section 3(10).

## **15 Funding of the Scottish Fuel Poverty Advisory Panel**

- (1) Subject to subsection (2), the Scottish Ministers must provide such financial resources as they consider necessary to support the operation of the Scottish Fuel Poverty Advisory Panel.
- (2) The total costs for the operation of the Panel must not exceed £82,000, adjusted in accordance with subsection (3), in any operating period.
- (3) For the purpose of subsection (2), the sum of £82,000 is to be adjusted to reflect the percentage increase (if any) in the annual average consumer prices index from the day on which this section comes into force.
- (4) In subsection (3), the consumer prices index means the all consumer prices index published by the Office of National Statistics.
- (5) The Scottish Ministers may by regulations amend this section to replace references to one prices index with references to another.

- (6) In this section, an “operating period” is—
- (a) the period of 3 years beginning with the day on which this section comes into force,
  - (b) each subsequent period of 3 years.

### *General*

## **16 Power to modify section 3**

The Scottish Ministers may by regulations amend section 3 so as to—

- (a) modify the meaning of—
  - (i) requisite temperatures,
  - (ii) requisite number of hours,in subsection (3) of that section,
- (b) modify the definitions for the time being in subsection (10) of that section,
- (c) make different provision as to when a household’s remaining adjusted net income is sufficient, or is insufficient, to maintain an acceptable standard of living for members of the household.

## **17 Regulation-making powers**

- (1) Regulations under section 1(4), 3(4) or (6)(b), 5(7), 14(7)(a) or (b), 15(5) or 16—
  - (a) are subject to the affirmative procedure,
  - (b) may make—
    - (i) incidental, supplementary, consequential, transitional, transitory or saving provision,
    - (ii) different provision for different purposes.
- (2) Before laying a draft of a Scottish statutory instrument containing regulations under section 3(4) or 16, the Scottish Ministers must consult such persons as they consider appropriate.
- (3) The persons consulted under subsection (2) must include individuals who are living, or have lived, in fuel poverty.
- (4) It is immaterial that anything done by way of consultation in relation to regulations under section 3(4) was done—
  - (a) before the Bill for this Act was passed, or
  - (b) after that but before this section comes into force.

## **18 Consequential modifications**

- (1) The Housing (Scotland) Act 2001 is amended as follows.
- (2) Section 88 (statement on fuel poverty), together with the italic heading preceding it, is repealed.
- (3) In section 89 (local housing strategies), after subsection (11) insert—

“(12) For the purpose of subsection (5)(b), a person lives in fuel poverty if the person is a member of a household which is in fuel poverty for the purposes of the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019.”.

- (4) Section 95 (meaning of “fuel poverty”), together with the italic heading preceding it, is repealed.

## **19 Interpretation**

In this Act—

“the 2040 target” means the target set out in section 1(2),

“the 2040 target in relation to each local authority area in Scotland” means the target set out in section 1(3),

“the fuel poverty targets” means the targets set out in sections 1 and 2,

“the Scottish Fuel Poverty Advisory Panel” means the Panel established under section 14(1).

## **20 Commencement**

- (1) Section 19, this section and section 21 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under subsection (2) may—
- (a) make different provision for different purposes,
  - (b) include transitional, transitory or saving provision.

## **21 Short title**

The short title of this Act is the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019.