

POLICY NOTE

THE FUEL POVERTY (TARGETS, DEFINITION AND STRATEGY) (SCOTLAND) ACT 2019 (SCOTTISH FUEL POVERTY ADVISORY PANEL AND CONSEQUENTIAL AMENDMENTS) REGULATIONS 2020

SSI 2020/141

1. The above instrument was made in exercise of the powers conferred by section 14(7)(a) and section 17(1)(b) of the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 (“the 2019 Act”). The instrument is subject to affirmative procedure.

This instrument will implement the provisions contained in section 14 (7) of the 2019 Act. These provisions require Scottish Ministers to specify in regulations how the statutory Scottish Fuel Poverty Advisory Panel (“the Panel”) is established with respect to the membership of the Panel (including the appointment process), remuneration and expenses of the Panel, the preparation and publication of its reports, and how the Panel is independent of the Scottish Ministers.

Policy objectives

Scottish Fuel Poverty Advisory Panel

2. The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 (“the Act”) was passed by Parliament with unanimous support in June 2019 and received Royal Assent on 18 July 2019. It sets statutory targets for reducing fuel poverty, introduces a new definition which aligns fuel poverty more closely with relative income poverty and requires Scottish Ministers to produce a comprehensive strategy to show how they intend to meet the targets.
3. The Act also specifies that a Scottish Fuel Poverty Advisory Panel (“the Panel”) should be established on a statutory footing to scrutinise the progress being made towards meeting the fuel poverty targets, making recommendations as appropriate. This provision was introduced to the legislation by amendment in order to ensure there is an independent body monitoring the implementation of the Act and providing impartial advice to Scottish Ministers on how best to achieve its goals.
4. The new statutory Panel will replace the existing non-statutory advisory panel, which was established in 2018. There will be a transition period from the existing non-statutory panel to the statutory Panel, before the existing panel is dissolved. We will seek to set in place arrangements to ensure the two groups are able to conduct an effective hand-over. Officials will continue to engage with the existing Panel throughout the process in order to ensure risks are managed.

Membership

5. The Panel will be constituted as an Advisory Non-Departmental Public Body consisting of a Chairperson and between three and five other members, all of whom will be appointed by Scottish Ministers through the regulated public appointments

process. This process ensures that decisions on who should sit on the Panel will be formally subject to the code of practice on appointments. This will ensure that the appointment process for the Chair and Panel members is fair, transparent, and incorporates best practice.

6. Members will be appointed for a period no longer than four years and can serve for no longer than eight years in total whether as consecutive, or non-consecutive terms. This is intended to strike a balance between the benefits of having experienced members on the Panel and ensuring that there is a regular intake of new appointees with a fresh perspective on the issues.
7. In making appointments to the Panel a variety of knowledge and experience in relation to fuel poverty will be sought, including in policy or academic capacities, or through work directly with fuel poor households. Crucially, at least one member of the Panel must have direct lived experience of fuel poverty. This reflects the spirit of the Act which makes clear the importance of involving individuals with experience of fuel poverty at every available opportunity. For the purposes of appointing Panel members the term “fuel poverty” will not be interpreted in the way that it is defined by the Act for a household, as this definition is intended purely for use in calculating the prevalence of fuel poverty. Instead in relation to appointing Panel members, the term will be applied in a more general sense as someone who has struggled to cover their fuel costs.
8. To ensure that individuals with experience of living in fuel poverty are not inadvertently excluded from serving on the Panel, we have decided to omit disqualification criteria which relate to insolvency, past or present, from the rules on appointments. Other usual criteria for disqualification, such as membership of the House of Commons, Lords or Scottish Parliament, will be applied.
9. The Regulations also allow the Scottish Ministers to remove members from the Panel in certain circumstances, such as where a member has missed three consecutive meetings.

Remuneration, expenses and resources

10. The Act specifies that the budget for the Panel must not exceed £82,000 over a three year period, a figure which will be adjusted periodically for inflation. Administrative support for the Panel will be provided by Scottish Government civil servants on a part-time basis. The Scottish Ministers will pay or reimburse reasonable expenses which are incurred by the members of the Panel. Remuneration for the Chair and Panel members will be in line with Public Sector Pay Policy for Senior Appointments which covers the remuneration of chief executives of Scottish non-departmental public bodies and public corporations, chairs and board members of public bodies in Scotland and NHS Scotland executive and senior management posts.

Remit

11. The Act sets out the main duties of the Panel but also specified in section 14(7) that the Minister may make further provision about the Panel through regulations.

12. The Act sets out that for each reporting period (every 3 years), the Scottish Ministers must prepare a report which sets out the steps that have been taken and the progress made within that period to meeting the fuel poverty targets and to address the four drivers of fuel poverty, both nationally and at local authority level. In addition to this, the Scottish Ministers will set out the steps they propose to take in the next reporting period to meet the targets and address the four drivers which are:-
 - low net adjusted household incomes,
 - high household fuel prices,
 - homes with low levels of energy efficiency and
 - the inefficient use of fuel in homes.
13. The Act requires that the Panel must meet after the publication of each periodic report by Scottish Ministers, and produce their own report in response. The regulations specify that this report will be provided to Scottish Ministers as soon as is reasonably practicable and no later than 6 months after the publication of the periodic report. This report will consider the progress made so far in achieving the fuel poverty targets, the likelihood of the targets being met, and the extent to which each of the four drivers of fuel poverty are being addressed. The Panel may also propose changes to the fuel poverty strategy and include any other recommendations they deem appropriate. All reports provided by the Panel must be published by Scottish Ministers within a month of them being received.
14. The Act also makes the Panel a required consultee for the preparation and review of the fuel poverty strategy. The Act specifies that a review of the strategy should take place five years after it is produced. It also suggests that Scottish Ministers should keep the strategy under review on an ongoing basis. We intend to do this and we will seek advice from the Panel on a regular basis. This will ensure full use is made of the Panel's expertise even when no periodic reports are imminent.
15. Finally, the Act allows for, but does not require, the Panel to provide additional advice on fuel poverty related matters, if requested by a committee of the Scottish Parliament.
16. It is expected that in order to satisfactorily carry out its duties the Panel should meet at least three or four times a year.

Consultation

17. A consultation was carried out from November 2017 to February 2018 on the draft fuel poverty strategy, which included gathering views on what should be included in the Bill that became the 2019 Act. Individual stakeholder responses as well as an independent consultation analysis report have been published on the Scottish Government website.
18. At that point it was not considered necessary to establish a new statutory advisory panel. Instead it was proposed that the existing non-statutory panel would continue to provide advice on fuel poverty including monitoring progress made towards meeting

the new targets. This was reflected in the Bill as introduced in June 2018, which did not make any provision for a statutory advisory panel.

19. During Stage 1 and 2 of the Bill's passage through Parliament, there were representations from many stakeholders in support of creating a statutory advisory panel, which were supported unanimously by members of the Local Government and Communities Committee. In light of this it was agreed that the legislation should be amended to include provision for such a body.
20. No further consultation on this issue has been considered necessary given the strong support expressed for the proposal by stakeholders and Parliament.

Impact Assessments

21. 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 2019 Bill and published on the Scottish Government website. These drew upon the responses to the Fuel Poverty Strategy Consultation and considered all relevant aspects of the proposed legislation. Although a statutory advisory panel was not being proposed at that time, the impacts of establishing such a body are considered to be negligible.

Financial Effects

22. No Business and Regulatory Impact Assessment has been prepared for the Regulations 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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