

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Reporting on fuel poverty

Section 9

56. Section 9 places a duty on the Scottish Ministers to prepare 3-yearly reports on the progress being made towards meeting the fuel poverty targets. The section should also be read in conjunction with sections 10 and 11 which set out the requirements as to consultation and publication.
57. A report will look both backwards at the progress that has been made during the reporting period (i.e. what steps were taken and what effect that had) and ahead to what action is planned for the next reporting period. Accordingly, the report will set out the detail of the work that the Scottish Government has carried out as well as the work it intends to carry out, including details of work with partner organisations. It must do these things in relation to the fuel poverty targets as a whole, but subsection (2) ensures that it also does each of these things specifically in relation to meeting the 2040 target in relation to each local authority area.
58. Moreover, a report must set out details of the cost of the steps that have been taken for the purpose of meeting the fuel poverty targets, and details of any additional funding required to take the steps that Ministers are proposing to take for that purpose. It must also set out the steps that have been taken in the last reporting period to address the four drivers of fuel poverty, and the steps that will be taken in the next reporting period to that end. When setting out the progress that has been made towards meeting the fuel poverty targets, the report must in particular set out what progress has been made in removing low levels of energy efficiency as a driver of fuel poverty. Additional information may also be included as appropriate.
59. The reporting period covered by a report is a fixed 3 year period. The first one begins with the publication of the first fuel poverty strategy, and each subsequent period runs from the end of the previous reporting period.
60. Under subsection (4), the obligation to prepare these reports applies to each complete 3 year period which falls prior to 31 December 2040 – i.e. the end of the 2040 target year. Where a reporting period would straddle that date or would (in its entirety) fall after that date, no report requires to be prepared. For example, if the timings were to be such that a 3 year period ran from 2039 to 2042, there would be no need to publish a periodic report in 2043. Instead, any partial period that covers the period between the final periodic report and 31 December 2040 can be addressed through the reporting mechanism for reporting on the 2040 targets.
61. The final periodic report will be looking back over a 3 year period which falls prior to the 2040 target date and reporting on that period. However, in terms of setting out

future plans, the 3 year period ahead to which the report is looking may span a period falling both before and after the 2040 target date. In recognition of this, subsection (6) (a) provides – for the purpose of subsections (1)(d) and (2)(c) – that if the forwards-looking part of a report would cover any period after 31 December 2040 then, instead of only being required to set out the steps that are to be taken in order to meet the 2040 target (i.e. the steps that will be taken up until that date), the report must set out all steps that are to be taken in relation to fuel poverty during the next 3 years. That will cover both the steps that are to be taken prior to 31 December 2040 in order to meet the 2040 targets, and the steps that are to be taken in that part of the next reporting period which falls after the 2040 date (for example, to ensure that fuel poverty does not re-emerge).

62. Subsection (6)(b) confirms that the rule in subsection (4) is only about when a report must be prepared; if a report must be prepared then a forward-look will be required under subsections (1)(d) and (2)(c) even if this requires looking ahead to a theoretical reporting period which will never be the subject of a report after the fact (other than, as noted at paragraph 60 above, as part of the reporting mechanism for the 2040 targets).

Section 10

63. In accordance with section 10, the Scottish Ministers must, when preparing the 3-yearly reports, 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.

Section 11

64. Section 11 requires the 3-yearly reports to be both published and laid before the Scottish Parliament. This must be done before the end of the financial year in which the reporting period ends. In accordance with schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010, “financial year” means a year ending with 31 March. This means that if, for example, the fuel poverty strategy is published in December 2019, the first reporting period will cover the period December 2019 to December 2022 and the first periodic report will need to be published by 31 March 2023 at the latest.

Section 12

65. Under section 12, the Scottish Ministers are required to prepare a report on the 2040 target – i.e. the target set out in section 1(2). This must be laid before the Scottish Parliament by 31 March 2042 at the latest. The report must state whether or not the 2040 target has been met and what percentage of households in Scotland remain in fuel poverty in 2040. However, the information which can be included is not limited and any other information which would be useful may be included within the report. That additional information might relate to what the Government intends to do in respect of fuel poverty at that point.

Section 13

66. Under section 13, the Scottish Ministers are required to prepare a report on the 2040 target in relation to each local authority area – i.e. the target set out in section 1(3). This must be laid before the Scottish Parliament by 31 December 2043 at the latest. The report must include such information as Ministers can reasonably obtain as to whether the target has been met, and combined data about the percentage of households in each local authority area in fuel poverty in the period 2040 to 2042. This reflects the fact that local authority level results on fuel poverty from the Scottish House Condition Survey are produced based on a dataset that combines 3 years’ worth of data. As with the report

*These notes relate to the Fuel Poverty (Targets, Definition and Strategy)
(Scotland) Act 2019 (asp 10) which received Royal Assent on 18 July 2019*

under section 12, the information which can be included is not limited and any other information which would be useful may be included within the report.