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Fifteenth Annual Report on the Operation of Section 72 of the Climate Change (Scotland) Act 2009

Dear Ariane Burgess MSP

The [Fifteenth Annual Report](#) on the operation and effectiveness of Section 72 of the Climate Change (Scotland) Act 2009 has been laid in the Scottish Parliament in accordance with Section 73 of the Climate Change (Scotland) Act 2009. Section 72 introduced Section 3F into the Town and Country Planning (Scotland) Act 1997.

Section 3F requires local development plans to contain policies that require new buildings to be designed to avoid a specified and rising proportion of greenhouse gas emissions from their use through the installation and operation of low and zero-carbon generating technologies.

I draw the Committee's attention to the annual report (laying number SG/2025/31 as hyperlinked above) this year, as it signals a change in approach.

The annual report highlights that latest national planning policy, heat policy and associated building regulations go much further than what section 3F can achieve. The annual report also highlights practical and resource implications associated with continuing Section 3F under the latest policy and regulation.

The annual report concludes that since 1 January 2025 the latest policy and regulatory position goes beyond what Section 3F can achieve and that the requirement to include policies within development plans under Section 3F is no longer necessary.

National Planning Framework 4, which now carries significant weight in planning, is progressive on emissions reduction and moves to the minimisation of lifecycle emissions of development proposals. In addition, the New Build Heat Standard (NBHS) and associated

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building regulations have required new buildings to install climate-friendly heating systems instead of oil and gas boilers since April 2024.

In May 2024, Scottish Ministers commenced a review of the NBHS and the associated building regulations in response to concerns raised on restrictions on the use of woodburning stoves and bioenergy, particularly in rural and island communities. Following the conclusion of the review, amended building regulations came into force on 1 January 2025, which permit bioenergy (and peat) systems as a main heating system and any type of secondary heating systems in new buildings, while maintaining the prohibition on mains gas and oil boilers as a main heating system.

The annual report conclusion therefore enables Scottish Ministers to prepare an Order to repeal Section 3F, as provided for by section 73(2) of the Climate Change (Scotland) Act 2009, which we now intend to do. The repeal order will be prepared for consideration by the Scottish Parliament. It had been intended to bring the repeal forward following the publication of last year's [Fourteenth Annual Report](#), but this was not progressed because the NBHS review was ongoing and the amended building regulations were being prepared.

Repeal of the legislation acknowledges the changed policy and regulatory landscape that surpasses what section 3F can achieve, and demonstrates our commitment to ensure that regulations and burdens remain appropriate and relevant.

I trust this information is helpful.

Yours sincerely,

IVAN MCKEE

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