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# ***Fuel Poverty Bill***

**Bill 11 of 2008-09**

This Bill would bring in three measures: an energy efficiency programme to bring existing homes up to current energy efficiency levels; social tariffs to limit vulnerable households' exposure to high energy bills; and reinforcement of the legal duty on the Government to act to end fuel poverty

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## Summary of main points

This paper contains information about the measures proposed in the *Fuel Poverty Bill 2008-09*.

In section II, fuel poverty is defined and the development of its alleviation is set out starting with the *Warm Homes and Energy Conservation Act 2000*. This led to Government targets to eradicate fuel poverty in England, as far as reasonably practicable, in vulnerable households by 2010 and in all households by 2016. The key findings of the most recent (6<sup>th</sup>) annual progress report in 2008, and the range of programmes and measures that have been initiated to combat fuel poverty, are listed. Basic features of the Government's Home Energy Saving Programme, announced in September 2008, and the Heat and Energy Saving Strategy, published in February 2009, are set out. Detailed statistics about fuel poverty and energy efficiency take-up and expenditure are in section III.

Section IV explains the duty that the Bill would impose on the Government to raise the energy efficiency of millions of homes of those in fuel poverty. It looks at the energy efficiency of the existing housing stock and assesses the scale of the task of complying with the targets in the Bill. The Bill also imposes a duty on suppliers to offer 'social tariffs' to those in fuel poverty (section V): the paper compares this duty with the energy suppliers' existing commitments on social expenditure.

In section VI, the detailed development of fuel poverty policy following the *Warm Homes and Energy Conservation Act 2000* is set out. The judicial review proceedings brought against the Government for its alleged failure "to keep its legal duty to eradicate fuel poverty" under the Act are described. These were initiated by Friends of the Earth and Help the Aged in October 2008. They argued that the Government had not done all that was "reasonably practicable" to meet the targets because it had taken into account budgetary constraints. In delivering the judgment however, Mr Justice McCombe said that the provisions of the Act did not impose a statutory duty on Government to achieve the desired target at whatever the cost. The claim for judicial review was dismissed, although the claimants have been given leave to appeal. Following the judgment, Friends of the Earth said that the decision created a "large loophole" in the Government's protection for people in fuel poverty. The Bill aims to reinforce the legal duty on the Government.

Views of political parties and stakeholder groups on the issues covered in the Bill are included in sections VII and VIII.

The paper concludes with an overview of the Bill and electronic link to the text of the Bill.



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## I Introduction

The *Fuel Poverty Bill* (Bill 11 2008-09) is a Private Member's Bill introduced by David Heath MP, who drew second place in the 2008-09 ballot for Private Members' Bills. The Bill will have its Second Reading on 20 March 2009.

The Bill aims to reduce fuel poverty by bringing in measures including:

- A major energy efficiency programme to bring existing homes up to the current energy efficiency levels enjoyed by modern homes;
- Social tariffs to limit the high energy bills of vulnerable households; and
- A reinforcement of the legal duty of the Government to act to end fuel poverty in the *Warm Homes and Energy Conservation Act 2000*. A court action accusing the Government of failing in this duty was dismissed in October 2008. The Bill aims to strengthen it.

The measures form part of the Liberal Democrats' *Green Road out of Recession* initiative announced on 18 December 2008.<sup>1</sup>

The whole Bill extends to England only, but clause 10 (social tariffs) extends also to Wales and Scotland.

## II Fuel poverty

The *Warm Homes and Energy Conservation Act 2000 (WHEC Act)* initiated and led to the development of fuel poverty policy (see section VI for details). Under these measures, a household is defined as in fuel poverty if it needs to spend more than 10% of its income on fuel to maintain a satisfactory heating regime. This is considered to be 21°C for the main living area, and 18°C for other occupied rooms during daytime hours. Besides space heating, fuel costs also include spending on energy for water heating, lights and appliances and cooking.

Whether a household is in fuel poverty or not is determined by the interaction of a number of factors. The three principal factors are: low household income; high fuel prices; and poor energy efficiency.

Following the *WHEC Act*, Government targets were developed to eradicate fuel poverty across England, as far as reasonably practicable, in vulnerable households by 2010 and in all households by 2016.<sup>2,3</sup> (See section VI for details.) For the purposes of fuel poverty, 'vulnerable households' are defined as those containing elderly or disabled

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<sup>1</sup> Liberal Democrat initiative: [Green Road out of Recession](#), 18 December 2008

<sup>2</sup> [The UK Fuel Poverty Strategy](#), DTI, November 2001

<sup>3</sup> Amendments to the Fuel Poverty Strategy are contained in the *Summary of responses to the joint consultation from Defra and DTI [dated 18 September 2002] on proposals to clarify the intentions of the UK Fuel Poverty Strategy* dated in or after February 2003

people, children, or the long-term sick. These targets have not been amended since their introduction in 2002. The Government's policy has been reiterated in the Energy White Papers of 2003 and 2007.<sup>4,5</sup>

The Government publishes an annual report on progress as required by the *WHEC Act*. The most recent, the sixth, was published on 2 October 2008.<sup>6</sup> This presents the statistics for the numbers in fuel poverty across the UK for 2006, and provides an update on the actions taken across and outside Government to tackle fuel poverty. Also published for the first time as part of the report is a detailed statistical annex which provides comprehensive analysis of the 2006 figures and projects forward the position for fuel poverty in 2007 and 2008. A press release briefly summarises the report including the latest information available about the rise in fuel poverty numbers. Between 1996 and 2006 the number of vulnerable households in fuel poverty in the UK decreased by around 2.25 million, but 2006 was the second consecutive year in which the number of fuel poor households in the UK rose. In 2006 there were approximately 3.5 million households in fuel poverty across the UK, an increase of one million since 2005. Of these, around 2.75 million households were classified as vulnerable. This increase is attributed to increases in energy prices. Further statistical details are in section III.<sup>7</sup>

The sixth Report also updates progress on the range of programmes and measures that have been put in place to tackle fuel poverty. These include:

- Programmes to improve energy efficiency.
- Focus on fuel bills, ensuring fair treatment for the less well off, and supporting industry initiatives to combat fuel poverty.
- Continuing action to tackle poverty and increase incomes.
- New measures announced in September 2008.<sup>8</sup>

The Government has a number of initiatives to combat fuel poverty:

Fuel poverty schemes have seen investment of over £20 billion since 2000, including £2 billion per year on Winter Fuel Payments. Local Authorities and housing associations continue to invest in housing to bring it in line with the Decent Homes Standard. Between 2001 and 2007, over 910,000 local authority dwellings have received work to improve their central heating, and over 750,000 local authority dwellings have received work to improve their insulation under the Decent Homes programme or as part of wider local authority work to update the stock. Energy suppliers have continued their significant activity through the first and second phase of the Energy Efficiency Commitment and now with the third phase, under the Carbon Emissions Reduction Target (CERT).

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<sup>4</sup> [The Energy White Paper-Our Energy Future-Creating a Low Carbon Economy](#), DTI/DEFRA, February 2003

<sup>5</sup> [Meeting the Energy Challenge: A White Paper on Energy](#), DTI, May 2007

<sup>6</sup> [The UK Fuel Poverty Strategy: 6<sup>th</sup> Annual Progress Report 2008](#), BERR, October 2008

<sup>7</sup> Defra press release 321/08, *Fight must continue on fuel poverty say ministers*, 2 October 2008

<sup>8</sup> [BERR fuel poverty webpage](#) [on 17 March 2009]

In September 2008, the Government announced a new package of measures to help people with their gas and electricity bills. The launch of the Home Energy Saving Programme, will offer energy efficiency and other measures to households in deprived areas and will be funded by energy suppliers and electricity generators. Suppliers will also fund a 20% expansion in CERT, and increase their collective spend on social programmes to £225million over the next three years.<sup>9</sup>

Further details of the Home Energy Saving Programme are in a press release.<sup>10</sup>

On 12 February 2009, the Government announced the introduction of the Heat and Energy Saving Strategy which proposes improvements to existing home energy efficiency schemes, domestic access to low-carbon heat and power, and a plan for all UK homes to be near zero carbon emissions by 2050. A press release sets out further information.<sup>11</sup>

Policy on fuel poverty has been the responsibility jointly of Defra and BERR. Both have comprehensive webpages with useful associated links.<sup>12,13</sup> On 3 October 2008 the Department for Energy and Climate Change (DECC) was established and fuel poverty is now one of its responsibilities, but the Defra and BERR websites contain the fuel poverty pages until the DECC website<sup>14</sup> is fully established.

### III The measurement and extent of fuel poverty

#### A. Measurement

As fuel poverty is a measure of what a household needs to spend on all sources of energy rather than what it actually spends, total energy needs are modelled to compile Government statistics. In each of the constituent countries in the UK this is based on findings from surveys of households and the housing stock. This takes various factors into account including the size and energy efficiency of the property, household size, household type and type of heating. The modelled energy needs are then multiplied by appropriate fuel prices to reach a figure for total fuel costs. In England the English House Condition Survey (EHCS) is used for the modelling of needs.<sup>15</sup> This has an annual sample size of 8,000 and fuel poverty reports are based on findings about households and the housing stock over two years. For instance 2006 findings relate to fieldwork carried out between April 2005 and March 2007. This allows for more detailed analysis of the groups affected, but it does mean that the impact of price rises is staggered. This is particularly important at a time when prices are rapidly increasing. The duration of

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<sup>9</sup> [BERR fuel poverty page](#) [on 17 March 2009]

<sup>10</sup> Defra press release 300/08, *Save money, save energy: Government takes action on family fuel bills*, 11 September 2008

<sup>11</sup> DECC press notice 2009/014, *Be part of the great British refurb - to cut emissions and cut energy costs - Ed Miliband*, 12 February 2009

<sup>12</sup> [Defra fuel poverty webpage](#)

<sup>13</sup> [BERR fuel poverty webpage](#)

<sup>14</sup> [DECC website](#)

<sup>15</sup> From April 2008 the EHCS has been merged with the Survey of English Housing and is known as the English Housing Survey.

fieldwork, along with the time taken to process, analyse and validate the data, explains why there is a lag in reporting fuel poverty. The latest annual report on fuel poverty in England was published in October 2008 and reported on the level of fuel poverty in 2006.

## B. Fuel poverty in the UK

The table below gives the Government's estimates of fuel poverty since 1996. These use the full income definition - the official headline figure - which is net of income tax and national insurance and includes income directly related to housing such as Housing Benefit and Council Tax Benefit.<sup>16</sup> Estimates have been made annually in England and Scotland since 2002/03, but are less frequent in Wales and Northern Ireland. Hence the gaps for 1997, 1999 and 2000 in the table.

### Estimated households in fuel poverty in the UK

millions

	1996	1998	2001	2002	2003	2004	2005	2006
Vulnerable	5	3.5	2	1.75	1.5	1.5	2	2.75
<b>Total</b>	<b>6.5</b>	<b>4.75</b>	<b>2.5</b>	<b>2.25</b>	<b>2</b>	<b>2</b>	<b>2.5</b>	<b>3.5</b>

Note: Households in fuel poverty using the full income definition

Source: *Fuel poverty statistics. Background Indicators, 2008. Annex to fuel poverty strategy report, 2008, BERR*

The cuts in the number of households in fuel poverty up to 2003 and 2004 are clear. The subsequent increases have been smaller, but the data only goes up to 2006. The 3.5 million households in fuel poverty in 2006 were 14% or one in seven of all households. Energy prices are currently the main driver of fuel poverty. Domestic prices of fuel fell by 17% in real terms between 1996 and 2003, but increased by 39% between 2003 and 2006 and in total by 63% between 2003 and 2008.<sup>17</sup> Such large price increases can only be partly offset by increases in income and energy efficiency improvements. Projections up to 2008 have been made for England and these are summarised later in this paper. Final estimates and detailed analysis on the impact on different groups will be published for 2007 in late 2009 and for 2008 in late 2010.

<sup>16</sup> The basic definition of income excludes income directly related to housing and on this basis numbers in fuel poverty in 2006 were 0.4 million higher.

<sup>17</sup> As measured by the RPI fuel and light element adjusted for changes in the all-items RPI. ONS series CHAW and CHBG

## C. Fuel poverty in England

### 1. Detailed results for 2006

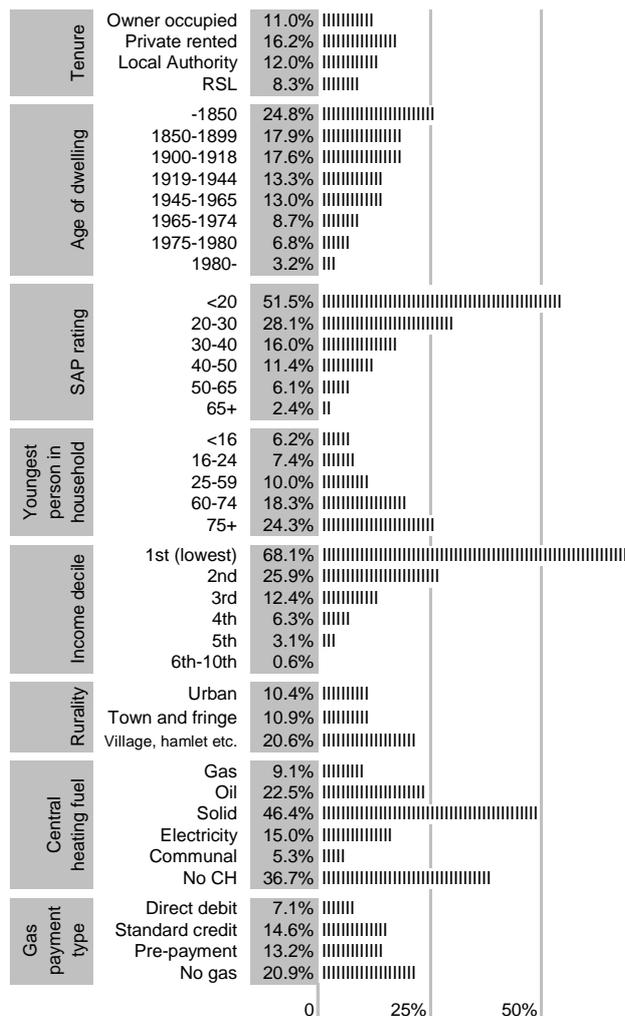
As estimates of fuel poverty are taken from a detailed survey of housing they can be cross tabulated with information about types of dwelling and household characteristics. This data can be found in the BERR publication [Fuel poverty statistics: Detailed tables 2006](#). While these findings are for 2006 and price rises since then will have increased overall fuel poverty rates, most of the relative patterns shown are still likely to exist at present.

Overall 11.5% of households in England were in fuel poverty in 2006, but there were marked variations in this rate across different types of household and dwelling. It is helpful to think of these variations in terms of the elements that contribute to fuel poverty – lower income, lower energy efficiency or higher prices. For instance households living in dwellings heated by fuels other than gas are more likely to be in fuel poverty largely due to higher fuel prices. In some cases the reasons will be multiple such as for pensioners whose lower incomes, need for heating throughout the day and poorer energy efficiency all contribute towards fuel poverty.

Some of the largest variations and most important differences are illustrated opposite. Further categories and details are all given in *Fuel poverty statistics: Detailed information*.

Most of the patterns shown opposite are as would be expected - fuel poverty is higher for those who are poorer, elderly, off mains gas and who live in older dwellings. The extent of some of the variations is stark. More than two thirds of the poorest 10% of households were in fuel poverty while the rate was less than 1% among those with above average (median) incomes. The detailed tables show that more than half of the 2.4 million households in fuel poverty were in the poorest 10% of households. After incomes the next largest variations in fuel poverty rates were by SAP rating or the dwelling's energy efficiency.<sup>18</sup> Fuel poverty rates increased for each and every dwelling age band; one in four households in pre 1850 dwellings were in fuel

Variations in fuel poverty rates in England 2006



Source: Fuel poverty statistics: Detailed tables 2006, BERR

<sup>18</sup> SAP stands for the Standard Assessment Procedure and is a measurement of the energy efficiency of a property which runs from 1-100. A higher ratings means higher energy efficiency and a rating of 100 means zero energy costs

poverty compared to around one in 30 who lived in post 1980 dwellings. There were also large differences by central heating fuel types reflecting differences in prices and ages of dwellings. Nearly half of those who used solid fuel were in fuel poverty and rates were also high for those with no central heating.

Clause 2 of the Bill would place a duty on the Secretary of State to ensure that all properties occupied by households in fuel poverty should be made 'fuel poverty proof'. This means they should have an Energy Performance Certificate<sup>19</sup> of B or above, or C and above if they are deemed 'hard to treat'. These certificates were introduced for buildings that were bought, sold, built or rented after October 2008. Classifications are based on SAP ratings. A 'C' is a SAP rating of 69-80; a 'B' is a rating of 81-91. The published data on fuel poverty and SAP ratings gives 65+ as its highest classification. 2.4% of households in such dwellings were in fuel poverty in 2006. The chart above shows the clear connection between SAP rating and fuel poverty and this is likely to continue to the higher levels of fuel efficiency covered by ratings B and C.

The sample size of the EHCS is not sufficiently large to give accurate estimates of fuel poverty below the regional level. Research which was partly funded by different Government departments modelled fuel poverty in 2003 at Lower Super Output Area level (around 400 households each). This is available at the [Fuel Poverty Indicator website](#) which also contains 2003 data by Parliamentary Constituency, Local Authority and Primary Care Trust area.

## **2. Severity of fuel poverty**

Most fuel poverty data simply give the number and proportion of households in or out of fuel poverty, which is defined as those that need to spend more than 10% of their income on fuel (see sections II and VI for details). The 10% cut-off point places households who need to pay much more than 10% with those who just fall in this category. Similarly households who need to pay just less than 10%, and who may struggle to keep their houses warm, are grouped with those who need to spend a very small proportion of their income on energy.

The table below summarises the number and proportion of households by bands of the proportion of income that they need to spend on energy.

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<sup>19</sup> See footnote 32, p16, for information about the measurement of the energy efficiency of buildings

**Households by bands of 'necessary' energy expenditure as a % of income**

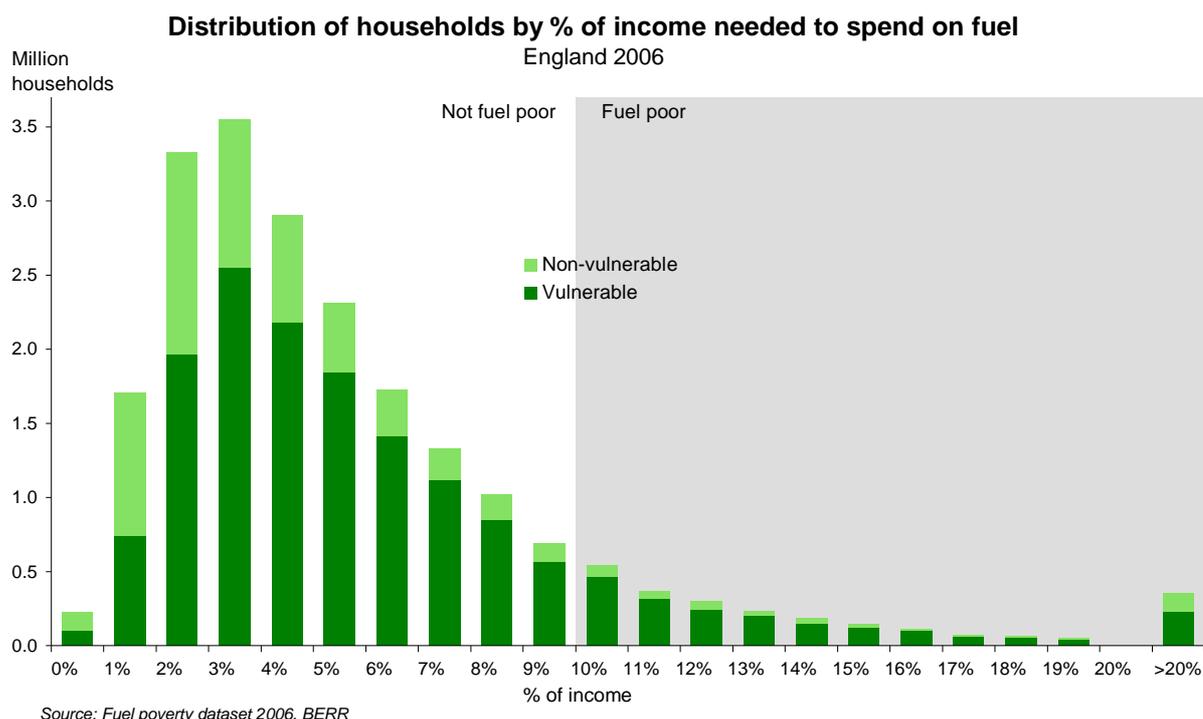
England 2006

	Vulnerable households		Non-vulnerable households		Total	
	number (thousands)	percentage	number (thousands)	percentage	number (thousands)	percentage
<5%	7,524	49.4	4,183	69.9	<b>11,707</b>	<b>55.2</b>
5-10%	5,768	37.9	1,314	22.0	<b>7,082</b>	<b>33.4</b>
10-15%	1,360	8.9	276	4.6	<b>1,636</b>	<b>7.7</b>
15-20%	363	2.4	78	1.3	<b>441</b>	<b>2.1</b>
>20%	223	1.5	131	2.2	<b>354</b>	<b>1.7</b>

Source: Fuel poverty statistics: Detailed tables 2006, BERR

In 2006 there were 354,000 households, around two-thirds of which were vulnerable, who needed to spend more than 20% of their income on energy to maintain a satisfactory heating regime – in so-called 'extreme fuel poverty'. 11.7 million households needed to spend less than 5% of their income on energy. If these two groups are compared the main difference is in incomes. The average household income of those in extreme fuel poverty was £5,500 compared to £34,600 for those who needed to spend less than 5% of their incomes on fuel. This latter group also had more energy efficient homes (higher SAP rating), smaller dwellings (smaller floor area) and needed to spend less on fuel (£950 compared to £1,600 for those in extreme fuel poverty).

The chart below illustrates a much more detailed distribution of fuel expenditure needs. The distribution is skewed (not symmetrical) with the largest numbers of households in the bands between 2-6% of income and a long 'tail' of households with much higher proportionate fuel spending needs. There was steep drop off in household numbers at rates above 2-4% of income. It is households in these bands (up to 10%) that were most at risk of being drawn into fuel poverty by energy price rises after 2006. Vulnerable households made up 72% of all households in 2006, but were in the minority among households that needed to spend less than 2% of their income on energy and made up more than 80% of households in the 6%-20% bands.



### 3. Projections to 2008

The latest annual progress report included projections of fuel poverty in England up to 2008. These are based on data on changes in incomes and energy prices and an estimate of energy efficiency improvements which projects forward historic improvements. Results are given in the table below alongside earlier data for England.

#### Households in fuel poverty in England

	Millions									Projections	
	1996	1998	2001	2002	2003	2004	2005	2006	2007	2008	
Vulnerable	4.0	2.8	1.4	1.2	1.0	1.0	1.2	1.9	-	-	
Non-vulnerable	1.1	0.6	0.2	0.2	0.2	0.3	0.3	0.5	-	-	
<b>All</b>	<b>5.1</b>	<b>3.4</b>	<b>1.7</b>	<b>1.4</b>	<b>1.2</b>	<b>1.2</b>	<b>1.5</b>	<b>2.4</b>	<b>3.1</b>	<b>3.5</b>	

Source: The UK Fuel Poverty Strategy 6th annual progress report 2008, BERR/Defra

The projection for 2008 of 3.5 million households would mean around one in six were in fuel poverty. The total number would be nearly three times the 2003 and 2004 low and would take the extent of fuel poverty back to the levels seen in 1998. It is thought that social tariffs and supplier efforts to help their poorer customers could reduce the 2008 figure by 0.1 million.<sup>20</sup>

<sup>20</sup> The UK Fuel Poverty Strategy: 6<sup>th</sup> Annual Progress Report 2008, BERR, October 2008

## D. Energy efficiency take-up and expenditure

### 1. Initiatives by the Government and energy suppliers

Measures aimed at combating fuel poverty are a mixture of direct expenditure by the public sector, legal obligations on energy suppliers to provide free or cut price energy efficiency measures and voluntary agreements with suppliers to help their most vulnerable customers.

#### a. Government

The Government has spent more than £20 billion on measures to reduce fuel poverty over the period 2000-08. The majority of this has been in Winter Fuel Payments which are worth around £2 billion a year at present. The other main measures are heating and insulation for the social rented sector through the wider Decent Homes programme (£4 billion) and grants for energy efficiency improvements paid through the Warm Front (and predecessor) scheme in England (1.6 billion).<sup>21</sup> Over the same period 750,000 council homes had insulation works under the Decent Homes Programme, 900,000 had new central heating systems and a similar number had double glazing fitted, while Warm Front assisted more than 1.7 million households.<sup>22</sup>

Expenditure on energy efficiency as part of the Decent Homes programme is expected to be £2.2 billion over the period 2008-11<sup>23</sup> and spending on Warm Front is planned to be £874 million. The original level of Warm Front spending for this period was £800 million. The increase announced by the Prime Minister as part of the Home Energy Saving Programme would mean annual spending of around £290 million per year in 2008-11 compared to £320 million in 2006-07 and £350 million in 2007-08.<sup>24</sup>

### 2. Energy suppliers

#### a. Energy Efficiency Commitment 2005-2008

During the period 2005-2008 gas and electricity suppliers were set a target to deliver lifetime energy efficiency savings totalling 130 TWh<sup>25</sup>. Final delivered savings were 187 TWh. Measures were largely delivered direct to customers, but they could also be delivered via retailers, charities or government schemes. 44% of savings went to people on low incomes. The top three measures (by estimated energy saved) were:<sup>26</sup>

- Cavity wall insulation 77 TWh (1.8 million measures installed)
- Loft insulation 59 TWh (34 million measures)
- Energy saving light bulbs 22 TWh (102 million measures)

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<sup>21</sup> HC Deb 11 November 2008 cc1145-6W

<sup>22</sup> *Home Energy Saving Programme -Helping households to save money, save energy*, HM Government

<sup>23</sup> *ibid.*

<sup>24</sup> HC Deb 11 November 2008 cc1145-6W

<sup>25</sup> 130 Terawatt hours over the lifetime of these measures. In 2007 final domestic consumption of gas and electricity was 465 TWh. *Digest of UK Energy Statistics 2008*, BERR

<sup>26</sup> *A review of Energy Efficiency Commitment 2005-2008*, Ofgem

**b. Carbon Emissions Reduction Target (CERT) 2008-11**

The original target for CERT was savings of 154 million tonnes of CO<sub>2</sub> and this was expected to involve around £2.8 billion of expenditure by energy suppliers which could be passed on to consumers. The Home Energy Saving Programme was announced by the Prime Minister on 11 September 2008 and proposed a 20% extension of CERT to 185 million tonnes of CO<sub>2</sub> and additional expenditure of £560 million.<sup>27</sup> This would take total contributions from suppliers and generators to energy efficiency measures and social assistance (such as social tariffs) to £3.9 billion over the period 2008-11.<sup>28</sup>

In the first three quarters of CERT (to end December 2008) suppliers delivered 121 million energy efficient light bulbs, 400,000 cavity wall insulations, 400,000 loft insulations, 440 heat pumps and 186 solar heating systems and helped 10,600 households switch fuel type. The total lifetime savings of these measures is estimated at 38.0 million tonnes of CO<sub>2</sub>.<sup>29</sup>

**c. Energy customers on social tariffs**

Social tariffs are discounted energy prices offered by suppliers to their disadvantaged customers. They are one of a range of initiatives that energy suppliers can include towards the “social spend” commitments agreed with the Government (see section V for details).

At the end of March 2008 there were 204,000 customers across Great Britain on social tariffs for electricity and 255,000 on social tariffs for gas. These tariffs were estimated to save these customers £33.9 million in a full year or £74 for each social tariff account. Total supplier expenditure on all social programmes was £57.1 million. Between the end of August 2007 and the end of March 2008 the number of accounts benefiting from social tariffs increased by 25% and the total saving by 36%. Estimates made in September 2008 put the then current number of social tariff accounts at 800,000 and most suppliers expected further increases for the rest of 2008-09.<sup>30</sup> There are around 26 million domestic electricity and 22 million domestic gas customers (households) in Great Britain.<sup>31</sup> In Budget 2008 the Chancellor announced that a voluntary agreement had been reached with suppliers to increase total expenditure on social programmes of all types to £150 million a year by 2011. This should mean additional expenditure (above the 2007-08 baseline) of around £225 million over the period 2008-11.

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<sup>27</sup> [Energy supplier obligation: Carbon Emissions Reduction Target \(CERT\)](#), Defra webpage

<sup>28</sup> *Home Energy Saving Programme -Helping households to save money, save energy*, HM Government

<sup>29</sup> *Carbon Emissions Reduction Target Update 03 - February 2009*, Ofgem

<sup>30</sup> *Monitoring suppliers' social programmes 2007-08*, Ofgem

<sup>31</sup> *Digest of UK energy Statistics 2008*, BERR

## IV Energy efficiency for housing

### A. Energy efficiency of existing housing

The Bill aims to upgrade the energy efficiency of *existing* housing as opposed to *new build* which is usually targeted by Government initiatives. In terms of upgrading the total housing stock, existing housing is clearly more immediately important than that of new build since only about 1% of the housing stock is replaced each year, even before the current recession started.

For existing housing, the Energy Efficiency Rating (EER), which forms the basis of the Energy Performance Certificate mentioned in the Bill,<sup>32</sup> has been increasing but from a low level. A key indicator of this is that only about a third of dwellings in England in 2006 with lofts have loft insulation of 150mm or more despite it being among the cheapest means of insulation with the quickest pay-back in savings on energy bills.<sup>33</sup> (Statistics about trends in domestic insulation are in the Appendix).

In 2007, only 0.2% of existing housing stock in England had an EER Band A or B rating (so few had Band A that the two bands are merged),<sup>34</sup> and this number had not increased since 2006. Only 7.7% of existing housing achieved Band C; the number of dwellings in this band had increased by only 0.7% (165,000 properties) since 2006.

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<sup>32</sup> The energy performance of buildings is measured using a standardised methodology developed by the Building Research Establishment. The Standard Assessment Procedure (SAP) is used for measuring new buildings' compliance with the energy performance requirements in Part L of the Building Regulations (England and Wales) and the equivalent regulations in Scotland and Northern Ireland. It is also used to provide energy ratings (as used in energy performance certificates) for existing buildings. Technical explanation of SAP 2005 is available at the [SAP 2005 webpage](#)

<sup>33</sup> [Housing and planning key facts, England, February 2009](#), Department for Communities and Local Government.

<sup>34</sup> [English House Condition Survey 2007: Headline Report](#)

**Energy Efficiency Rating (EER) Bands for the whole stock, 2006-2007**

	number (000s)		percentage	
	2006	2007	2006	2007
Band A/B (81-100)	35	35	0.2	0.2
Band C (69-80)	1,545	1,710	7	7.7
Band D (55-68)	6,555	7,316	29.8	33
Band E (39-54)	9,072	8,859	41.3	39.9
Band F (21-38)	3,838	3,389	17.5	15.3
Band G (1-20)	943	881	4.3	4
Total	21,989	22,189	100	100

Base: all dwellings

Note: EER Bands are based on SAP ratings which are shown in brackets. EER Bands A and B are grouped. There are currently insufficient numbers of Band A properties existing for which meaningful estimates can be made through a sample survey.

Source: *English House Condition Survey 2007: Headline Report*, DCLG

As mentioned previously, clause 2 of the Bill imposes a duty on the Secretary of State to “ensure that not less than the number of existing properties specified in section 3(2)(a) as being occupied by households in fuel poverty are made “fuel poverty proof” by 31 December 2016.” The number of such households is estimated to have been about 4 million in 2006.<sup>35</sup> To reach the target in the Bill by 2016, it would be necessary to upgrade over 570,000 dwellings in the United Kingdom per year to either Band B or Band C. This is a challenging target compared with what was achieved between 2006 and 2007 according to the English housing condition survey. In addition, with rising fuel bills in 2007 and 2008, and rising unemployment in 2008 and 2009, the number of households in fuel poverty is likely to have risen substantially since 2006.

## **B. New housing and the Building Regulations**

The existing regulations concerning energy performance of new buildings date from 2006, when energy performance criteria in the Building Regulations part L were tightened.<sup>36</sup> These will gradually be increased further, according to the timetable set out below, although all homes supported by funding from the Homes and Communities Agency must already be built to code level 3 specified in the Code for Sustainable Homes.<sup>37</sup> These levels set in the Code are not strictly comparable with the Energy Performance Certificates mentioned in the Bill, as the former include other criteria such as water use.

<sup>35</sup> Ofgem webpage, [Fuel poverty](#) [on 17 March 2009]

<sup>36</sup> [Building Regulations Approved document L1A: Conservation of fuel and power](#), ODPM, 2000

<sup>37</sup> The Code for Sustainable Homes, which is not yet mandatory, sets standards for new buildings. Technical guidance is online: [Code for Sustainable Homes: Technical guide - October 2008](#)

Date	2010	2013	2016
Energy efficiency improvement of the dwelling compared to 2006 (Part L Building Regulations)	25%	44%	Zero carbon
Equivalent standard within the Code	Code level 3	Code level 4	Code level 6

Source: *Greener homes for the future*, DCLG, May 2008

## V Social tariffs

Social tariffs are discounted energy prices offered by suppliers to their disadvantaged customers.

The Bill contains provisions in clause 10 to compel prescribed energy suppliers to offer energy assistance packages to prescribed customers designated by the Secretary of State; energy assistance packages under the provisions of the Bill must include a tariff that is lower than any other offered by that supplier, and must be offered to the prescribed customers “until such time as their homes have been made fuel poverty proof.” The clause provides for the definition of prescribed customers and of prescribed energy suppliers by delegated legislation.

As mentioned previously, the energy companies have reached voluntary agreements with the Government to achieve a certain level of “social spend”; in 2007/08 this totalled £57.1 million.<sup>38</sup> This social spending consists mainly of social tariffs, rebates and trust funds which provide direct assistance to customers in, or at risk of fuel poverty.

The present guidelines on what would be counted as social spending were drawn up in July 2008 and are monitored by the regulator, Ofgem.<sup>39</sup> These guidelines tightened the qualifying definition of a social tariff, prompted by the realisation that some ‘social tariffs’ were being offered to low income customers that were higher than other tariffs, particularly direct debit tariffs. Since July 2008, a social tariff must equal the cheapest tariff offered by the supplier. The Bill changes that definition to “lower than any other tariff”, although this change is obviously not substantial. The major change made by the Bill would be the substitution of the present voluntary agreement with a statutory duty to offer social tariffs.

Information about other forms of support for energy consumers is contained in a range of Library notes which are available from the intranet:

SN/SC/4873: Support for domestic energy users;

SN/SP/692 : Cold weather payments;

SN/SP/632 : The Christmas Bonus and the associated £60 one-off payment for 2008-09

<sup>38</sup> [SOCIAL TARIFF DRIVE DOUBLES UPTAKE](#), Ofgem press notice R/36, 19 December 2008

<sup>39</sup> [Monitoring suppliers' social initiatives](#), Decision document 105/08, Ofgem, 25 July 2008

## VI *The Warm Homes and Energy Conservation Act 2000*

The *Warm Homes and Energy Conservation Act 2000* (*WHEC Act*) was originally a Private Member's Bill introduced by David Amess MP. With Government and cross-party support, it received Royal Assent on 23 November 2000. Further information about the rationale for the then Bill was published in an article by David Amess in the *House Magazine*:

Over the Christmas holiday, The Independent reported that the number of "excess winter deaths" rose last year to 49,000, the highest in 10 years. The major reason for this? In Britain some 10 million people struggle to heat their homes each winter because the heat "leaks" away through draughty windows and poor insulation. Evidence from overseas shows that this increase is preventable; winters in Norway and Sweden are much colder, yet their winter death rate has only increased by a third of that in Britain.

The Warm Homes and Energy Conservation Bill requires the drawing up and implementation of a solution to this problem. This would end "fuel poverty" by fitting decent insulation, and where necessary, an efficient heating system, to all affected homes. Such a scheme will have many benefits. Firstly it would dramatically cut the illnesses and deaths caused by cold, damp homes - saving the NHS £1 billion a year. Secondly the home improvements would generate almost 30,000 new jobs. Finally, government research suggests it could save £1.25 billion a year in the management and maintenance of public sector housing.<sup>40</sup>

For the purposes of the *WHEC Act*, someone is defined as living in fuel poverty if they are a "member of a household living on a lower income in a home which cannot be kept warm at reasonable cost."<sup>41</sup> The Act applies only to England and Wales and requires the Secretary of State for England and the National Assembly for Wales (the "appropriate authorities") to publish and implement a strategy for reducing fuel poverty and set targets for its implementation.<sup>42</sup> Section 2(5) of the Act provides a duty for the appropriate authority to "take such steps as are in its opinion necessary to implement the strategy". Section 2(6) gives the appropriate authorities further duties to: assess the impact of the steps taken and progress made in achieving the objectives; make any necessary revisions to the strategy; and publish reports on such assessments.

In order to fulfil its obligations, the Government published the *UK Fuel Poverty Strategy* (FPS) in November 2001.<sup>43</sup> As required by the *WHEC Act*, it gives a more precise definition of "fuel poverty":

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<sup>40</sup> *House Magazine*, 31 January 1999, p 12

<sup>41</sup> Section 1(1) *Warm Homes and Energy Conservation Act 2000*

<sup>42</sup> Section 2(2) and (3) *Warm Homes and Energy Conservation Act 2000*

<sup>43</sup> HM Government, [The UK Fuel Poverty Strategy](#), November 2001

A household is in fuel poverty if, in order to maintain a satisfactory heating regime, it would be required to spend more than 10% of its income (including Housing Benefit or ISMI) on all household fuel use.<sup>44</sup>

The FPS, which was revised,<sup>45</sup> also set the following target for England:

In England, the Government as far as reasonably practicable will seek an end to fuel poverty for vulnerable households by 2010.

Fuel poverty in other households in England will, as far as reasonably practicable, also be tackled as progress is made on these groups, with a target that by 22 November 2016 no person in England should have to live in fuel poverty.

The words “as far as reasonably practicable” did not appear in this context in the original version of the FPS of November 2001.<sup>46</sup>

At the time the FPS was published, Friends of the Earth issued a press release expressing their “disappointment” at it. They said that it “fails to meet the terms of the Act” and is “inadequate” because it:

- fails to deliver the policy agreed at Labour's conference in 2000 to eradicate fuel poverty by 2010.
- fails to "specify a target date for achieving the objective of ensuring that as far as reasonably practicable persons in England or Wales do not live in fuel poverty" as required by the Warm Homes and Energy Conservation Act (subsection 2(2)(b))
- uses a controversial definition of fuel poverty based on a household's gross income, rather than its disposable income i.e. that left after paying housing costs. This prevents at least 1 million households benefiting from the scheme.<sup>47</sup>

## A. Judicial review

In February 2008 it was estimated that the number of people in fuel poverty was the highest since Labour came to power.<sup>48</sup> As a consequence of this, Friends of the Earth (FOE) told the Government that it would instigate judicial review proceedings if the Government did not publish a “concrete” plan to meet its fuel poverty target.<sup>49</sup> In September 2008 FOE and Help the Aged announced that they would take a judicial review case to the high court over the Government’s alleged failure “to keep its legal duty to eradicate fuel poverty.”<sup>50</sup>

<sup>44</sup> HM Government, [The UK Fuel Poverty Strategy](#), November 2001, para 4.5.1

<sup>45</sup> Amendments to the Fuel Poverty Strategy are contained in the *Summary of responses to the joint consultation from Defra and DTI* [dated 18 September 2002] *on proposals to clarify the intentions of the UK Fuel Poverty Strategy* dated in or after February 2003

<sup>46</sup> The words were proposed in a joint consultation by the DTI and Defra dated 18 September 2002

<sup>47</sup> Friends of the Earth press release, [Warm homes strategy still falls short](#), 21 November 2001

<sup>48</sup> “FoE issues fuel poverty ultimatum”, [The Observer](#), 24 February 2008

<sup>49</sup> “FoE issues fuel poverty ultimatum”, [The Observer](#), 24 February 2008

<sup>50</sup> Friends of the Earth press release, [Fuel Poverty Plan Lacks Funding and Ambition](#), 11 September 2008

The case was heard at the Queen’s Bench Division of the High Court on 6-7 October 2008. The judgement was delivered by The Honourable Mr Justice McCombe on 23 October 2008.<sup>51</sup> FOE and Help the Aged (the claimants) brought the claim against the Department for Business, Enterprise and Regulatory Reform (BERR) and the Department for Environment, Food and Rural Affairs (Defra) (the defendants). FOE and Help the Aged claimed that there had been a failure by the Government to perform their duties under sub-sections 2(5) and (6) of the *WHEC Act*. They sought a declaration from the court that that the defendants were unlawfully failing to perform those duties.<sup>52</sup> The judge confirmed that it was indeed in the court’s jurisdiction to “intervene, by way of judicial review, in a case where it can be demonstrated that a public authority is acting (or failing to act) owing to a misunderstanding on its part of its legal duties.”<sup>53</sup>

The claimants’ main argument rested on the construction of the *WHEC Act*. They claimed that the Act gave the defendants discretion in “selecting the route but not the destination” in meeting the targets provided in the FPS.<sup>54</sup> They accused the Government of “diluting an imperative into a broad policy discretion”<sup>55</sup> and of “not doing what is reasonably practicable to achieve them [the targets] because of budgetary constraint in allocating funds to possible measures”.<sup>56</sup> They did not level criticism at the FPS itself.

The Government argued that it was “already taking all measures which were reasonably practicable to meet the 2010 and 2016 targets set out in the strategy.”<sup>57</sup> It also contended that it was not “reasonably practicable” to take all of the measures that would be required to eradicate fuel poverty, as such measures are “not necessarily cost effective” and “the resources are not available to pay for them all at the present time given the money available”.<sup>58</sup>

McCombe J examined the precise wording of the *WHEC Act* in great detail. He said that the task for the court was to determine the content of the duty given in the Act and to decide whether that duty “may import financial considerations”. In doing this he examined Parliament’s intention when passing the legislation:

I am quite satisfied that, in this case, in framing s. 2(1) and (2) (d) of this Act Parliament would have taken as axiomatic that the pressures on budgets are intense and that government would have to take the necessary steps in the context of other pressing needs for funds. I cannot conceive that Parliament can be taken to have intended that, whatever the expense, so long as not disproportionate to the benefit, the government should be obliged to expend

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<sup>51</sup> *Friends of the Earth and Help the Aged v Secretary of State for Business Enterprise and Regulatory Reform and Secretary of State for Environment, Food and Rural Affairs* [2008] EWHC 2518 (Admin) and [2008] All ER (D) 232

<sup>52</sup> *Friends of the Earth and Help the Aged v Secretary of State for Business Enterprise and Regulatory Reform and Secretary of State for Environment, Food and Rural Affairs* [2008] EWHC 2518 (Admin), para 2

<sup>53</sup> *Ibid*, para 20

<sup>54</sup> *Ibid*, para 10

<sup>55</sup> *Ibid*, para 10

<sup>56</sup> *Ibid*, para 15

<sup>57</sup> *Ibid*, para 10

<sup>58</sup> *Ibid*, para 10

whatever funds might be necessary to eliminate fuel poverty in priority to all its other commitments.<sup>59</sup>

He made it clear that the Act did not provide a duty to meet the target “whatever the cost”:

Parliament obliged the Secretary of State to formulate a policy strategy to ensure, so far as reasonably practicable, the desired objectives. It required him to publish his aspirations by way of targets. It then required the government to take the steps which in its opinion were necessary to implement the policy strategy. Government took up the challenge by (amongst other things) specifying that it would try, so far as reasonably practicable, to achieve the targets. In doing so, it imported a statutory duty to make those efforts. It did not assume a statutory duty to achieve the desired results, whatever the cost.

[...]

It is open to government to have regard to its overall budget and the other calls upon its resources in deciding what steps to take in implementation of the Strategy, including its requirement that efforts should be made to achieve the 2010 and 2016 targets as far as reasonably practicable.<sup>60</sup>

McCombe J consequently dismissed the claimants’ argument that the Government had breached its duty under the *WHEC Act* because it had taken budgetary considerations into account.<sup>61</sup> The claim for judicial review was dismissed.

Responding to the judgement, FOE said that the decision created a “large loophole” in the Government’s protection for people in fuel poverty:

Later Friends of the Earth's head of UK climate Ed Matthew said: "The High Court's decision reveals a huge loophole in the legal protection for people in fuel poverty - big enough for over millions of households to fall through.

"The Government may have escaped legal reprimand, but it's not off the hook - it still faces the judgment of the five million UK households suffering in fuel poverty today.

"Today's ruling means that it can spend pretty much what it likes and implement a strategy which is seven years old and very vague, making the warm homes legislation almost worthless."

"We need a proper plan that makes sure that every home struggling to keep warm is properly insulated - this will lift people from fuel poverty and cut carbon emissions at the same time."<sup>62</sup>

In the same article the Government said that it recognised that “we need to do more to tackle fuel poverty”:

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<sup>59</sup> Ibid, para 28

<sup>60</sup> Ibid, paras 29 and 31

<sup>61</sup> Ibid, para 45

<sup>62</sup> “Anti-fuel poverty campaigners lose bid for more government funds” *Press Association National Newswire*, 23 October 2008

A spokesperson for the Department of Energy and Climate Change (DECC) said:  
"The Government recognises that we need to do more to tackle fuel poverty.

"Recent increases in energy prices have made the challenge more difficult, but we are determined to do all we can to help people both this winter and in the future.

"This was underlined by the Prime Minister's announcement on 11 September of a £1 billion package which will enable households to take advantage of help that could save them up to £300 every year.

"Since 2000, the Government has spent £20 billion on fuel poverty benefits and programmes."<sup>63</sup>

FOE and Help the Aged have been given leave to appeal against the high court judgement "given the public importance of the case."<sup>64</sup> It is not yet known when the appeal will be heard.

Four days after the judgement was published, Joan Ruddock, Parliamentary Under-Secretary of State, Department of Energy and Climate Change answered a PQ about what progress had been made towards meeting the *WHEC Act* targets:

**Mr. Amess:** To ask the Secretary of State for Energy and Climate Change what progress the Government made in (a) 2006, (b) 2007 and (c) in the first nine months of 2008 on meeting the targets arising under the Warm Homes and Energy Conservation Act 2000; and if he will make a statement. [227586]

**Joan Ruddock:** Tackling fuel poverty is a priority for the Government. Since 2000, the Government have spent £20 billion on fuel poverty benefits and programmes. The UK Fuel Poverty Strategy was published in November 2001 and sets out the approach of the Government (and the Devolved Administrations) for tackling fuel poverty. The latest version of the Fuel Poverty Strategy reflects the requirements of the Warm Homes and Energy Conservation Act to do all that is reasonably practicable to end fuel poverty amongst the vulnerable by 2010.

From 1996 to 2004, the Government made good progress with 4 million households lifted out of fuel poverty as a result of our energy efficiency programmes, falling energy prices and rising incomes.

The 2005 figures show fuel poverty levels were also significantly below 1996 levels with approximately 2.5 million households in fuel poverty, of which an estimated 2 million were vulnerable, although these figures do show an increase in fuel poverty of 0.5 million since 2004, reflecting the impact of rising energy prices.

The Government's Sixth Annual Progress Report on Fuel Poverty was published on 2 October 2008. It shows that in 2006 there were approximately 3.5 million households in fuel poverty across the UK, an increase of 1 million households

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<sup>63</sup> Ibid

<sup>64</sup> Friends of the Earth website, [Government taken to High Court over fuel poverty](#) [on 17 March 2009]

since 2005. Around 2.75 million of these are vulnerable households (containing children, the elderly or a person who is disabled or suffering from a long-term illness).

In England, the overall number of households estimated to be in fuel poverty in 2006 is 2.4 million of which around 1.9 million are vulnerable. This represents a rise of 900,000 households since 2005 and a rise of 700,000 vulnerable households over the same period.

The rise in the number of households in fuel poverty during 2006 was due to increases in consumer energy prices. The overall cost of energy to domestic consumers rose by 22 per cent. in real terms between 2005 and 2006, with gas prices rising by 29 per cent. and electricity prices rising by 19 per cent.

Official figures for 2007 will not be available until next year, however indicative projections for 2007 and 2008 were published in the Sixth Annual Progress Report, copies of which have been placed in the Library. The projections made for 2007 in England show that further price rises are likely to have pushed a further 0.7 million households into fuel poverty, which would mean a total of around 3.1 million households. Projections for 2008 show a further increase in fuel poverty for England of around 0.5 million households; this amounts to a total of around 3.6 million households. These projections are based on known price changes along with estimates for income and energy efficiency improvements.<sup>65</sup>

## VII Views of political parties and Members

The Conservative Party supplied the following information about their main policies on the issues covered by the Bill:

- **Tackling fuel poverty:** With one in five families now living in fuel poverty, we will:
  - Cut the fuel bills of the poorest households by introducing tough new rules that make it illegal for energy companies to charge unfair price premiums on prepayment meters.
  - Require every energy company to offer social tariffs to vulnerable households.
  - Ensure that every gas and electricity bill contains information which allows each household to compare their energy consumption with average households of a comparable size.
  - Require energy companies to provide information on energy bills that clearly shows customers whether they are on the cheapest tariff offered by their energy company – and if they are not, shows exactly how much they would save if they switched to the cheapest tariff, and how they can do so.

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<sup>65</sup> HC Deb 27 Oct 2008 cc740-1W

- **Cutting Energy Bills for Post Office Card Accounts (POCA) Holders.** POCA will be reformed to enable families without bank accounts to benefit from the lower energy and water tariffs offered to customers paying by direct debit. This could cut the energy bills of up to 4 million POCA holders by up to £100 a year.
- **‘Just Do It’ insulation scheme.** We will introduce a new entitlement for every home to be fitted immediately with up to £6,500 of approved energy efficiency improvements, the cost to be repaid through fuel bills over a period of up to 25 years but delivering immediate reductions in the gas and electricity bills of participating households.

Labour Party policy is effectively Government policy as set out in this paper. It declined to give further views.

EDM 1069 sponsored by Alan Simpson MP which “calls on the Government to support this Bill and do everything that it can to ensure that it becomes law in this session of Parliament” had 162 signatories as at 16 March 2009.<sup>66</sup>

## VIII Other views

The Business and Enterprise Committee investigated fuel poverty, energy prices and Ofgem. Its conclusion on fuel poverty, published July 2008, is:

109. Other things being equal, with every 10% increase in energy prices 400,000 people go into fuel poverty. The rise in prices since 2004 means the Government is certain to miss its target of eradicating fuel poverty for vulnerable households by 2010. We welcome Ofgem’s Fuel Poverty Action Programme as a sign that the Government is aware of mounting concern in this area. In particular we welcome plans to enable data sharing that will help energy suppliers identify pensioners most in need, although such information will need to be handled with the utmost propriety. We hope the Government will implement similar plans for other vulnerable groups. However, in the context of sharply rising prices and reductions in funds for the Warm Front programme, ... the additional money pledged by the energy companies, while welcome, will make very little difference to the overall number of fuel poor households. We believe the Government must now consider a fundamental re-think of its approach to tackling fuel poverty.<sup>67</sup>

The Government replied setting out the measures it is taking, including new initiatives since the report was published (see sections II & III).

The Committee considered future energy policy and published its report in December 2008. It concluded about fuel poverty, that:

42. After two rounds of price increases, we estimate as many as 5.5 million households may now be living in fuel poverty. We welcome the Government’s

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<sup>66</sup> [EDM 1069: Fuel Poverty Bill](#)

<sup>67</sup> Business and Enterprise Committee, *Energy prices, fuel poverty and Ofgem*, 16 July 2008, HC 293-I, 2007-08

package of measures announced in the autumn, particularly their focus on improving the energy efficiency of the existing housing stock. This will prove the most cost-effective means of tackling fuel poverty in the long run. We also welcome the contribution to the package being made by non-vertically integrated electricity generators, which acknowledges the fact that they too have benefited from windfall gains under Phase 2 of the EU Emissions Trading Scheme.

43. The creation of DECC removes one of the fissures in responsibility for fuel poverty within government, with BERR and DEFRA previously having overlapping involvement. We hope the Department will keep its strategy under review as many of its current measures have a limited lifetime even within the existing spending review period. While there is currently a strong case for the industry's role in alleviating fuel poverty because of the windfall gains it is receiving, these will cease to exist once full auctioning of carbon permits is introduced in 2013. Provided the regulatory framework is sufficient to ensure fairness to all consumers, in the long term the Government will need to consider whether it can continue to expect energy companies and the regulator to be responsible for the delivery of its social policy objectives. We also reiterate our frequent recommendation that much more attention must be paid to groups in fuel poverty other than pensioners, particularly disabled people under 60.<sup>68</sup>

An adviser to Help the Aged, speaking to the Treasury Committee during its examination of the Pre-Budget Report 2008, published in January 2009, mentioned missed opportunities to reduce fuel poverty:

74. Mr Mervyn Kohler, Special Adviser for Help the Aged, said that the large number of winter deaths were a "continuing disgrace to a government which is there to protect the most vulnerable in our society." Mr Kohler suggested to us that the Chancellor had missed many opportunities to address fuel poverty in the Pre-Budget Report:

surely this was the moment when he could really have done something significant with the construction industry to improve the energy efficiency of our whole housing stock, improve therefore employment opportunities in that sector and help towards reaching the climate change targets as well as eradicating fuel poverty on the way.<sup>69</sup>

A National Audit Office report, published February 2009, about the Government's principal scheme to help the disadvantaged with heating and energy efficiency measures, Warm Front, concluded that despite changes intended to improve the targeting of the scheme, in practice, funds are still not necessarily focused enough on vulnerable households in fuel poverty.<sup>70</sup>

The Public Accounts Committee investigation into programmes to reduce domestic energy consumption, published March 2009, noted in its summary:

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<sup>68</sup> Business and Enterprise Committee, *Energy policy: future challenges*, 12 December 2008, HC 32 2008-09, para 42

<sup>69</sup> Treasury Select Committee, *Pre-Budget Report 2008*, 20 January 2009, HC 27 2008-09, para 74

<sup>70</sup> National Audit Office, *The Warm Front Scheme*, 4 February 2009, HC 126 2008-2009, summary para 10

the key challenges for Government are how to strengthen and improve enforcement of minimum energy efficiency standards for new homes, and how to coordinate and focus government programmes to increase the energy efficiency of existing homes and achieve behaviour change by householders.<sup>71</sup>

Conclusions and recommendations include:

Householders are confronted with a confusingly wide range of advice on energy efficiency from the Government, energy suppliers and others. (...)

The Building Control profession has not prioritised the enforcement of the energy efficiency parts of the Building Regulations.

Little is known about the extent of compliance with the energy saving parts of current Building Regulations, so the adequacy and effectiveness of the Regulations on energy performance in practice is uncertain.

Over 80% of the expected energy savings by 2020 come from Building Regulations and obligations on suppliers, whose achievement is outside the Departments' direct control.<sup>72</sup>

## IX The Bill

**Clause 2** of the Bill aims to eradicate fuel poverty by placing a duty on the Secretary of State (SoS) to increase the energy efficiency of existing domestic buildings to at least Energy Performance Certificate Band B, or Band C for a "hard to treat property." The definition of such a property is the subject of **clause 6**. This is to be achieved by 31 December 2016 with an initial target of the number of existing households in fuel poverty in England at 31 December 2008. Properties occupied by the fuel poor must, as far as reasonably practicable, be those that benefit from the measures (**clause 7**).

**Clause 3** places a duty on the SoS to publish a Fuel Poverty Strategy (FPS) within six months of the commencement of the Act. This must include plans, policies and proposed measures to achieve the principal duty above, their anticipated cost and funding sources, and state who is responsible for delivering them. Sustainable energy, including microgeneration systems, would be included with energy efficiency measures. The Strategy would include new functions for the regulator, the Gas and Electricity Markets Authority, that the SoS deems necessary to achieve the targets, and also specify the number of existing properties that would be treated in each calendar year.

Under **clause 4** the SoS is required to publish a Fuel Poverty Annual Report (FPAR) detailing progress with relevant statistics each year until 2017. **Clause 5** states that if the number of fuel poor households rises the target must rise to take account of it although there is leeway in the increase in the last two years of the period if it is not reasonably practicable to comply with the principal duty by the end of 2016.

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<sup>71</sup> Public Accounts Committee, [Programmes to reduce household energy consumption](#), HC 228, 3 March 2009, summary

<sup>72</sup> Public Accounts Committee, [Programmes to reduce household energy consumption](#), HC 228, 3 March 2009, Conclusions and recommendations 4, 7, 8 & 9

Under **clause 8** the SoS must amend the FPS if there is inadequate progress towards the principal duty or insufficient properties have been made fuel poor proof as reported in a FPAR.

**Clause 9** specifies that the SoS must consult with stakeholders before publication of the FPS, FPAR and regulations under the Act.

**Clauses 10 and 11** about social tariffs and Energy Performance Certificates have already been described in section V and sections IIIC1 & IVA respectively.

The text of the Bill is available online.<sup>73</sup>

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<sup>73</sup> <http://services.parliament.uk/bills/2008-09/fuelpoverty.html>

## Appendix: Statistics about domestic insulation

### 1) England

Percentage of dwellings with loft insulation<sup>1</sup>

	2004	2005	2006
All tenures	27%	30%	33%
of which owner occupied	26%	28%	32%
of which private rented	18%	20%	21%
of which local authority rented	40%	44%	45%
of which registered social landlord rented	41%	45%	51%

<sup>1</sup> Loft insulation of 150mm or more. % of all dwellings with a loft.

Source: Housing and planning key facts England February 2009

### 2) Great Britain

#### Trends in selected insulation measures in Great Britain

Percentage of households

	Loft insulation % with a loft and insulation of 100mm+	Cavity wall insulation % of suitable properties	Double glazing >80% of rooms double glazed	Hot water tank % with a tank and 75mm or more of insulation	Full insulation <sup>a</sup>	No insulation <sup>b</sup>
1975	..	2.9	..	..	..	..
1980	12.3	8.2	..	26.5	..	..
1985	36.4	15.4	29.1	34.1	..	..
1990	43.2	21.8	41.8	55.7	4.8	16.7
1995	47.3	24.7	57.1	64.6	10.0	14.9
2000	49.2	33.8	55.1	69.1	13.0	10.9
2005	57.0	37.9	51.1	72.6	16.0	7.6
2006	57.3	39.3	50.7	72.3	16.3	7.4

Note: Percentages include 'not stated' in the denominator where appropriate.

(a) At least 100mm of loft insulation where there is a loft, cavity wall insulation where there is a cavity and at least 80% of rooms double glazed

(b) No loft insulation where there is a loft, no cavity wall insulation where there is a cavity and no double glazing

Source: Domestic energy fact file 2008, BRE