

POLICY NOTE

THE FUEL POVERTY (ENHANCED HEATING) (SCOTLAND) REGULATIONS 2020

SSI 20XX/XXX

1. The above instrument was made in exercise of the powers conferred by section 3(4) of the Fuel Poverty (Targets, Definition and Strategy)(Scotland) Act 2019 (“the 2019 Act”). The instrument is subject to affirmative procedure.

This instrument follows on from the Commencement Regulations, published in September 2019, and will commence the provisions contained in section 3(4) of the 2019 Act. These provisions require Scottish Ministers to specify by Regulation what household types will have an enhanced heating regime applied to them for the purposes of calculating fuel poverty.

Policy objectives

Enhanced Heating Regimes

2. The Fuel Poverty (Targets, Definition and Strategy)(Scotland) Act 2019 (“the Act”) sets out the new definitions of fuel poverty and extreme fuel poverty. These new definitions are based on the recommendations made by the Scottish Fuel Poverty Definition Review Panel and more closely align fuel poverty with low incomes, allowing us to target those households who most need support. A household is deemed to be in fuel poverty if a) their fuel costs are more than 10% (20% for extreme fuel poverty) of the net household income (after housing and some other costs have been deducted) and b) if after deducting childcare costs and any benefits received for a care need the amount of income remaining is less than 90% of the UK Minimum Income Standard.
3. Part a) of the fuel poverty definition relates to the fuel costs necessary to heat the home to the requisite temperatures for the requisite number of hours. These are the temperatures and heating hours recommended by the Scottish Fuel Poverty Definition Review Panel as supporting mental and physical wellbeing. The requisite temperatures include enhanced heating temperatures as well as standard heating temperatures and the requisite heating hours includes enhanced heating hours as well as standard heating hours. Both the standard and enhanced temperatures and heating hours are set out on the face of the Act. The enhanced heating regimes recognise that some households are more vulnerable to the effects of a poorly heated home or need a slightly higher temperature, largely due to age, illness or disability. These households should be heating their home to either a higher temperature, for longer or for both and as a result would have higher fuel bills. We want to ensure that these additional costs can be taken into account when calculating whether these households are in fuel poverty or not.
4. The Act allows for three different enhanced heating regimes to be applied to household types for whom the standard heating regime is deemed insufficient. These three regimes apply either enhanced heating temperatures, enhanced heating hours, or both.

The purpose of these Regulations is to specify, in accordance with the provisions of section 3(4), which types of households will have which enhanced heating regime applied to them for the purposes of measuring fuel poverty.

5. The three enhanced heating regimes to be used are:
 - **Enhanced Heating Regime 1**, combining enhanced heating temperatures with enhanced heating hours;
 - **Enhanced Heating Regime 2**, combining enhanced heating temperatures with standard hours of heating;
 - **Enhanced Heating Regime 3**, combining standard temperatures with enhanced heating hours.
6. These enhanced heating regimes are used solely as a statistical tool in calculating the prevalence of fuel poverty. They do not confer any benefits or entitlements upon particular households.
7. The Regulations specify that Enhanced Heating Regime 1 will be applied to all households with at least one member who is aged 75 years or over, or has a long term physical or mental condition or illness lasting or expected to last 12 months or more, or is in receipt of benefits for a care need or disability, and where a member of the household is at home regularly during the morning or afternoon or both on weekdays. The age of 75 years and above originates with the Definition Review Panel, which identified this as the point where evidence suggests most people can reasonably be assumed to become more vulnerable to cold, and are very likely to be retired and so spending longer amounts of time at home. This enhanced heating regime also recognises that those under the age of 75 years, but who have long term conditions or illnesses, are also likely to have greater heating needs and are likely to spend more time in the home.
8. Enhanced Heating Regime 2 will be applied to households with at least one member aged 75 years or over, or who has a long term physical or mental condition or illness lasting, or expected to last, 12 months or more, or is in receipt of benefits for a care need or disability, and where the home is NOT occupied during the morning or afternoon or both on weekdays. This enhanced heating regime recognises that while those aged 75 years or over, or those with long term conditions or illnesses may benefit from higher temperatures, the home may not be occupied during the day as many may work or spend significant time outside the home.
9. Enhanced Heating Regime 3 will be applied to households with a child aged 5 years or under and where the home is occupied regularly during the morning or afternoon or both on weekdays. While medical evidence suggests young children do not require higher heating temperatures, we recognise that such households may be spending longer periods of time at home.
10. Section 6 of the Regulations addresses the possibility of a household with members who qualify separately under Enhanced Heating Regime 1 and Enhanced Heating Regime 3. An example would be a household with a grandparent aged 75 years and a 3 year old grandchild. Where such a situation arises, Enhanced Heating Regime 1 will always be applied.

Scottish House Condition Survey (SHCS)

11. Fuel poverty is measured at a national and local authority level through the SHCS. The SHCS is the largest single housing research project in Scotland, and the only national survey to look at the physical condition of Scotland's homes as well as the experiences of householders. It is the key source of the data, in combination with the social data collected from the Scottish Household Survey (SHS), required to calculate fuel poverty levels including the information needed to determine which households should have one of the enhanced heating regimes applied to them for the purpose of calculating fuel poverty.
12. The SHS is undertaken annually and conducts interviews with around 10,000 households gathering information on the composition of the household and many aspects of their lives. SHCS physical surveys of the properties are also undertaken with around 3,000 of these households to assess the general condition as well as the energy efficiency of the property. Information gathered through both the interviews and the physical surveys is used to calculate fuel poverty. Most of the SHCS data required under the new definition of fuel poverty will be unchanged from the previous definition, but one question in the SHS survey will become annual and be asked of all SHCS households to identify household occupancy patterns within the home.

Calculating Fuel Poverty

13. To calculate fuel poverty levels, information is drawn from a variety of questions in the SHS and SHCS. This includes questions on income, benefits received, childcare costs, and housing costs, which are cross referenced to calculate the net adjusted income of the household. The household's fuel costs are then calculated. These are not actual fuel costs because the way people use energy in the home, and the prices they pay for it, varies greatly, and, more importantly, households experiencing fuel poverty often ration heating to reduce their costs. Instead a modelled 'heating regime' is used, which calculates household fuel costs by assessing how much energy is needed to heat the home to the requisite temperatures, for the requisite hours, specified in the Act. Other reasonable indoor fuel needs are also factored in covering such things as heating water, cooking, lighting and using appliances such as kettles, phone chargers, etc. This reflects the fact that the purpose of calculating fuel poverty is to assess whether households would be likely to experience excessive pressure on their finances if they were heating their home as it should be to maintain health and wellbeing.
14. Households which have one of the enhanced heating regimes applied to them will typically use more energy than those on the standard heating regime. However, the calculation on the amount of energy used also takes into account factors such as the energy efficiency of the home. This information is provided by the Building Research Establishment (BRE), as are the average costs of fuel.
15. The question in the SHS which will be used to establish occupancy patterns for the household asks 'Generally speaking, during winter when heating needs are greatest, at which of these times are you or someone else in your household regularly at home?' and then provides a list of options, set out below:

- All day/all of the time
- Weekday morning – 9am – noon
- Weekday lunchtime – noon – 2pm
- Weekday afternoon – 2pm – 5pm
- Weekend evening
- Weekend daytimes
- Weekend evenings
- Highly variable (no regular pattern)

16. Since both the standard and enhanced regimes assume 16 hours of heating a day at weekends, the intention behind this question is to identify households where a member is habitually at home during the day on weekdays. While the standard regime applies only 9 hours of heating on weekdays this rises to 16 hours a day for the enhanced regime. Those who answer in the affirmative to either, or both, of weekday mornings and weekday afternoons, or to highly variable, or all day/all of the time, will have enhanced heating hours applied to them. All the heating regimes are applied on a year round basis. The reference in the question to winter is simply meant to concentrate respondents minds on the time of year when it is coldest.

17. Where the household's fuel costs amount to 10% (or 20% for extreme fuel poverty) of its net adjusted income, part a) of the fuel poverty test will have been met. The remaining household income after deduction of its fuel costs, benefits received for a care need or disability and childcare costs is then calculated. If this figure amounts to less than 90% of the UK Minimum Income Standard (MIS) for that household type, part b) of the test will also have been met and the household will be considered fuel poor. For households in remote rural, remote small towns and island areas, uplifts will be applied so that their remaining income must amount to a greater proportion of the MIS if they are not to be considered fuel poor. This is intended to reflect the generally higher cost of living in these areas.

Consultation

18. A consultation seeking views on the kinds of household to which each of the three enhanced heating regimes should be applied was launched on 24 June 2019 and ran until 16 August 2019. The Act also requires us to consult with people with lived experience of fuel poverty and the Energy Savings Trust ran a series of focus groups to discuss the enhanced heating regimes. Individual stakeholder responses, a consultation analysis report, and a report on the focus groups have been published on the Scottish Government website.

19. The comments provided by stakeholders helped inform the content of these Regulations. Specifically, Enhanced Heating Regime 3 will now be applied to households with children aged 5 years or under and who spend more time at home, rather than just those aged under 3 years, as originally proposed.

20. Some respondents suggested that a detailed list of long-term illnesses or disabilities should be prepared that would indicate whether any household member requires an enhanced heating regime. However, it would have been very challenging to compile such a list and would have required new and overly intrusive questions to be added to

the survey. To maintain a simple, non-intrusive approach we will continue to rely on self-reporting of conditions by households through the survey.

21. There were also a number of other household types that respondents suggested should have an enhanced heating regime applied to them, such as those including pregnant women, premature babies, or those with temporary or fluctuating illnesses. However, the SHS and SHCS are annual surveys and the heating regimes are based on annual costs, so they cannot easily capture short term illnesses or conditions. Consequently, these have not been included within the regulations. Nonetheless, it is acknowledged that some of the additional household types identified by respondents may have particular needs which should be addressed, and these will be considered during the preparation of the Fuel Poverty Strategy.

Impact Assessments

22. A children's rights and wellbeing impact assessment, an equality impact assessment, a Fairer Scotland duty assessment and a health impact assessment were carried out before the introduction of the Bill and published on the Scottish Government website. These drew upon the responses to the Fuel Poverty Strategy Consultation which ran from November 2017 to February 2018 and considered all relevant aspects of the proposed legislation including the original provisions for a single enhanced heating regime, combining higher temperatures and longer heating hours. During the passage of the Bill an island communities impact assessment (ICIA) was carried out and this has also been published on the Scottish Government website.
23. Despite the expanded range of enhanced heating regimes now included in the Act the existing impact assessments still provide a satisfactory assessment of the effects on the relevant age groups and disabilities. The proposals which will be brought into effect by these Regulations are all likely to have positive rather than negative impacts for these groups compared to the original proposals. For instance the impact assessments rejected the idea of applying the original enhanced heating model, which combined higher temperatures with longer heating hours, to households with children under five years old, on the basis that medical evidence does not recommend higher temperatures. However, they did note that such households are likely to need heating for longer periods of time, due to spending more time at home, and made clear that this issue could be reconsidered when it came to laying Regulations.
24. Other aspects of impact assessments have seen little substantive change as a result of the expanded range of enhanced heating regimes. The case for raising the age from 60 to 75 years for automatic qualification for what is now Enhanced Heating Regime 1 (combined higher heating temperatures and longer heating hours) remains unchanged. Namely that evidence shows more older people than ever before are living healthy, active independent lives, well into their retirement. Those aged between 60-74 years who are more vulnerable, will qualify for enhanced heating via the criteria on long term physical or mental conditions or illnesses lasting, or expected to last, 12 months or more. In light of these considerations, a wholesale re-evaluation of the impact assessments was considered unnecessary.
25. A review by Scottish Government statisticians was conducted to examine whether there was a case for undertaking an ICIA specifically in respect of the enhanced heating

regime proposals. This concluded that the prevalence of the household characteristics used to determine applicability of the enhanced heating regimes is not significantly different in island communities compared with those on the Scottish mainland. Consequently, no new ICIA has been prepared.

Financial Effects

26. No Business and Regulatory Impact Assessment has been prepared for this order as no financial effect or impact on the private, voluntary or public sectors is foreseen.

Scottish Government
Housing and Social Justice Directorate

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