

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

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *General*

#### *Section 16*

73. Section 16 provides the Scottish Ministers with the power, by making regulations, to adjust the effect of aspects of the definition of fuel poverty. This will allow Ministers to respond to changes which may occur during the period between the Act being passed and the date of the 2040 targets. Specifically—
- paragraph (a) allows Ministers to adjust the temperatures and number of hours which constitute the heating levels test (for example, to respond to any change in expert advice as to how warm rooms ought to be),
  - paragraph (b) allows the definitions in section 3(10) to be adjusted (for example, if national insurance contributions were to be replaced with a new tax which needed to be factored into the definition of net income instead),
  - paragraph (c) allows different provision to be made as to when members of a household can maintain an acceptable standard of living (for example, to accommodate the situation discussed at paragraph 23 or to react if the UK minimum income standard stops allocating costs specifically to rent, council tax, water rates, fuel and childcare).

#### *Section 17*

74. Any regulations made under the sections specified below are subject to the affirmative procedure. For details of the affirmative procedure, see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010. The regulations to which this applies are those made under—
- section 1(4) (changing the date of either or both of the 2040 targets found in section 1, following advice from the Panel),
  - section 3(4) (specifying the types of household for which enhanced heating temperatures and/or enhanced heating hours are appropriate),
  - section 3(6)(b) (providing for a person to make a determination of an additional amount to be factored in when calculating how much is sufficient to maintain an acceptable standard of living for those in remote rural areas, remote small towns and island areas),
  - section 5(7) (specifying a different prices index for use in calculating changes in the value of money for the purpose of measuring the fuel poverty gap),

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- section 14(7)(a) (making further provision about the Panel),
  - section 14(7)(b) (providing for the dissolution of the Panel after the target year set out in section 1 has passed),
  - section 15(5) (specifying a different prices index for use in calculating inflation for the purpose of the cap that applies to the funding of the Panel),
  - section 16 (adjusting the effect of the fuel poverty definition).
75. Subsection (2) obliges the Scottish Ministers to consult prior to putting forward proposed regulations under section 3(4) or 16 of the Act. They must consult such persons as they consider it appropriate to consult but, regardless of who else they choose to consult, they must consult individuals who are living or who have previously lived in fuel poverty. But where anything was done prior to the Bill being passed, or after it was passed but before it came into force, by way of consultation about the types of household for which enhanced heating temperatures and/or enhanced heating hours are appropriate, subsection (4) ensures that the consultation will still count towards fulfilling the statutory consultation requirement.

### **Section 18**

76. Section 18 makes consequential amendments to the Housing (Scotland) Act 2001. The existing definition of fuel poverty is repealed, as are the existing reporting rules (as they are superseded by the strategy and reporting requirements provided for in this Act).
77. The 2001 Act continues to have one reference to fuel poverty: a local authority's local housing strategy must set out its policies with a view to accomplishing a number of purposes, one of which is the provision of housing and related services in a manner which ensures, so far as reasonably practicable, that persons do not live in fuel poverty. The meaning of living in fuel poverty for that purpose is adjusted so that it is aligned with the definition in this Act.

### **Section 19**

78. Section 19 applies a number of definitions across the whole Act as follows—
- it defines “the 2040 target” as the target that is set out in section 1(2),
  - it defines “the 2040 target in relation to each local authority area in Scotland” as the target that is set out in section 1(3),
  - “the fuel poverty targets” are defined as the targets set out in the Act: the two 2040 targets set out in section 1 and the two interim targets set out in section 2,
  - “the Scottish Fuel Poverty Advisory Panel” is defined as the Panel which is established under section 14.
79. There are a number of other terms which are defined and applied locally in the Act. These are—
- “adjusted” (section 3(10)(a)),
  - “benefits received for a care need or disability” (section 3(10)(b)),
  - “childcare costs” (section 3(10)(c)),
  - “extreme fuel poverty” (section 4),
  - “four drivers of fuel poverty” (section 14(10)),
  - “fuel poverty” (section 3),

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- “fuel poverty gap” (section 5),
  - “household” (section 3(10)(d)),
  - “housing costs” (section 3(10)(e)),
  - “minimum income standard” (section 3(10)(f)),
  - “net income” (section 3(10)(g)),
  - “operating period” (section 15(6)).
80. The terms “remote rural area”, “remote small town” and “island area” will be defined in regulations in accordance with sections 3(7)(a) and 3(9).

### ***Section 20***

81. Section 20 makes provision for commencement. The commencement section itself, as well as the interpretation and short title sections, will come into force the day after Royal Assent is granted. The other sections will come into force on such day as the Scottish Ministers by regulations appoint.

### ***Section 21***

82. Section 21 provides for the short title of the resulting Act to be the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019.