POLICY NOTE

The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 (Commencement No. 1) Regulations 2019

SSI 2019/277 (C.9)

1. The above instrument was made in exercise of the powers conferred by section 20(2) of the Fuel Poverty (Targets, Definition and Strategy)(Scotland) Act 2019 ("the 2019 Act"). The instrument is subject to no procedure.

This instrument is the first set of Commencement Regulations and will commence the majority of the provisions of the 2019 Act not commenced the day after Royal Assent. Section 7(2)(g), section 18(3) and 18(4) will be commenced at a later date.

Policy Objectives

Fuel Poverty Targets

2. The commencement of section 1-5 brings into force the targets relating to the eradication of fuel poverty and establishes the definition of fuel poverty, extreme fuel poverty and the fuel poverty gap. Sections 1 and 2 set out the targets. The overall target is that by 2040, as far as reasonably possible no household in Scotland is in fuel poverty and, in any event no more than 5% of households in Scotland are in fuel poverty; no more than 1% of households in Scotland are in extreme fuel poverty; and the median fuel poverty gap of households in fuel poverty in Scotland is no more than £250 in 2015 prices before adding inflation. These targets are also to be met in each local authority area. Interim targets are in place at a Scottish level for 2030 and 2035.

3. Commencement of section 3 brings into effect the definition of fuel poverty, including the regulation making powers set out in section 3(4) and section 6(b). These provisions will allow regulations to be made to specify the type of households for which enhanced heating temperatures and/or enhanced heating hours are appropriate and to determine the remote rural, remote small town and islands uplifts.

4. Commencement of section 4 and 5 brings into force the definition of extreme fuel poverty and the fuel poverty gap.

Fuel Poverty Strategy

5. Commencement of section 6 - 8 brings into force the requirement for Scottish Ministers to prepare a fuel poverty strategy. Section 6 sets out what needs to be included in the fuel poverty strategy. It requires that Scottish Ministers keep the strategy under review and that within 5 years of publishing the strategy Scottish Ministers must either revise the strategy or publish an explanation of why they have decided not to revise it.

6. Section 7 sets out the requirements for consultation on the fuel poverty strategy. Section 7(2)(g) which is not being commenced requires Scottish Ministers to consult with the Scottish Fuel Poverty Advisory Panel (defined as the Panel established under section 14(1)). Further regulations to be laid under section 14(7) will set out the provisions for the Panel and will include the arrangements for appointments, remuneration and governance. Not commencing section 7(2)(g) ensures that the development of the Strategy and the requirement to lay the first strategy before the expiry of the period of 1 year beginning with the day on which section 6 comes into force can be met. Scottish Ministers will consult with the existing Fuel Poverty Advisory Panel and Partnership Forum in the meantime.

7. Section 8 sets out the requirements to publish the fuel poverty strategy and following this to publish a report setting out the consultation process and the ways in which the views expressed during consultation have been taken account of in preparing the strategy. It requires Scottish Ministers to lay a copy of this report and to make a Parliamentary statement in relation to the fuel poverty strategy.

Preparation of periodic reports

8. Commencement of sections 9 – 13 brings into force the reporting requirements relating to the targets. The reporting periods are specified as being the period of 3 years beginning with the day on which the fuel poverty strategy is published. Scottish Ministers are required to report on the steps that have been taken and progress made towards meeting the targets as well as the steps that will be taken in the next reporting period. Scottish Ministers are required to consult specific persons in preparing these reports and to publish and lay a copy of the these reports before the Scottish Parliament. These sections also set out the timescales for reporting on the 2040 targets, at a Scottish and local authority level.

Independent Advisory Panel

9. Commencement of sections 14 and 15 establishes the new Fuel Poverty Advisory Panel and set out the provisions relating to the funding of the Panel. It also brings into force the regulation making powers in section 14(7) which will be used to set out further details on the appointment of members, remuneration and governance.

General

10. The commencement of section 16 brings into force regulation making powers to amend section 3, relating to the meaning of fuel poverty. Section 17 specifies that certain regulations made under the 2019 Act are subject to the affirmative procedure and requires Scottish Ministers to consult on regulations made under section 3(4) or 16 and that this must include individuals who re living, or have lived, in fuel poverty.

11. Commencement of section 18(1) and (2) amend the Housing (Scotland) Act 2001 by repealing the requirement for Scottish Ministers to prepare and publish a statement setting out the measures which they and local authorities have taken, are taking and intend to take for the purpose of ensuring, so far as reasonably practicable, that persons do not live in fuel poverty. Section 18(3) and (4) relate to the guidance for local authorities on preparing local housing strategies and the definition of fuel poverty to be used. Once the

regulations for enhanced heating and the remote rural, remote small town and island uplifts are in place we will commence sections 18(3) and (4).

Consultation

12. A consultation was carried out on the draft fuel poverty strategy that included gathering views on what should be included in the 2019 Act. The comments provided by stakeholders informed the content of the 2019 Act. Individual stakeholder responses as well as an independent consultation analysis report have been published on the Scottish Government website.

Impact Assessments

13. 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. During the passage of the Bill an island communities impact assessment was carried out and this has also been published on the Scottish Government website.

Financial Effects

14. 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

5 September 2019