



Domestic Premises (Energy Performance) Bill [HL] HL Bill 5 of 2019–21

On 7 February 2020, the second reading of the Domestic Premises (Energy Performance) Bill [HL] is scheduled to take place in the House of Lords.

Summary

- The [Domestic Premises \(Energy Performance\) Bill \[HL\]](#) is a private member's bill introduced in the House of Lords on 8 January 2020 by Lord Foster of Bath (Liberal Democrat).
- The bill would put an existing fuel poverty target into primary legislation. Currently, the Fuel Poverty (England) Regulations 2014 require the Government to improve the energy efficiency of homes for people living in fuel poverty. The properties in which they live must have a minimum energy performance certificate (EPC) band C rating by the end of 2030. This date could be changed through secondary legislation. The bill would require in primary legislation the secretary of state publish and implement a strategy to deliver on this specific 2030 target.
- The bill would also make it a legal requirement for the Government to meet a further target: that as many homes as possible are improved to EPC band C by 2035. This target is not currently set out in legislation.
- Other provisions include: enabling the secretary of state to require mortgage lenders to provide information on the energy performance of properties in their portfolio; and new requirements concerning the energy efficiency of new heating systems installed in existing properties.
- Lord Foster of Bath has argued this bill would better enable the Government to meet both its existing fuel poverty target and its target for reducing the UK's greenhouse gas emissions to net zero by 2050.
- In July 2019, the Conservative Government launched a consultation on proposals for updating its [current fuel poverty strategy](#). The consultation ended on 16 September 2019. The Government has yet to publish its response to this consultation.

Edward Scott | 29 January 2020

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I. Aims of the Bill

Lord Foster of Bath has described the purpose of his bill as being to improve the energy efficiency of homes.¹ He has also argued it would enable the Government to meet its target to achieve net zero carbon emissions by 2050.² He has elaborated on the bill's aims as follows:

There is cross-party consensus that high priority must be given to tackling climate change and a recognition that improving the energy efficiency of domestic properties, both existing and new, will play an important part [...] The Domestic Premises (Energy Performance) Bill is intended to contribute to achieving this; initially by helping the 2.6 million households in England who live in fuel poverty and subsequently by addressing [remaining] homes. CO₂ emissions will be reduced, fuel bills will be cut and our homes will be made low carbon, low energy and resilient to a changing climate [...] Two other clauses of the bill require that all new heating systems in existing properties have a return flow temperature of no more than 55 [degrees] centigrade and give the secretary of state power to make regulations requiring mortgage lenders to provide information regarding the energy performance of their domestic property portfolios.³

Both Lord Foster and the Sustainable Energy Association, an industry body that supports this bill, have argued the proposals in the bill would be revenue neutral.⁴

A bill with similar aims, [the Domestic Properties \(Minimum Energy Performance\) Bill](#), was introduced in the House of Commons during the 2017–19 session by Sir David Amess (Conservative). The bill did not receive second reading before the end of that session. Lord Foster first introduced the [Domestic Premises \(Energy Performance\) Bill \[HL\]](#) during the short 2019 session. However, this bill also fell at the end of that session before receiving second reading.

Fuel Poverty: Current Requirements

Fuel poverty is currently defined in the Warm Homes and Energy Conservation Act 2000 (the 2000 Act).⁵ It is based on a household's income and the cost of keeping the household warm. Someone is counted as living in fuel poverty if they are on a low income and unable to keep their house warm at a reasonable cost. According to the 2019 annual fuel poverty statistics in England, an estimated 10.9 percent of households (approximately 2.53 million) were in fuel poverty in 2017.⁶ This had decreased by 0.2 percent on the previous year.

The 2000 Act originally required the 'relevant authority' to publish a strategy for alleviating fuel

¹ Text provided by Lord Foster on request from the Library.

² Department for Business, Energy and Industrial Strategy, ['UK Becomes First Major Economy to Pass Net Zero Emissions Law'](#), 27 June 2019.

³ Text provided by Lord Foster on request from the Library.

⁴ *ibid*; and Ron Bailey, ['Domestic Building Energy Performance: What is Needed to Ensure the Government Delivers?'](#), Sustainable Energy Association Blog, 5 June 2018. This is based on calculations using figures from the Treasury Green Book: Sustainable Energy Association, [Revenue Neutral: Costs of the Fuel Poverty Programme Over 10 Years](#), January 2020.

⁵ Warm Homes and Energy Conservation Act 2000, s1(1).

⁶ Department for Business Energy and Industrial Strategy, [Annual Fuel Poverty Statistics in England, 2019 \(2017 Data\)](#), 13 June 2019, p 1.

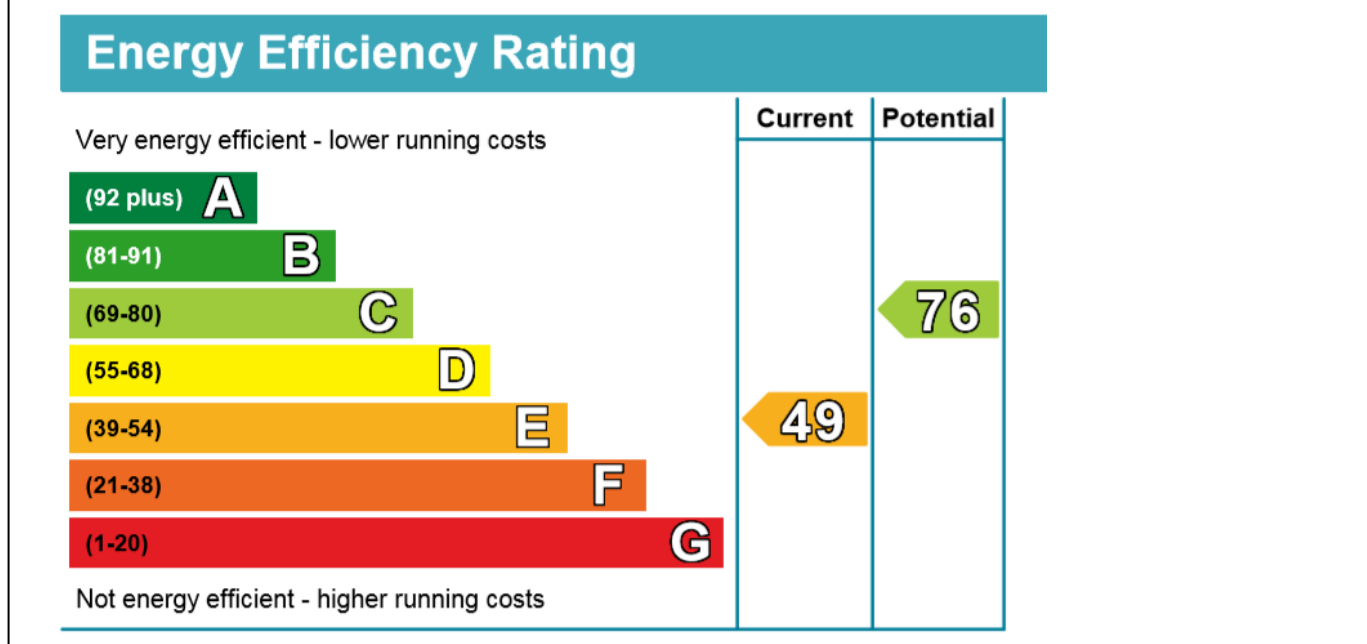
poverty.⁷ This was amended by the Energy Act 2013 (the 2013 Act) to require the secretary of state to publish a fuel poverty strategy.⁸ The 2013 Act also required the secretary of state to set a target for addressing fuel poverty in England.⁹ This target would be established by secondary legislation.

The current fuel poverty target was introduced by the Coalition Government under the Fuel Poverty (England) Regulations 2014.¹⁰ The regulations require fuel-poor households to have a minimum energy performance certificate (EPC) band C rating by the end of 2030.¹¹ In 2017, the then Conservative Government said, in its *Clean Growth Strategy*, that it would seek to achieve a band E rating for these properties by 2020 and a band D rating by 2025.¹²

Energy Performance Certificates (EPCs)

EPCs are a measure of a property's energy efficiency. They grade properties on a scale of A to G, with A being the most energy efficient and G the least energy efficient. EPCs are required whenever a property is bought, sold or rented.

The following image is taken from a [generic EPC for a semi-detached property](#), published by the Government. It illustrates where such a property might be rated on the A to G scale for energy efficiency.



⁷ Warm Homes and Energy Conservation Act 2000, s 2. This section was subsequently amended by section 145 of the Energy Act 2013.

⁸ Warm Homes and Energy Conservation Act 2000, s 1B(1).

⁹ *ibid*, s 1A(1).

¹⁰ Department for Business, Energy and Industrial Strategy, [Consultation on the Fuel Poverty Strategy For England](#), 16 September 2019, p 22.

¹¹ Ministry of Housing, Communities and Local Government, '[Buying or Selling Your Home: Energy Performance Certificates](#)', accessed 24 January 2020.

¹² HM Government, [The Clean Growth Strategy: Leading The Way To A Low Carbon Future](#), October 2017, p 155.

2. Bill Provisions

2.1 Clauses 1 to 3: Fuel Poverty

Part I of the bill (clauses 1 to 3) would amend the existing legislation concerning fuel poverty and the Government's fuel poverty strategy:

- Clause 1 includes a definition of fuel poverty. This definition is similar to the existing definition. Both the Warm Homes and Energy Conservation Act 2000 and this bill state a person is living in fuel poverty if they are “living on a lower income in a home which cannot be kept warm at reasonable cost”.¹³ Under the 2000 Act, the secretary of state is able to amend this definition through secondary legislation.¹⁴ The bill would retain this power. However, unlike the 2000 Act, the bill would require regulations to be subject to the affirmative, rather than negative, statutory instrument procedure.¹⁵
- Clause 2 would amend the objectives of the fuel poverty strategy. The Fuel Poverty (England) Regulations 2014 state the objective of the fuel poverty strategy should be to ensure as many households “as is reasonably practicable” in fuel poverty have their domestic premises raised to EPC band C.¹⁶ Clause 2 would require this for all households, with some exceptions. These exceptions are: if entry to the property is refused; if it is not technically feasible to achieve EPC band C; or if the cost of carrying out the work would exceed £20,000. The secretary of state is given the power to add additional exceptions through secondary legislation.¹⁷
- Clause 3(1) would put the Government's current fuel poverty target into primary legislation. Currently, the 2030 fuel poverty target is set out in secondary legislation.¹⁸ The bill would require the Government to include this target in its fuel poverty strategy.¹⁹ Clause 3(1) would require the secretary of state to publish a new fuel poverty strategy within twelve months of clause 2 coming into force. The secretary of state would also have to report to Parliament on the progress of implementing this strategy.²⁰
- Clause 3(2) expands the list of those the secretary of state must consult with before publishing the fuel poverty strategy. Currently, under the 2000 Act, the secretary of state must consult with local authorities, representatives of those affected by fuel poverty; the Gas and Electricity Markets Authority; and others they consider appropriate.²¹ Clause 3(2)

¹³ Warm Homes and Energy Conservation Act 2000, s 1(1); and Domestic Premises (Energy Performance) Bill [HL], clause 1(1).

¹⁴ Both the 2000 Act and the bill require the secretary of state to consult on any changes before introducing these regulations.

¹⁵ An overview of negative and affirmative procedure for statutory instruments in both the House of Commons and House of Lords is provided on the Parliament website: UK Parliament website, ‘[What is Secondary Legislation?](#)’, accessed 24 January 2020.

¹⁶ Fuel Poverty (England) Regulations 2014, paragraph 2.

¹⁷ Domestic Premises (Energy Performance) Bill [HL], clause 2 (3)–(4). The bill requires the secretary of state to consult with: representatives from the energy efficiency and microgeneration industries; environmental organisations; and others they consider appropriate. These regulations would be subject to the affirmative statutory instrument procedure.

¹⁸ Fuel Poverty (England) Regulations 2014.

¹⁹ Domestic Premises (Energy Performance) Bill [HL], clause 3(1).

²⁰ *ibid*, clause 3(5).

²¹ Warm Homes and Energy Conservation Act 2000, s 1(B)(8).

would require the secretary of state to consult with representatives from the energy efficiency and microgeneration industries and environmental organisations as well. Clause 3(3) also specifies what issues should be included in this consultation.²² These would include how best to identify properties in fuel poverty and how to encourage people to have work done to increase their property's energy efficiency.

- Clause 3(7) to (9) places further requirements on the secretary of state in addition to those concerning the fuel poverty strategy. The secretary of state would have to make “reasonable attempts” to persuade the occupants of households in fuel poverty to allow works to be carried out to improve energy efficiency. They would also have to take reasonable steps to identify households in fuel poverty.

2.2 Clause 4: Energy Efficiency of Other Properties

In October 2017, the Conservative Government under Theresa May published its *Clean Growth Strategy*.²³ This restated its commitment to the 2030 fuel poverty target.²⁴ It also included the following new target for the energy efficiency of other households:

[...] our aspiration is that as many homes as possible are improved to EPC band C by 2035, where practical, cost effective and affordable.²⁵

Clause 4 of the bill would require the secretary of state meet this target. It would also require the secretary of state to publish a report on what measures would need to be taken to achieve this target.²⁶ They would have to begin implementation of the report within six months and update Parliament annually on its implementation.²⁷ However, if the objectives of this report were not met, the secretary of state would be able to review and amend the report.²⁸

Clause 4(6) states properties may be excluded from the 2035 target if improving energy efficiency is not practicable, cost effective or affordable. As in clause 2, properties where the owner or occupier denies access to their properties are also exempt.²⁹ However, the secretary of state would be required in clause 4(10) to (12) to pass on communications to households—including those households denying access to their properties—to make them aware of the importance of improving energy performance.

²² Domestic Premises (Energy Performance) Bill [HL], clause 3(2).

²³ HM Government, [The Clean Growth Strategy: Leading The Way To A Low Carbon Future](#), October 2017.

²⁴ *ibid*, p 75.

²⁵ *ibid*.

²⁶ Domestic Premises (Energy Performance) Bill [HL], clause 4(1). Clause 4(4) also requires the secretary of state to consult before the publication of this report with representatives from the energy efficiency and microgeneration industries and environmental organisations.

²⁷ Domestic Premises (Energy Performance) Bill [HL], clause 4(5)(a).

²⁸ *ibid*, clause 4(5)(c).

²⁹ *ibid*, clause 4(6)(b).

2.3 Other Provisions

The bill also includes the following provisions:

- Clause 5 would give the secretary of state the power to require mortgage lenders to provide information on the energy performance of properties in their portfolio. The secretary of state would be able to do this through secondary legislation, which would be subject to the affirmative procedure.
- Clause 6 requires the secretary of state to introduce regulations to improve the energy efficiency of new heating systems installed in existing premises. Specifically, new heating systems would have to have a “return flow temperature” of 55 degrees centigrade. This is intended to prevent energy loss when water in a heating system returns to the heat source, such as the boiler. New heating systems would need to be “future proofed”, meaning they are installed with adequately sized and insulated heat emitters and water storage space. These regulations would be subject to the negative statutory instrument procedure.³⁰
- Clauses 7 to 9 includes other provisions, such as consequential amendments to the Warm Homes and Energy Conservation Act 2000 and financial provisions.

3. Energy Efficiency: Existing Policies

In addition to those outlined above, the following policies have been introduced in recent years with the intention of improving the energy efficiency of homes in fuel poverty:

- In 2014, the Coalition Government introduced the energy company obligation.³¹ Under the obligation, energy suppliers are required to install insulation alongside new heating systems.
- In April 2018, the then Conservative Government introduced the minimum energy efficiency standards for landlords.³² This required landlords to take action to improve their properties’ energy efficiency to EPC band E.

The Committee on Fuel Poverty, a non-departmental public body advising the Government, has said that the Government needs to do more to combat fuel poverty. It argued in its 2018 annual report that progress in achieving the fuel poverty target was “stalling”.³³ It also noted the number of households in fuel poverty had increased since 2014/15. In addition, the House of Commons Business, Energy and Industrial Strategy Committee has said the Government’s fuel poverty targets were expected to be missed.³⁴ The committee criticised the energy company obligation and argued it was not sufficient on its own to achieve the 2030 fuel poverty target. The Government, in its response to

³⁰ Domestic Premises (Energy Performance) Bill [HL], clause 4(6)(b).

³¹ Ofgem, ‘[About the ECO Scheme](#)’, accessed 24 January 2020.

³² Department for Business, Energy and Industrial Strategy, [Domestic Private Rented Property: Minimum Energy Efficiency Standard—Landlord Guidance](#), 1 October 2017.

³³ Committee on Fuel Poverty, [Committee on Fuel Poverty Annual Report 2018](#), 7 November 2018, p 4.

³⁴ House of Commons Business, Energy and Industrial Strategy Committee, [Energy Efficiency: Building Towards Net Zero](#), 12 July 2019, HC 1730 of session 2017–19, p 3.

the committee's report, argued that it was on track to meet its fuel poverty target.³⁵

Fuel Poverty Strategy Consultation

The most recent fuel poverty strategy for England was published by the Coalition Government in 2015.³⁶ In July 2019, the Conservative Government launched a consultation on updating this strategy.³⁷ The consultation included a proposal to change the way in which fuel poverty is measured.³⁸ As part of this proposal, a new measure for fuel poverty would be introduced. This would be called low income low energy efficiency (LILEE). Under the LILEE, a household would be classed as fuel poor if:³⁹

- They lived in a property with an energy efficiency rating falling in bands D to G.
- Their disposable income, after housing costs and energy needs, was below the poverty line. The poverty line was defined as “an equivalised disposable income of less than 60 percent of the national median”.⁴⁰

The Government argued this new definition would increase the number of households classified as living in fuel poverty. It said that, if the LILEE measure had been used in 2016, an extra 1.11 million households would have been counted as being in fuel poverty.⁴¹

The consultation ended on 16 September 2019. The Government has yet to publish its response. In January 2020, in answer to a parliamentary question, Kwasi Kwarteng, the Minister of State at the Department of Business, Energy and Industrial Strategy, confirmed the Government was considering responses to the consultation and would publish its response in due course.⁴²

4. Further Reading

- Sustainable Energy Association, '[Minimum Energy Performance in Domestic Buildings—Ensuring Clean Growth](#)', January 2020
- Committee on Fuel Poverty, '[Committee on Fuel Poverty Response to BEIS's Consultation on Fuel Poverty Strategy for England](#)', 16 September 2019
- Committee on Climate Change, '[Reducing UK Emissions: 2019 Progress Report to Parliament](#)', 10 July 2019
- House of Commons Library, '[Fuel Poverty](#)', 1 November 2019

³⁵ House of Commons Business, Energy and Industrial Strategy Committee, '[Energy Efficiency: Building Towards Net Zero: Government Response to the Committee's Twenty-First Report of Session 2017–19](#)', 30 October 2019, HC 124 of session 2019–21, p 1.

³⁶ Department of Energy and Climate Change, '[Cutting the Cost of Keeping Warm: A Fuel Poverty Strategy for England](#)', 3 March 2015, Cm 9019.

³⁷ Department for Business, Energy and Industrial Strategy, '[Consultation on the Fuel Poverty Strategy For England](#)', 16 September 2019.

³⁸ *ibid*, p 17.

³⁹ *ibid*.

⁴⁰ *ibid*.

⁴¹ *ibid*, p 19.

⁴² House of Commons, '[Written Question: Carbon Monoxide: Poisoning](#)', 23 January 2020, 4303.