EXPLANATORY MEMORANDUM TO

THE FUEL POVERTY (ENGLAND) REGULATIONS 2014

2014 No. 0000

1. This explanatory memorandum has been prepared by the Department of Energy Climate Change and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The Warm Homes and Energy Conservation Act 2000 (c. 31) (hereinafter, "the Act") places a duty on the Secretary of State to make regulations setting out an objective for addressing the situation of persons in England who live in fuel poverty. The purpose of the instrument is to satisfy this duty.

2.2 The instrument establishes an objective of ensuring that as many as is reasonably practicable of the homes of persons in England living in fuel poverty have an energy efficiency rating of Band C, by 31st December 2030.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This is the first instrument to be made under section 1A of the Act.

4. Legislative Context

4.1 Section 1A of the Act was introduced by virtue of section 145 of the Energy Act 2013 (c. 32), which amended the Act in its application to England. Section 1A(1) places a duty on the Secretary of State to make regulations setting out an objective for addressing the situation of person in England who live in fuel poverty. Section 1A(2) requires the regulations to specify a target date for achieving the objective. Section 1A(3) states the regulations must be made by affirmative statutory instrument. Section 1A(4) requires a draft instrument to be laid before each House of Parliament within 6 months of the day on which section 145 of the Energy Act 2013 came into force. Section 145 of the Energy Act 2013 commenced on 18th February 2014.

4.2 Section 1B of the Act sets out a number of requirements relating to a fuel poverty strategy for England. Section 1B(1) places a duty on the Secretary of State to prepare and publish such a strategy which sets out the policies for achieving the objective which is set out in regulations pursuant to section 1A(1). Section 1B(2) requires the strategy to be published within 6 months of the day on which the regulations made under section 1A(1) come into force. Section 1B(3) specifies various requirements as to the content of the

strategy and section 1B(4) requires the Secretary of State to take such steps as in the Secretary of State's opinion necessary to implement the strategy.

5. Territorial Extent and Application

5.1 This instrument applies in relation to England.

6. European Convention on Human Rights

Edward Davey, Secretary of State at the Department of Energy and Climate Change, has made the following statement regarding Human Rights:

In my view the provisions of the Fuel Poverty (England) Regulations 2014 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 Fuel poverty has been an issue of concern to Parliament and Government for a number of years. Fuel poverty causes hardship and ill health, especially in vulnerable households. At present, some 2.3m households in England are fuel poor – around 10% of all households.

7.2 In line with the Act, in its original form, the Government published a UK Fuel Poverty Strategy in 2001 designed to ensure that as far as reasonably practicable no person in England lived in fuel poverty by 2016. Throughout the period 2001 to present, successive fuel poverty policies were introduced. However, the extent of the fuel poverty problem appeared to change rapidly over time. Measured using the so-called "10% indicator" (under which a household was deemed to be fuel poor if its modelled energy needs accounted for more than 10% of household income) fuel poverty fell to low levels in 2003/04 before rising consistently to 2010.

7.3 The present Government commissioned an independent review of fuel poverty in England. This was conducted by Professor Sir John Hills of the London School of Economics. The Hills Review[1] found that the Government's approach to measuring fuel poverty was flawed, notably because the "10% indicator" was unduly sensitive to energy prices. The Hills Review also characterised fuel poverty as a long-term, structural and relative (rather than absolute) problem, reflecting the fact that a number of low-income households also face higher-than-typical energy costs. The Hills Review made a number

[1] The Review was published in two parts, available at:
http://webarchive.nationalarchives.gov.uk/20121217150421/http://www.decc.gov.uk/assets/decc/11/funding-support/fuel-poverty/3226-fuel-poverty-review-interim-report.pdf
https://www.gov.uk/government/publications/final-report-of-the-fuel-poverty-review

of recommendations, including a change to the measurement approach through the adoption of a new "low income high costs indicator."

7.4 After consulting on the conclusions of the Hills Review, the Government adopted the "low income high costs indicator" as the primary measure of fuel poverty.[2] In July 2013 the Fuel Poverty Strategic Framework was published.[3] This explained that the Government's intention was to amend the Act, through the Energy Bill that was in Parliament at that time, to create a new duty on the Secretary of State to set a new fuel poverty target, as a consequence of the Hills Review.

7.5 The Strategic Framework proposed that the new fuel poverty target should be focused on improving the energy efficiency of the homes of the fuel poor households. While there are a number of drivers of fuel poverty – including energy prices and income levels – a key concern is the quality of the UK housing stock. The rationale for a fuel poverty target based on energy efficiency is that improving housing in this way provides a sustainable way of tackling fuel poverty. Higher standards of energy efficiency offer considerable protection to the fuel poor (and other households) against the potential negative effects of rising prices. Improvements to energy efficiency levels also lower carbon emissions and contribute to economic growth and energy security.

7.6 The draft instrument sets out an objective of ensuring that **as many as is reasonably practicable of the homes of persons in England living in fuel poverty have an energy efficiency rating of Band C**. The target date for achieving this objective is **31st December 2030**. As required by the Act, interim objectives underpinning this objective will be specified in a new fuel poverty strategy.

7.7 This target implies improving the energy efficiency of a significant number of households. At present, around 5% of fuel poor homes have an energy efficiency rating of Band C or above as defined in the relevant methodology (discussed further in paragraph 7.9). Improving a fuel poor home to Band C implies a reduction in the energy needed to meet an adequate standard of heating, thereby supporting households on a low income to keep warm at home, and raising living standards. In aggregate, the new target also implies working to close the gap in standards between fuel poor and non-fuel poor households even as standards improve overall.

7.8 The future fuel poverty strategy required under the Act will set out policies for meeting this objective. Policies can be expected to support attainment of the objective in two main ways. First, by leading to the installation of physical measures in properties such as more efficient boilers and loft and wall insulation. Second, by providing direct financial support with energy bills.

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[2] The consultation documentation is available at: https://www.gov.uk/government/consultations/fuel-poverty-changing-the-framework-for-measurement

[3] Available at: https://www.gov.uk/government/publications/fuel-poverty-a-framework-for-future-action

7.9 The draft instrument sets a fuel poverty objective in terms of a particular energy efficiency rating. The Fuel Poverty Energy Efficiency Rating Methodology (dated 17th July 2014) will be used to determine energy efficiency in this context. Copies of the Fuel Poverty Energy Efficiency Rating Methodology may be obtained from the Fuel Poverty Team, Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW. The Methodology is closely based on the Standard Assessment Procedure (SAP) which is a methodology for measuring the energy costs (in £) per unit of area (m^2) in a dwelling.

8. Consultation outcome

8.1 As noted above, the Government consulted on its response to the Hills Review in 2012. The Government also welcomed views on the Strategic Framework published in July 2013. As required under the Act (Section 1B(9)), the Government will consult a wide-range of parties before the adoption of the fuel poverty strategy. There has been no specific consultation on the draft instrument.

9. Guidance

9.1 No guidance is required. The fuel poverty objective will be met through a range of policies and guidance will be produced for such policies as required.

10. Impact

10.1 There will be no direct impact on business, charities or voluntary bodies from the draft instrument. Policies introduced to meet the fuel poverty objective may have such an impact.

10.2 There will be no direct impact on the public sector from the draft instrument. Policies introduced to meet the fuel poverty objective may have such an impact.

10.3 An Impact Assessment has not been prepared for this instrument. Impact Assessments will, as required, be prepared for policies introduced to meet the fuel poverty objective.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Recognising the long-term nature of the fuel poverty objective and the requirements of the Act, there will be future reviews of the fuel poverty strategy and of progress made against the objective with a view to considering whether revisions ought to be made to the fuel poverty objective and target date for

achieving it. In the event of such a revision, an update to the fuel poverty strategy would be required.

13. Contact

Rita Wadey at the Department of Energy and Climate Change (Tel: 0300 068 6776 or email: rita.wadey@ decc.gsi.gov.uk) can answer any queries regarding the instrument.