

This document relates to the Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill (SP Bill 37) as introduced in the Scottish Parliament on 26 June 2018

# Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill

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## Policy Memorandum

### Introduction

1. As required under Rule 9.3.3 of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill introduced in the Scottish Parliament on 26 June 2018.
2. The following other accompanying documents are published separately:
  - Explanatory Notes (SP Bill 37–EN);
  - a Financial Memorandum (SP Bill 37–FM);
  - statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 37–LC).
3. This Policy Memorandum has been prepared by the Scottish Government to set out the Government's policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### Policy Objectives of the Bill

#### Background and Overall Aims

4. The Scottish Government's overall purpose is to focus on creating a more successful country with opportunities for all of Scotland to flourish through increased wellbeing, and sustainable and inclusive economic growth. The legislative measures contained within the Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill ('the Bill') will contribute to a range of strategies that tackle poverty by increasing household incomes, such as our Fairer Scotland Action Plan and Tackling Child Poverty Delivery Plan, as well as our continued support for sustainable economic

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inclusive growth. There are actions around fuel poverty in each of these plans and delivery of these will contribute to the aims of both plans.

5. The policy contributes to a number of the Scottish Government's National Outcomes: "we tackle poverty by sharing opportunities, wealth and power more equally"; "we live in communities that are inclusive, empowered, resilient and safe"; "we are well educated, skilled and able to contribute to society"; "we are healthy and active"; "we value, enjoy, protect and enhance our environment"; "we respect, protect and fulfil human rights and live free from discrimination"; and "we have thriving and innovative businesses, with quality jobs and fair work for everyone".

6. The Bill is a crucial element to allow the Scottish Government to push forward a collective agenda on eradicating fuel poverty, meeting climate change commitments and improving the energy efficiency of building stock. The Bill sets the framework for action on fuel poverty, and, if required, further legislation on an Energy Efficient Scotland will deliver a coherent approach to achieving the overarching aims of eradicating poor energy efficiency as a driver of fuel poverty and reducing greenhouse gas emissions.

7. The Bill is based on principles of fairness and equality for all. Like the Child Poverty (Scotland) Act 2017, the Bill and the associated publication of a draft Fuel Poverty Strategy are within the overarching agenda set out by the Fairer Scotland Action Plan. There is, therefore, a clear link between child poverty and fuel poverty, and plans to tackle both of these issues will remain aligned and connected.

8. The Bill does not, however, represent the first action that the Scottish Government has taken in respect of fuel poverty. The first fuel poverty statement was published by the then Scottish Executive in 2002 under section 88 of the Housing (Scotland) Act 2001 ("the 2001 Act"). The statement<sup>1</sup> used a definition of fuel poverty where a household, in order to maintain a satisfactory heating regime, would be required to spend more than 10% of its income (including Housing Benefit or Income Support for Mortgage Interest) on all household fuel use (for the purposes of this memorandum, this is referred to as "the current definition").

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<sup>1</sup> <http://www.gov.scot/Publications/2002/08/15258/9951>

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9. The 2002 statement also set a target date of ensuring, so far as reasonably practicable, that people were not living in fuel poverty in Scotland by November 2016. Expert advice received in spring 2016 from the Scottish Fuel Poverty Strategic Working Group informed Ministers that the 2016 target would not be met and the Parliament was informed<sup>2</sup>.

10. Under section 88 of the 2001 Act, there is a requirement to publish a Fuel Poverty Statement every four years. The next statement is due to be published in 2018. The draft Fuel Poverty Strategy published at the same time as the Bill is that statement and includes the relevant information required under the 2001 Act. When the Bill comes into force, section 88 of the 2001 Act will be repealed.

## General Overview of the Bill

11. In order to set out a clear agenda for tackling, reporting on and measuring fuel poverty, the Bill addresses three key areas:

- it sets a new long term target that by the year 2040, no more than 5% of households in Scotland are in fuel poverty.
- it sets a new fuel poverty definition which is:  
A household is in fuel poverty if—
  - a) the fuel costs necessary for the home in which members of the household live to meet the conditions set out in subsection (2) of the Bill (heating homes to specified temperatures and meeting other reasonable fuel needs) are more than 10% of the household's adjusted net income (i.e. the income after deduction of housing costs), and
  - b) after deducting such fuel costs and the household's childcare costs (if any), the household's remaining adjusted net income is insufficient to maintain an acceptable standard of living for members of the household.
- it requires Scottish Ministers to publish a fuel poverty strategy and then publish a report every 5 years to update on progress towards

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<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10488&m ode=pdf>

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the long term target and the plans for the next 5 years, and to report at the end of the target date.

12. The following section will consider each area of the Bill in detail.

## Target

13. The ambition for Scotland is to see more households:

- living in well-insulated warm homes;
- accessing affordable, low carbon energy; and
- having an increased understanding of how to best use energy efficiently in their homes.

14. The Scottish Government therefore has set the ambitious aim that by the year 2040, no more than 5% of households in Scotland will be in fuel poverty and setting this aim in legislation is the primary aim of the Bill. Achieving the target would place Scotland amongst the very best in the world in terms of tackling fuel poverty.

15. Setting this target at 5% recognises that households move in and out of fuel poverty due to changes in income and energy costs. The Scottish Government appointed a panel of academic experts on housing and fuel poverty, to consider the current definition of fuel poverty<sup>3</sup>. The panel considered how other countries define fuel poverty as part of their research. They found that Scotland is one of only a handful of European countries to define fuel poverty, let alone set such a challenging goal to reduce it.

16. In addition, energy efficiency was made a national infrastructure priority in the 2015 Infrastructure Investment Plan and the Energy Efficient Scotland Programme (“Energy Efficient Scotland”) will deliver that plan. Energy Efficient Scotland has the key goal of removing poor energy efficiency as a driver of fuel poverty by 2040. It will also play a key role in achieving objectives to reduce greenhouse gas emissions, boost business productivity, grow the low carbon economy and tackle inequalities.

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<sup>3</sup> <http://www.gov.scot/Publications/2017/11/7715>. See also the material below under the heading ‘Definition’ from paragraph 24 onwards.

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## **Interaction of the target with other related policies and targets**

17. Within Energy Efficient Scotland the ambition is to maximise the number of homes reaching minimum EPC ratings. An EPC gives a property an energy efficiency rating from A (most efficient) to G (least efficient). As part of the consultation, the Scottish Government is proposing that all homes reach an EPC band C by 2040 (where technically feasible, cost effective and affordable), and views are being sought on setting more ambitious energy efficiency targets for those households in fuel poverty. It is proposed that all homes with households in fuel poverty reach EPC band C by 2030 and EPC band B by 2040 (where technically feasible, cost effective and affordable). This would support the Scottish Government's work on eradicating fuel poverty by removing poor energy efficiency as a driver of fuel poverty.

18. Achieving the Bill's target by 2040 will require the use of cost-effective low carbon heating technologies. If the target were set for an earlier date than 2040, the technologies required to meet it would have to rely on existing higher carbon heating fuels. The result would be that households might have to implement further upgrades to their heating (to move to low carbon technology) in the future in order to meet Scotland's climate change targets. Therefore, an earlier target risks placing an unreasonable requirement on households to repeatedly renew their heating systems.

19. Further innovation in the coming years is needed to drive down the price of low carbon heat technologies. Currently, there is uncertainty on how best to decarbonise the heat supply in Scotland, with decisions on the operation of the gas network reserved to the UK Government. Working with the UK Government, the Scottish Government will undertake research, gather evidence and put in place a credible and deliverable plan for decarbonising Scotland's heat supply. In the absence of this evidence base at this stage, there would be uncertainty in investing in low carbon heat technologies and the Scottish Government wishes to avoid that possibility in so far as possible.

20. Alternatively, if low carbon technologies are used in the future, without further time for innovation to drive down their cost, the result could be that more households would be in fuel poverty, because of the increased costs of paying for heating using these technologies.

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21. Therefore, achieving the 2040 target in the Bill does not just mean improving the energy efficiency of homes. The Scottish Government will also need to take action to tackle the other drivers of fuel poverty by increasing household incomes, making the energy costs for the home more affordable, and ensuring households use their homes in an energy efficient manner.

22. These drivers are to some extent controlled by reserved areas of UK Government policy such as energy, welfare and taxation, the Scottish Government will seek to use its existing devolved powers to do what it can to tackle these drivers. The cost of energy is outwith the powers of the Scottish Government, but by ensuring consumers have advice and support on switching to the best offer available, the Scottish Government aims to help them reduce costs.

23. The Scottish Government is also limited in ways that it can directly influence salaries (e.g. through setting the national minimum wage) and working age benefits (e.g. JSA, ESA and Universal Credit).

## Fuel Poverty Definition

24. The Scottish Government's aim is to ensure that support from its programmes is targeted at those who need it most; no matter where in Scotland they live. The Bill's new definition may be the first definition in the world to include an income threshold based on a Minimum Income Standard, which will help ensure those poorest households receive the support they require. This will allow the Scottish Government to focus the definition of fuel poverty, and targeting of support, onto those most in need, regardless of where they live.

25. The new definition of fuel poverty is a direct response to expert and stakeholder views that the existing definition does not focus enough on those households in greatest need. In late 2015, two independent working groups – the Scottish Fuel Poverty Strategic Working Group and Scottish Rural Fuel Poverty Task Force – were set up by the Scottish Ministers to look anew at the issues influencing fuel poverty levels at that time, and make recommendations to inform the approach to tackling fuel poverty and improving the energy efficiency of people's homes wherever they live in Scotland. Both groups recommended a new approach to tackling fuel

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poverty, including undertaking a review of the definition and setting a new target in legislation.

26. The Scottish Ministers agreed to the two groups' high level recommendations. An independent academic review of the fuel poverty definition was commissioned. This review was carried out by the Scottish Fuel Poverty Definition Review Panel ("the Panel") which comprised a range of experts<sup>4</sup> on housing and fuel poverty. The Panel's work resulted in proposals for a new definition<sup>5</sup>. These proposals were agreed by Ministers with some minor amendments, following consultation with relevant stakeholders. The proposal included moving to measuring a household's income after housing costs, introducing an income threshold and increasing the "other rooms" temperature in the enhanced heating regime. These are discussed in more detail in paragraphs 27 to 29 below while the amendments are discussed in paragraphs 50 to 51. This proposed new definition and a proposed target to eradicate fuel poverty were consulted on in late 2017. The consultation paper described the Scottish Ministers' ambition to tackle fuel poverty by addressing the well-recognised four drivers of fuel poverty (energy prices, the energy efficiency of homes, incomes, and behaviours in the home).

27. The Scottish Government is adopting, with some minor adjustments, the proposed definition set out by Panel. This definition includes measuring a household's income after deduction of its housing costs and introducing an income threshold which is based on the UK Minimum Income Standard (MIS)<sup>6</sup>, which is produced by the Centre for Research in Social Policy (CRSP) at Loughborough University, supported by the Joseph Rowntree Foundation. The Panel specifically identified the MIS as being

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<sup>4</sup> Panel members were; Glen Bramley, Professor of Urban Studies at I-SPHERE, Heriot-Watt University; Suzanne Fitzpatrick, Professor of Housing and Social Policy and Director of the Institute for Social Policy, Housing and Equalities Research (I-SPHERE), Heriot-Watt University; Christine Liddell, Emeritus Professor of Psychology at Ulster University in Northern Ireland, and Janette Webb, Professor of Sociology at the University of Edinburgh,

<sup>5</sup> The 2017 Scottish Fuel Poverty Definition Review Panel's report on "A new definition of fuel poverty in Scotland: a review of recent evidence" may be found at <http://www.gov.scot/Resource/0052/00527017.pdf>

<sup>6</sup> <https://www.jrf.org.uk/report/minimum-income-standard-uk-2017>

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appropriate for use in the definition of fuel poverty and the Bill therefore makes express reference to the MIS and those producing it. The MIS attempts to define the income that different household types need in order to reach a minimum socially acceptable standard of living. It does this by drawing on the experience and opinions of members of the public. The Panel also advised that it would be appropriate to adjust the MIS by excluding council tax, rent, water rates, fuel costs and childcare costs from the calculation of the MIS total for each household. By deducting housing and childcare costs from both household income and the MIS, regional variations are further taken into account. The proposed use of 90% of MIS (as recommended by the Panel and adopted in the Bill) therefore gives a consistent and simple standard, which sets a minimum income level well above, for most household types, the standard 60% of median income used to define relative income poverty<sup>7</sup> in other contexts.

28. This approach ensures that households only marginally above the income poverty line that are struggling with their fuel bills, will be captured in the new definition of fuel poverty. The new definition also excludes higher income households, even if they would need to spend 10% or more of their net household income after housing costs on required fuel costs. This addresses a drawback, highlighted by the Panel, of the current definition where households with quite high incomes could be classified as fuel poor.

## Enhanced Heating

29. Regulations under the Bill will define households for which enhanced heating is appropriate as a measurement. The current intention is that this should take account of households where a member of the household is elderly or has a condition or illness which makes that person especially at risk of suffering adverse effects from being in a cold home. Further discussion and engagement will be undertaken with stakeholders and those with lived experience of fuel poverty to ensure these proposals are robust.

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<sup>7</sup> For example, the relative income poverty threshold (after housing costs) for a couple with no children is £255 a week or £13,300 a year after housing costs in 2016/17. 90% MIS (after council tax, water rates, rent, fuel and childcare) for a working age couple with no children is £285.22 per week or £14,831 per year in 2016.

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30. Where the enhanced heating regime is required, it follows that there are higher required fuel costs in order to maintain the home at the higher levels for longer periods. Required fuel costs are calculated based on the modelled energy consumption required to meet the heating regimes set out in the Bill. The required fuel costs will be higher than under the current definition since the “other room” temperature for the enhanced heating regime has been increased from the temperatures applied under the current fuel poverty statement, increasing from 18 to 20 degrees Celsius. This new policy therefore removes the potentially harmful impact of a 5 degree temperature difference between different rooms in the home. These higher fuel costs are both compared to after housing cost income and subtracted from household income before the residual is compared to the MIS threshold. This means that, all other things being equal, such households are more likely to be identified as fuel poor.

## Assessing Fuel Poverty

31. National measurement of fuel poverty is currently carried out by means of the annual Scottish House Condition Survey (SHCS)<sup>8</sup>. Use of this survey will continue to be the case for the purposes of the Bill. The SHCS is a nationally representative survey of Scottish households with a sample size of around 3,000 households per year. It provides robust National Statistics on fuel poverty at a Scotland-wide level annually, and at local authority level by combining three years’ worth of data.

32. The outputs of the survey include modelled required energy consumption and fuel costs for each household to achieve the recommended heating regime. This modelling is based on information available about the home and the household characteristics as well as external temperature, wind speed and solar radiation in the regional location of the property. This methodology recognises, where appropriate, the additional heating requirements and associated costs for rural areas. This recognition of additional costs in rural areas is used by the Scottish Government in targeting fuel poverty intervention programmes, and translates into significantly higher per-capita investment in the more remote parts of Scotland: up to three times the Scotland-average per-capita spend. The modelled required energy consumption and fuel costs, along with survey information about net household income, housing and childcare

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<sup>8</sup> <http://www.gov.scot/Topics/Statistics/SHCS>

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costs, can be used to determine, in accordance with section 2 of the Bill, whether the household is fuel poor.

33. The SHCS will continue to measure and publish annual fuel poverty estimates at a national and local authority level, including estimates for sub-groups of the population.

## Strategy and Reporting

### Fuel Poverty Strategy

34. The Bill requires the Scottish Ministers to develop a fuel poverty strategy and to publish it shortly after the Bill comes into force.

35. The actions required to address the drivers of fuel poverty will be set out as part of the Strategy. This will provide stakeholders with a clear vision of the way forward. The draft fuel poverty strategy published alongside this Bill proposes working across government to tackle the different aspects of fuel poverty. It also sets out a range of non-statutory targets for 2030 and 2040.

36. The non-statutory targets in the draft strategy are:

by 2030:

- the overall fuel poverty rate is less than 15%;
- the median fuel poverty gap is no more than £350 (in 2015 prices before adding inflation); and
- to have made progress towards removing poor energy efficiency of the home as a driver for fuel poverty<sup>9</sup>; and

by 2040:

- the median fuel poverty gap is no more than £250 (in 2015 prices before adding inflation); and

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<sup>9</sup> Standards to be confirmed as part of the Energy Efficient Scotland programme.

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- to have removed poor energy efficiency of the home as a driver for fuel poverty<sup>10</sup>.

37. Setting an overarching target date of 2040 to achieve fuel poverty levels of less than 5% is clearly challenging. Details are set out in the draft fuel poverty strategy of the wide range of activities already in train, and planned for the future. The Scottish Government wants to build on those activities in the future to develop a wide-ranging, cross-government approach to tackling fuel poverty.

38. The strategy will also set out a reporting framework which will be broadly based around outcomes of Scottish Government interventions.

39. To date, the Scottish Government's efforts to tackle fuel poverty have focussed on the energy efficiency of people's dwellings. The draft strategy sets out an approach that considers wider issues of social justice and the health impact of tackling fuel poverty. The draft strategy and the Bill are closely linked to the Energy Strategy published in December 2017 and the forthcoming Climate Change Plan which are discussed below in the section on wider context.

## Reporting on Fuel Poverty

40. The Bill includes a duty on the Scottish Ministers to report to the Parliament and the Scottish people every five years. Each report will be a review of progress to date and will set out plans for the next five year period. And each report will be focussed on outcomes, taking a robust and comprehensive approach.

41. It is expected that local authorities and third sector delivery bodies will work with Scottish Government to provide the information needed for these reports. The Scottish Government will work with stakeholders to develop the reporting criteria (which will be set out in the fuel poverty strategy). The Community Planning Partnership process may also provide a helpful vehicle for contributing to this work. The Scottish Government will consult on each of these reports prior to their publication, and will take account of

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<sup>10</sup> Standards to be confirmed as part of the Energy Efficient Scotland programme.

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the input from those who have had experience of living in fuel poverty. These reports will also be laid before the Scottish Parliament.

42. This reporting requirement will provide appropriate transparency and accountability to the actions being taken by the Scottish Ministers toward the aim of eradicating fuel poverty.

### **Report on the 2040 target**

43. The Bill requires the Scottish Ministers to report by March 2042 on whether the 2040 fuel poverty target has been achieved. The deadline of March 2042 reflects the timing of the publications of the Scottish Housing Condition Survey results for 2040 which will contain the fuel poverty information for 2040.

44. The report will provide the definitive statement on whether the 2040 target has been met and indicate the percentage of households in Scotland that are still in fuel poverty. This provides an opportunity to review what has been done to tackle fuel poverty and reflect on what should be done in the future. It provides accountability and transparency and is an appropriate way to judge the performance of the Scottish Government against the target set in the Bill.

### **Other relevant reports**

45. It is worth noting that the Scottish Government also currently publish annual progress reports on the delivery of the Home Energy Efficiency Programmes. These reports are not covered by this Bill. These reports will continue to be published as a yearly statement of the Scottish Government's position on its investment and outputs.

## **Alternative Approaches**

46. When the Fuel Poverty Strategic Working Group advised the Scottish Ministers that the 2016 fuel poverty target would not be met, they then published a number of recommendations on their views on the way forward.<sup>11</sup> The Scottish Government worked closely with them, the

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<sup>11</sup> <https://beta.gov.scot/publications/scotland-without-fuel-poverty-fairer-scotland-four-steps-achieving-sustainable/>

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Scottish Fuel Poverty Forum and other key stakeholders to review the recommendations. It was clear from this work that any alternatives to reviewing the definition and introducing a new target through a Bill would not be acceptable to the wider stakeholder community.

47. Alternatives to introducing the Bill would be either not to replace the existing target (which has now passed), or to set new, non-statutory targets. These alternatives were not supported by stakeholders, and there was broad support across the Parliament for new legislation on this issue. The Scottish Government therefore discounted these alternatives as suitable approaches.

48. In addition, the Scottish Government believes a statutory framework is appropriate and has chosen to pursue this approach for a number of reasons. The 2001 Act set a fuel poverty target, but only required the Government to set the target date in a fuel poverty statement. The target date, therefore, does not appear on the face of the 2001 Act. By taking this Bill forward and putting the target and definition in it, the Scottish Ministers are making a clear statement about their commitment to eradicating fuel poverty and the direction of travel to be taken.

49. The statutory targets are a useful tool to galvanise action and to drive the cross-Government action that will be necessary to tackle fuel poverty. The commitment in the Bill provides stakeholders and businesses, and importantly households, with certainty and ensures future governments are required to set out the steps they are taking toward the delivery of the target. The target, and the associated five-yearly reporting, allows the Parliament and the public to hold the Scottish Government to account for their progress towards eradicating fuel poverty.

50. Turning to two more specific alternative approaches, with relation to the proposed definition of fuel poverty, the Scottish Government has elected not to:

- adjust the MIS thresholds upward for households living in remote rural areas or where at least one member of the household suffers long-term sickness or disability; and
- not apply the enhanced heating regime to households with children under five years old.

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51. As regards the first bullet point, additional costs borne by rural and remote households are already taken into account in the modelling used to estimate fuel poverty. Regional variations in external temperatures and exposure to the wind as well as types of stock and information about occupants are used. These can lead to greater energy usage estimates to maintain either standard or enhanced heating regimes in rural and remote rural areas. In addition, regionalised (North and South Scotland) energy prices are used to reflect the different consumer prices paid in different parts of Scotland. For households where a member has a long-term sickness or disability, the enhanced heating regime results in higher required fuel costs as described in paragraph 30.

52. In relation to the second bullet point, not including households with a child under five years old is the preferred policy position of the Scottish Government at the present time. However, if substantial new evidence is brought forward on this issue in the future which indicates the proposed approach disproportionately disadvantages those households with children under five years old, the Scottish Government will consider amending the definition of households in the regulations.

## Consultation

53. A public consultation<sup>12</sup> on a draft fuel poverty strategy and proposals for the Bill was launched on 9 November 2017 and closed on 1 February 2018. There were 19 consultation events held, and 91 responses received<sup>13</sup>.

54. The consultation set out a new definition of fuel poverty (now in section 2 of the Bill) and sought views on this. The consultation made clear that the definition takes account of recommendations from the Panel. The consultation explained how the new definition differed from that used in 2002 – drawn from the 2001 Act, including:

- introducing a new income threshold based on the UK Minimum Income Standard;

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<sup>12</sup> <http://www.gov.scot/Publications/2017/11/6179>

<sup>13</sup> [https://consult.gov.scot/better-homes-division/fuel-poverty/consultation/published\\_select\\_respondent?b\\_index=60](https://consult.gov.scot/better-homes-division/fuel-poverty/consultation/published_select_respondent?b_index=60)

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- moving the 10% fuel cost to income ratio from a Before Housing Costs basis to an After Housing Costs basis;
- for households that we anticipate to be most affected by the adverse outcomes of living in a colder home, enhancing the temperature regime that will be applied.

55. The consultation set out a proposed new target for the reduction of fuel poverty of 10% of households by 2040, and included a number of proposals for non-statutory sub-targets. The consultation sought views were sought on those proposals.

56. The Bill goes further than the consultation did, by setting a target for 2040 that no more than 5% of households in Scotland are in fuel poverty. This takes account of feedback received through the consultation process where stakeholders views were that 10% target by 2040 was not ambitious enough, particularly in light of setting the target for Child Poverty at 5%. The fuel poverty strategy, required under the Bill, will put in place the non-statutory interim targets to measure progress which are outlined earlier. These are also more ambitious than initially proposed in the consultation, in order to be consistent with the more ambitious target in the Bill.

57. The consultation also set out proposals for the approach to the development of a new fuel poverty strategy and the reporting requirements that would be put in place. The responses received as part of the strategy were positive and were generally supportive of the move towards an outcomes focussed approach to the Scottish Government's strategy.

58. The most significant points raised in consultation responses were around the proposed statutory target and interim non-statutory milestones. There appears to be a mix of views – some consider the 2040 proposals not ambitious enough and recommended more milestones be included, whilst others commented that the 2040 target may be too challenging. There was a general feeling that use of the word 'eradicate' should not be used unless qualified (for example, with 'as far as practicable').

59. Some stakeholders have challenged the decision not to adopt all of the recommendations proposed by the panel: particularly the Rural and Islands groups where there were some concerns about our plans not to adjust the UK MIS thresholds upwards for households living in remote rural

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areas. These relate to the points discussed at paragraphs 50 to 52 above which describe how additional energy costs are already taken account of in the energy modelling underpinning fuel poverty measurement.

60. The Independent Poverty and Inequality Commission welcomed the proposed changes to the definition of fuel poverty to strengthen the relationship with low income. These changes ensure those households who are most in need are considered fuel poor wherever they live in Scotland; therefore fuel poor households in rural areas will not be disadvantaged in the delivery of fuel poverty support.

## Wider Context and Related Scottish Government Policies

61. The Bill provides an overarching statutory framework for the ongoing work on fuel poverty. The Bill has this specific focus because there are other Scottish Government Bills and plans in closely related areas that will provide the delivery mechanisms to achieve the fuel poverty target of the Bill. Together with this Bill the other legislation and plans will put in place what is needed to tackle fuel poverty, energy inefficiency and climate change<sup>14</sup>.

### Energy Efficiency

62. A consultation was launched on Energy Efficient Scotland on 2 May 2018 alongside the publication of the Energy Efficient Scotland Route Map, which asked broad questions on the need for new or updated legal provisions to support the delivery of Energy Efficient Scotland. Stakeholders told Scottish Government in response to a previous Energy Efficient Scotland consultation in 2017 that there could be a role for regulation and quality assurance standards supported by legislation. The Scottish Government has committed to develop, if appropriate, a wider Energy Efficient Scotland Bill for later in this Parliament, and this would be

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<sup>14</sup> For example, the related Climate Change Bill is also being considered by the Parliament. It was introduced to Parliament on 23 May 2018 and it proposes to raise the greenhouse gas emissions reductions targets that are set out in the Climate Change (Scotland) Act 2009.

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the vehicle for any further legislative changes needed to support the delivery of Energy Efficient Scotland.

63. Setting minimum energy efficiency standards for fuel poor households, as proposed in the Energy Efficiency Scotland consultation, is challenging and ambitious. These proposals will mean intervening in people's homes in a way government has never done before. This requires public awareness and support and, where necessary, changing public opinions and attitudes. The Scottish Government proposes to support these developments through its funding of Home Energy Scotland. Home Energy Scotland provide free impartial advice and support for householders, particularly those in fuel poverty, on how to make their home easier and cheaper to heat and help them through the process.

64. In addition, in the consultation on Energy Efficient Scotland the Scottish Government is seeking views on setting a more ambitious energy efficiency target for households in fuel poverty. It is proposed that all homes where the household is in fuel poverty should reach EPC band C by 2030 and EPC band B by 2040<sup>15</sup>. This would apply only where technically feasible and cost effective for the home. This improvement in energy efficiency rating would support the Bill's aim to remove poor energy efficiency as a driver of fuel poverty.

## Economic and Social Inequalities

65. The Scottish Government's commitment to address the underlying economic and social inequalities in society and give effect to economic and social rights is the foundation stone for actions in government. The draft fuel poverty strategy sets out a comprehensive, cross-portfolio approach to deliver reductions in fuel poverty, and ties in with the new fuel poverty definition and target set out in the Bill.

66. The UK Government's austerity programme, the economic uncertainty caused by the EU Referendum result, and rising fuel prices make achieving the 2040 target a difficult challenge, particularly since many of the necessary levers for change are not currently devolved under the existing constitutional settlement. In order to make significant impact on the eradication of fuel poverty, incomes need to be rising at least at the same rate as energy bills. Nevertheless, in the Bill the Scottish

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<sup>15</sup> <http://www.gov.scot/Publications/2018/05/1462>

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Government set a bold direction of travel, by setting targets that are stretching and ambitious, to ensure that all parties can sign up to playing a part in achieving them.

## Economic Impacts of Fuel Poverty

67. Fuel poverty has significant costs for the economies of Scotland and the wider UK, which further emphasises the importance of action to address it. Inclusive growth remains central to creating a fairer Scotland. By implementing this strategy to tackle fuel poverty in any setting, and maintaining close links with the government's economic strategy, there will be a continuation of the work to build a skilled, healthy, productive workforce that is essential to the sustained, long-term prosperity of the Scottish economy.

68. The Scottish Government set out in the 2017 Programme for Government<sup>16</sup>, as part of the Fairer Scotland commitments, a programme of 'Financial Health Checks'. This will offer low-income families with children, access to financial advice and support, including advice on maximising incomes, ensuring benefit take up, and make the most of their money by accessing the best deals on financial products and services, including energy tariffs. This service will be developed to ensure there is access to assistance to alleviate fuel poverty.

## Effects on Equal Opportunities, Human Rights, Island Communities, Local Government, Sustainable Development etc.

### Equal Opportunities

69. The latest SHCS data (from December 2017) indicates that around 649,000 (26.5%) households in Scotland were classified as living in fuel poverty in 2016. The conclusions in the Interim Equality Impact Assessment (based on the SHCS data from December 2015), which found that there were no negative impacts on the protected characteristics, remain accurate.

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<sup>16</sup> <http://www.gov.scot/Publications/2017/09/8468>

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70. The new fuel poverty definition in the Bill will alter the percentage and characteristics of households in fuel poverty because it calculates the affected households differently.

71. Up-to-date rates of fuel poverty under the current 2002 definition and the Bill's new definition (using 2016 SHCS data) are detailed in the Table of Characteristics attached to the Equality Impact Assessment Final Results which will be published at the same time as this Bill. As evidenced in that Table, the new definition will not adversely affect individuals with protected characteristics. However, due consideration will be given by the Scottish Government to the particular barriers faced by Black and Asian Minority Ethnic people in Scotland and other groups with protected characteristics as part of the preparation of the fuel poverty strategy required under the Bill.

## Human Rights

72. The Scottish Government considers that the Bill does not adversely affect anyone's human rights. The Government has made clear that concerted and effective action to confront poverty and inequality is fundamental to meeting the UK's international human rights obligations. The Scottish Government firmly believes that everyone has the right to an adequate standard of living. The Scottish Government's ambition to eradicate fuel poverty; the introduction of a new definition focussed on low income households; setting a clear statutory target; and setting a statutory requirement for robust reporting, is consistent with meeting those obligations.

73. The work to reduce fuel poverty and improve the energy efficiency of homes across Scotland – which will be driven forward by the Bill – not only aligns with other strategies to tackle poverty, reduce child poverty and make Scotland a fairer country, but more fundamentally it also supports the commitment to address the underlying economic and social inequalities in society and give effect to economic and social rights which is the foundation stone for actions in government, as set out in the International Covenant on Economic, Social and Cultural Rights.

## Island Communities

74. We recognise that fuel poverty in our remote rural and island communities requires particular attention, and that is why we established

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the Scottish Rural Fuel Poverty Task Force who reported their findings in October 2016. We published our response to this in March 2017<sup>17</sup> setting out how we incorporate the recommendations within our existing programmes and through the development of Scotland Energy Efficiency Programme. The Scottish Government considers the Bill has no disproportionate impact on island communities.

75. During the consultation process views were gathered on this and it is considered that the new definition and target under the Bill do recognise island circumstances through the measurement and targeting of fuel poverty. A number of the comments about rural communities above are relevant to island communities. The Scottish Government has committed to undertake an islands communities impact assessment in due course<sup>18</sup>.

## Local Government

76. The Bill will require the Scottish Ministers to report on a five yearly basis on activity undertaken to reduce fuel poverty levels in the previous five years and set out plans for the next five year period. The Scottish Government expects to work with local authorities to produce guidance on how the new reporting structure should operate, alongside the requirements for reporting on Energy Efficient Scotland.

77. The Bill places a duty to report on the Scottish Government to report on a five yearly basis. As contributions to this reporting by local authorities is voluntary, there is not likely to be a significant additional burden on them as a result of this Bill. Local authorities currently co-operate by providing information to Scottish Government for annual reporting on fuel poverty. The expectation is that the format of the information collected from local authorities may change slightly over time and there is not likely to be a significant increase to administrative costs to local authorities as a result.

78. The Scottish Ministers have set up a Fuel Poverty Advisory Panel which will be involved in setting and overseeing the monitoring and

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<sup>17</sup><https://beta.gov.scot/publications/fuel-poverty-scottish-government-response-working-group-reports/>

<sup>18</sup> Such assessments are due to be introduced under the Islands (Scotland) Bill once enacted. While such an assessment would not be required (as this Bill pre-dates the relevant requirement coming into force), the intention is to produce an assessment as a matter of good practice.

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evaluation criteria. COSLA are members of that panel and will be involved in any decisions made on this.

## Sustainable Development

79. The Bill will have a positive impact on the social dimensions of sustainable development. In particular, setting a new fuel poverty definition and statutory target in the Bill will help to ensure provision of support to those who are most in need of help to heat their homes is driven forward, no matter where they live in Scotland.

80. Sustainable development is integral to the Scottish Government's efforts to tackle poverty. The Government Economic Strategy, which has Inclusive Growth at its heart, sets out the Scottish Government's dual ambition to tackle inequality and boost competitiveness, so that the benefits of a flourishing Scotland can be shared by all. Inclusive Growth is central to the tackling poverty agenda; and vice versa as it will enable a skilled healthy productive workforce that can face up to economic challenges and create prosperity in future. The actions Scottish Government will take as part of the fuel poverty strategy required under this Bill will improve people's lives; support those who need it the most; and support jobs by giving industry the confidence it needs to invest in the energy efficiency and low carbon heating measures.

81. Enhanced energy efficiency and improved productivity will help curb energy consumption without limiting economic growth – enabling the continued reduction in carbon emissions whilst still growing the Scottish economy. As set out in the Scottish Government's Energy Strategy<sup>19</sup>, there is a target in place for the Scottish energy system that by 2030, there will be an increase by 30% in the productivity of energy use across the Scottish economy.

82. In order to achieve the target set out in the Bill, it will be necessary to tackle all drivers of fuel poverty, including improving the energy efficiency of homes in Scotland. The primary mechanism for achieving this will be through the Energy Efficient Scotland programme. The Scottish Government has launched a route map and consultation on Energy

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<sup>19</sup> <http://www.gov.scot/Resource/0052/00529523.pdf>

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Efficient Scotland<sup>20</sup>, which is an ambitious energy efficiency programme that will transform Scotland's building stock making it warmer, greener and more efficient.

83. Within Energy Efficient Scotland the ambition is to maximise the number of homes reaching minimum EPC ratings. An EPC gives a property an energy efficiency rating from A (most efficient) to G (least efficient). As part of the consultation, the Scottish Government are proposing that all homes reach an EPC band C by 2040 (where technically feasible, cost effective and affordable), and views are being sought on setting more ambitious energy efficiency targets for those households in fuel poverty. It is proposed that all homes with households in fuel poverty reach EPC band C by 2030 and EPC band B by 2040 (where technically feasible, cost effective and affordable). This would support Scottish Government work on eradicating fuel poverty by removing poor energy efficiency as a driver of fuel poverty.

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<sup>20</sup> <http://www.gov.scot/Publications/2018/05/1462>

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# Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill

## Policy Memorandum

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