



Department
of Energy &
Climate Change

Government response to the consultation on repealing legislation prescribing the maximum temperature to which particular premises may be heated

**Fuel and Electricity (Heating) (Control) Order 1974 &
Fuel and Electricity (Heating) (Control) (Amendment)
Order 1980**

June 2014

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Government response to the consultation on repealing legislation prescribing the maximum temperature to which particular premises may be heated

Fuel and Electricity (Heating) (Control) Order 1974
& Fuel and Electricity (Heating) (Control)
(Amendment) Order 1980

Prepared by the Department of Energy and Climate Change

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1. Introduction

This is the Government's response to a consultation on the relevance and usefulness of legislation prescribing the maximum temperature to which certain premises may be heated.

The consultation was made available online and ran from 28 October to 20 December 2013. A copy of the consultation can be found [here](#).

The *Fuel and Electricity (Heating) (Control) Order 1974* ("the 1974 Order") prohibits the use of fuel or electricity for the purpose of heating premises above a temperature of 68°F, equivalent to 20°C. The *Fuel and Electricity (Heating) (Control) (Amendment) Order 1980* amended the 1974 Order and revised the limit to 66.2°F, or 19°C. Certain premises are exempt from this limit and these are detailed in the background section of this response.

The 1974 Order (and consequently also the 1980 amending Order) is under consideration for removal as part of the Government's Red Tape Challenge. The Red Tape Challenge (RTC) plays an important role in delivering the Government's commitment to reduce the overall burden of regulation. The Red Tape Challenge launched in April 2011 and is the Government's flagship programme to reduce or reform unnecessary and outdated regulation. Every few weeks regulations were published online affecting one sector or industry. The Energy theme was published online between 25 November 2011 and 6 January 2012 for people to suggest how these regulations could be 'scrapped' or 'improved'. Over one hundred people and organisations made suggestions on the Energy theme. Under this process, the *Fuel and Electricity (Heating) (Control) Order 1974* and the *Fuel and Electricity (Heating) (Control) (Amendment) Order 1980* were identified as possible measures for removal.

This document is a summary of what respondents to the consultation have said on each of the consultation questions and the Government's response to this feedback. The Government would like to thank all those who took the time to contribute to the consultation.

2. Background

Background to the heating control orders

The *Fuel and Electricity (Heating) (Control) Order 1974* (“the 1974 Order”) prohibits the use of electricity or fuel for the purpose of heating premises so as to cause the temperature of those premises to exceed 68°F, or 20°C. By “electricity”, the Order means all electricity, whether or not supplied commercially, and by “fuel” it means any solid, liquid or gaseous substance used as a fuel.

Excluded from this prohibition is the use of electricity or fuel in respect of heating any premises or part of premises which other legislation requires must be kept at or above a specific temperature exceeding that set by the 1974 Order.

The prohibition does not apply to heating any part of premises used as living accommodation, unless its heating cannot be separately controlled, or to heating sauna, turkish or swimming baths, or premises in respect of which a licence has been granted by the Secretary of State.

Heating to a temperature which exceeds that stated in the 1974 Order is also permitted to the extent necessary for certain specified purposes set out in Article 3(2) of the 1974 Order, including the maintenance of the health of certain persons specified in Article 3(2)(a) (for example persons who are ill, under 5, or over 60 years old) and of animals and birds, industrial, research and agricultural purposes, the preparation of food, and the prevention of damage to food, goods, material and growing crops.

The *Fuel and Electricity (Heating) (Control) (Amendment) Order 1980* amends the 1974 Order by substituting 19°C (66.2°F) for 20°C (68°F) as the temperature above which, subject to the provisions of the amended Order, premises must not be heated by the use of electricity or fuel.

A copy of the orders can be found in Annex A & B of the [Consultation on the repeal of legislation prescribing the maximum temperature to which particular premises may be heated](#).

3. Outcome of the consultation

Engagement with stakeholders

Following the launch of the consultation, over 100 organisations were contacted via email, online contact forms and LinkedIn to encourage their participation in the consultation.

Eighteen responses to the consultation were received from the public sector, businesses and trade associations, and NGOs. The consultation responses included a broad range of views which has informed the Government's response to the proposal to remove this legislation.

Summary of Responses

Response to Question One

This question asked whether the respondent's organisation had knowledge of the legislation and took the legislation into account within its organisational policies/processes.

The responses to this question fell into two groups: (i) ten organisations were aware of the legislation and included it into their work policies; and (ii) four organisations were aware of the legislation but failed to incorporate it in their policies.

In the first group were four respondents from the public sector, four businesses, a training provider and one NGO. All respondents in this group had knowledge of the legislation and referred to the legislation in their guidelines and policies.

In the second group, a trade association noted that while they were aware of the legislation, it was unlikely that its members were. One local authority stated they knew about the legislation but did not take it into account as every site was controlled differently and many were not thermostatically controlled, while another local authority outlined that there was very little awareness amongst property and facilities managers, or environmental management professionals. An academic highlighted a survey of facilities managers' they had carried out in which of those who proactively mentioned the legislation, two did not know of any buildings who implemented it and one thought the regulation had already been repealed.

Response to Question Two

This question asked if removal of the legislation would undermine improvements to energy resilience at the respondent's organisation, and if so, how. Three organisations argued removal would undermine energy resilience, while four respondents disagreed.

A public sector organisation and a business argued removal of the legislation would undermine improvements to energy resilience within their organisations as it was a key part of their message to staff about building temperature. An energy NGO stated that the legislation promoted energy efficiency, in addition to which they believed the legislation provided a regulatory 'stick' encouraging businesses to adhere to the maximum temperatures set.

In contrast, two local authorities, one Government agency and one trade organisation were not aware of any means by which removal of this legislation would undermine improvements to energy resilience, noting the legislation was not sufficiently well known or enforced for its removal to have any significant impact.

Response to Question Three

This question asked if removal of the legislation would undermine improvements to energy efficiency at the respondent's organisation, and if so, how. Six respondents argued that repealing the legislation would undermine energy efficiency, while five respondents argued it would not.

Three businesses and three public sector organisations argued that the legislation, irrespective of it being enforced, acted as a useful backstop when dealing with landlords, senior management and employees in limiting inefficient use of heating in the office. Guidelines, as opposed to legislation, were often not sufficient to justify why buildings were heated to specific temperatures.

Another local authority argued the removal of the legislation should not undermine the organisation's energy efficiency, as the circumstances in which the legislation was established no longer existed. However, removal of the legislation would take away a useful tool and authority for a set point, utilised to help resist calls from staff for higher temperatures in buildings. A fifth local authority argued that the removal of the legislation was less relevant than the rising cost of heating fuels while a sixth local authority argued that removal of the legislation would not undermine improvements to energy efficiency as they were in the process of arranging a standard set point for each building. A trade association argued that its members pursued energy efficiency for reasons quite separate from the legislation.

Response to Question Four

The only response provided to the question relating to organisations providing energy efficiency products or services was from a NGO which argued that if the legislation was revoked, this would damage the potential market in the commercial and services sector.

Response to Question Five

This question welcomed further comments or concerns about the issues set out in the consultation.

One local authority argued it was prudent to maintain the limitation, with savings on fuel bills by not overheating due to the temperature limitations used to pay for investment in buildings to improve energy efficiency.

Two local authorities argued the legislation should not be repealed but the maximum temperature amended to 20-21°C, with one further arguing that a limit on air conditioning be imposed to prohibit the reduction of temperature below 24°C, with relevant exceptions. A similar suggestion was made by an energy consultant and an academic. A trade association suggested modifying the legislation to exclude all buildings with low heat energy consumption, incentivising people to adopt energy saving measures.

One local authority and an energy consultancy both argued that the legislation should be repealed as it is unenforced and fails to be adhered to.

4. Government Response

Next Steps

Nearly half the energy consumed in the UK is used as heat, with three quarters of the heat utilised by households and in commercial and public buildings, with the remainder used by the industrial sector. Changing the way we produce and consume heat is crucial to meeting the Government's carbon reduction and renewables targets.

Over 100 stakeholders were advised upon the launch of the consultation, and the consultation was open for 8 weeks. Eighteen responses were received. It was evident through consultation responses that some businesses and local authorities utilise this legislation in their guidelines and policies, as well as rely on the legislation as a useful tool to refuse requests for changes to office temperatures. However, the responses also indicated that there was generally a low level of awareness and adherence to the legislation and consequently there would not be a significant cost to business of revoking this legislation, with other initiatives and policies being utilised to support organisations maintaining appropriate temperature controls.

Energy efficiency continues to remain at the heart of the Government's energy and climate change agenda, but the prescriptive approach of the Order and the associated criminal penalties do not align with the Government's wider energy strategy aiming to assist businesses and individuals by providing targeted solutions to promote energy efficient choices. There are a range of incentives and policies in place which drive energy efficiency improvements in the domestic and non-domestic sector, independent of the Order, which include:

- Progressing tightening of Building Regulations for new and existing properties (domestic and non-domestic) has been the single biggest policy mechanism for driving energy savings in the UK.
- The Energy Savings Opportunity Scheme (ESOS) which requires large enterprises to undertake regular energy efficiency assessments across their organisations. The scheme has the potential to deliver £1.9bn of social benefits and save business over £300m per year on private energy bills.
- The Renewable Heat Incentive which provides financial support in the form of a payment per unit (kWh) of renewable heat produced. This covers large-scale industrial heating to small business and community heating projects and includes small businesses, hospitals, schools, as well as district heating schemes (e.g. a central boiler for an apartment building, or a network of pipes delivering heat from a central installation to a number of local households or businesses).
- The Green Deal, with the Energy Company Obligation (ECO), an ambitious and long-term initiative designed to upgrade the energy efficiency of homes. Eight million households in Britain could benefit from the Green Deal, via solid wall insulation, and four million from cavity insulation. The ECO operates alongside the Green Deal to support energy saving improvements in vulnerable and low-income households and those living in harder to treat properties, such as solid walled properties. Under ECO, obligated energy suppliers will fund energy saving home improvements in around 230,000 low income and vulnerable households each year throughout the duration of the scheme.
- The introduction of smart meters, the next generation of gas and electricity meters which provide near real time information on energy consumption to help consumers control and

manage their energy use, save money and reduce emissions. Smart meters will also provide consumers with more accurate information and bring an end to estimated billing.

Resilience is the ability of assets, networks and systems to anticipate, absorb, adapt to and / or rapidly recover from a disruptive event. Revocation of the 1974 Order would not undermine energy resilience as the Government is working to mitigate against disruptions by ensuring that the regulatory regime supports robust arrangements to maintain supplies, underpinned by wider industry best practice and shared learning, instead of penalising consumers for overheating premises.

The energy sector is a critical part of the UK economy and an important driver of growth. It is vital to our quality of life: we need it for transport, heat and power and we need it when we want, where we want and at a reliable price. The UK is already one of the most energy efficient developed economies in the world, but there is no room for complacency. Tackling energy inefficiency is a key priority in supporting household and business energy consumers with rising costs. But it is also at the heart of action to decarbonise the UK in a cost-effective way, maintain secure energy supplies, and increase business productivity.

Following the publication of our Energy Efficiency Strategy in 2012 the Government is now well into delivering a rolling programme of action to address barriers to energy efficiency take up. We are helping consumers and businesses become more energy efficient via engagement of policies such as the Green Deal, ESOS and ECO, as opposed to the prescriptive approach of the Orders which are not widely known or adhered to, and its associated criminal penalties which are disproportionate and not enforced.

As a consequence, the Government no longer considers it desirable to control by legislation the use of fuel or electricity for heating premises for the purpose of conserving energy and plans to revoke this legislation.

5. Annex

List of Respondents

Airbus

Association for the Conservation of Energy

Association of School and College Leaders

Blackburn with Darwen Borough Council

Energy Advisory Associates

Environment Agency

GKN Aerospace

Hambleton District Council

Hoare Lea

Jubilee Office Supplies

Leicestershire County Council

London Borough of Merton

London Fire Brigade Headquarters

National Energy Action

Portsmouth City Council

Royal Institute of British Architects

University College London

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URN 14D/487