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Dear Sandra,

As you are aware, the Scottish Government will today lodge amendments to the Child Poverty (Scotland) Bill. I am writing to explain to the Committee what the effect of those amendments would be. I am doing so in the interests of transparency and hope members will appreciate the overall effect of the changes I am proposing to make which strengthen, clarify and tidy up the legislation. If any Committee members would like to discuss these amendments, please don't hesitate to contact me.

Section 7 of the Bill

As you are aware, at Stage 2, a number of amendments were agreed to section 7 relating to matters that must be considered by Ministers in preparing a child poverty delivery plan. As there were several changes, the final result is that section 7 as amended is convoluted and difficult to interpret. There is some repetition and duplication and the confused ordering makes it difficult for anyone reading the legislation to know what they should expect from the Scottish Government in terms of producing a delivery plan.

I am therefore proposing to streamline the provisions, putting them into a coherent order and removing any duplication. My amendment doesn't remove any of the changes the Committee passed, keeps to the spirit of the discussions in Stage 2 and in places strengthens the Bill further. A revised version of section 7 is attached as an Annex to this letter, alongside the current version for comparison.

The changes can be broadly summarised as follows:

- References to the use of social security powers were the subject of most of the duplication in the Stage 2 version of the Bill. In seeking to improve the Bill, I have paid attention to the clear desire from stakeholders and members for an explicit reference to the use of social security powers: the Scotland Act 2016 powers have therefore been explicitly highlighted. This refers to the provision that the 2016 Act enables. The broader reference covers a range of specific benefits, including child benefit and child tax credit, and therefore makes more sense in terms of future-proofing, leaving open the range of options that might be considered in future. I can confirm to the Committee that the first delivery plan will include specific consideration of child benefit and child tax credit.
- As discussed with stakeholders, the reference to the 'Scottish Living Wage' has been replaced with a reference to the nature and quality of employment – i.e. employment with remuneration that is sufficient to ensure an adequate standard of living. Clearly, the nature and quality of employment is about more than just hourly pay rates, important though this is. The Living Wage by itself does not guarantee a decent income – living free from poverty also requires work to be sustainable, it needs to be easy to find work again quickly when facing unemployment, and crucially parents need to be able to work a sufficient number of hours. For example, you can of course be in receipt of a living wage but on a zero hours or part time contract so not in receipt of an adequate income.
- The requirements around specific measures for single parent families introduced by Pauline McNeill have been brought into the overall list of areas that delivery plans must cover. This will mean that Ministers will be required to set out specific measures they propose to take in relation to single parent households in each delivery plan.
- Richard Leonard's amendments on revenue support grants have also been incorporated into this subsection.

The placing of all of these issues under the same subsection within Section 7 allows anyone reading the bill to see clearly, in one place, what they can expect to be incorporated into a delivery plan.

In addition, the overall effect of the series of amendments proposed to section 7 is to consolidate and clarify the provisions that were in place after Stage 2. I hope that members will recognise that these amendments need to be considered together in order for the legislation to be coherent, easy to understand and interpret. As a whole, these amendments are a practical way of achieving what members intended at Stage 2 and make section 7 a stronger, clearer piece of legislation.

Poverty & Inequality Commission

I wrote to the Committee last week setting out my proposals for ensuring a statutory Commission with a wide remit. I will seek to list the Poverty & Inequality Commission in the Public Services Reform (Scotland) Act 2010. This is a clear signal of my intention to bring forward a Public Services Reform Act Order to modify the Commission's functions, as set out in my letter of last week, reflecting the clear wishes of the Committee.

I will also seek to commence the provisions establishing the statutory Commission on 1 July 2019. This effectively means that the statutory Commission will come into operation the day after the non-statutory Commission finishes (Douglas Hamilton, the current Chair of the Commission, has a contract that runs until 30 June 2019).

Consultation requirements

I also propose to address some minor difficulties in relation to the timing of consultation. I intend to bring forward an amendment to clarify that the requirement to consult various groups on the development of the delivery plan can be complied with before the Act comes into force. This is to reflect the fact that the Scottish Government is already undertaking a programme of consultation on the delivery plan, including with the Poverty and Inequality Commission. As the Committee is aware, I have written to the Chair of the Commission to formally request advice on the first delivery plan. I will therefore also seek to clarify in the Bill that before the provisions establishing the statutory Commission come into force, the references to the statutory Commission in the provisions dealing with consultation are to be read as references to the non-statutory Commission. This would mean that Ministers are required to consult the non-statutory Commission in relation to the first delivery plan and the first progress report which is due in June 2019 before the statutory Commission will be in place.

DPLRC report and change of parliamentary procedure

The Delegated Powers and Law Reform Committee has now issued its report on the Bill. (<https://digitalpublications.parliament.scot/Committees/Report/DPLR/2017/10/25/Child-Poverty--Scotland--Bill-at-Stage-2---Revised#Introduction>). The DPLR Committee has recommended that the delegated power conferred by paragraph 3(2)(c) of the schedule (a power allowing the Scottish Ministers by regulations to add to the list of people in relation to which the Commission has rights of access to information and assistance or explanation) is subject to the affirmative rather than the negative procedure. I am bringing forward an amendment giving effect to this recommendation.

Clarifications/technical amendments

There are also a number of clarifications or technical amendments. For example, as I indicated during the stage 2 Committee session, I intend to amend Ben MacPherson's Stage 2 amendments by making it clear that Ministers must make a statement *to Parliament* and that the statement must *refer to the delivery plan/progress report*.

I also intend to seek some minor amendments to the schedule on the Poverty and Inequality Commission, for example to clarify that any payments under paragraph 10 are to be made by Scottish Ministers, and that reappointments to the Commission will be subject to the same Parliamentary approval procedure as appointments.

Finally, there are a number of consequential and drafting changes, such as changing incorrect references to 'sub-paragraphs' to 'paragraphs', and an amendment to the long title of the Bill to reflect that fact that it now establishes a Poverty and Inequality Commission.

I hope this information is helpful to Committee and that members will support the series of amendments I propose. I know that we are all working toward the same goal of eradicating child poverty in Scotland, and I think that, with these amendments, we will be able to secure legislation that has been the result of robust and thorough scrutiny, and is stronger and clearer as a result. I thank the Committee for their continued constructive engagement on the Bill and, as mentioned above, I am happy to discuss with any members.

Kind regards,



ANGELA CONSTANCE

Section 7 (as amended at stage 2)**7 Delivery plan**

- (1) The Scottish Ministers must prepare a plan (a “delivery plan”) for each of the following periods—
- (a) 1 April 2018 to 31 March 2022,
 - (b) 1 April 2022 to 31 March 2026,
 - (c) 1 April 2026 to 31 March 2031.
- (2) A delivery plan must set out—
- (a) the measures that the Scottish Ministers propose to take during the period of the plan for the purpose of meeting the child poverty targets,
 - (b) an assessment of the contribution the proposed measures are expected to make to meeting the child poverty targets, and
 - (c) an explanation of how that assessment has been arrived at.
- (2A) In preparing a delivery plan, the Scottish Ministers must, in particular, consider what (if any) measures they ought to take in relation to—
- (a) the provision of financial support for children and parents,
 - (aa) supporting local authorities to consider the automatic payment of benefits and support,
 - (b) the provision and accessibility of information, advice and assistance to parents in relation to—
 - (i) social security matters,
 - (ii) income maximisation,
 - (iii) financial support,
 - (c) education,
 - (d) the availability and affordability of housing,
 - (e) the availability and affordability of childcare,
 - (f) the facilitation of the employment, and of the development of the skills, of parents,
 - (g) physical and mental health,
 - (h) the exercising of any of the powers provided for in Part 3 of the Scotland Act 2016 (welfare benefits and employment support).
- (2B) A delivery plan must, in particular, set out whether, during the period of the plan for the purpose of meeting the child poverty targets, the Scottish Ministers intend to bring forward legislation to exercise the power provided for in section 24 of the Scotland Act 2016 (discretionary payments: top-up of reserved benefits) in relation to the reserved benefits mentioned in subsection (2C).
- (2C) For the purpose of subsection (2B), the reserved benefits are benefits—
- (a) in respect of which entitlement is based in whole or in part on the claimant or the claimant’s partner having responsibility for a child,
 - (b) in which an additional amount may be included where the claimant’s household includes a child.
- (2D) Without prejudice to the generality of subsection (2C), the benefits mentioned include—

- (a) child benefit paid under section 141 of the Social Security Contributions and Benefits Act 1992,
- (b) child tax credit paid under Part 1 of the Tax Credits Act 2002,
- (c) universal credit paid under Part 1 of the Welfare Reform Act 2012.

(2E) A delivery plan must, in particular, set out—

- (a) whether the Scottish Ministers intend to bring forward legislation to exercise—
 - (i) the power provided for in section 24 of the Scotland Act 2016 to top up social security powers in relation to providing a top-up for child benefit paid under section 141 of the Social Security Contributions and Benefits Act 1992,
 - (ii) any other power provided for in Part 3 of the Scotland Act 2016 (welfare benefits and employment support), and
- (b) the measures that the Scottish Ministers intend to take—
 - (i) to ensure the provision of information, advice and assistance to parents and carers in relation to entitlements to social security benefits and other provision to ensure maximisation of income,
 - (ii) to ensure availability of suitable and affordable housing,
 - (iii) to ensure the availability of childcare, and
 - (iv) to facilitate the ability of parents and carers to take up employment that pays at least the Scottish living wage,

during the period of the plan for the purpose of meeting the child poverty targets.

(2F) In subsection (2E)(b)(iv) “Scottish living wage” means remuneration which is sufficient to ensure an acceptable standard of living.

(2G) A delivery plan must set out, in particular, the measures the Scottish Ministers propose to take, for the purpose of contributing to the meeting of the child poverty targets, during the period of the plan in relation to households that comprise—

- (a) a person who not a member of a couple, and
- (b) one or more children for whom that person is responsible.

(2H) A delivery plan must set out, in particular, the steps the Scottish Ministers propose to take during the period of the plan to modify arrangements for setting the amount of the revenue support grant payable to each local authority in order to ensure that resources are directed for the purpose of contributing to meeting the child poverty targets.

(3) A delivery plan may include such other information about child poverty as the Scottish Ministers consider appropriate.

(3A) In preparing a delivery plan, the Scottish Ministers must—

- (a) consult the Commission on the measures they propose to include in the delivery plan,
- (b) have regard to any recommendations made by the Commission,
- (c) set out in the delivery plan the changes, if any, they have made in the delivery plan as a result of any such recommendations.

(4) As soon as reasonably practicable after preparing a delivery plan, and before the beginning of the period of the plan, the Scottish Ministers must—

- (a) lay the plan before the Scottish Parliament,
 - (aa) make a statement, and
- (b) publish the plan.

- (5) In preparing a delivery plan, the Scottish Ministers must consult—
- (a) such local authorities or associations of local authorities as they consider appropriate,
 - (b) such persons and organisations working with or representing children as they consider appropriate,
 - (c) such persons and organisations working with or representing parents as they consider appropriate,
 - (ca) the Scottish Parliament, and
 - (d) such persons who have experience of living in poverty and such other persons as they consider appropriate.
- (6) In this section, “parent” includes an individual with whom a child resides and who has care of the child.

Proposed stage 3 version of section 7 (if all SG amendments are agreed to)

7 Delivery plan

- (1) The Scottish Ministers must prepare a plan (a “delivery plan”) for each of the following periods—
- (a) 1 April 2018 to 31 March 2022,
 - (b) 1 April 2022 to 31 March 2026,
 - (c) 1 April 2026 to 31 March 2031.
- (2) A delivery plan must set out—
- (a) the measures that the Scottish Ministers propose to take during the period of the plan for the purpose of meeting the child poverty targets,
 - (b) an assessment of the contribution the proposed measures are expected to make to meeting the child poverty targets, and
 - (c) an explanation of how that assessment has been arrived at.
- (3) A delivery plan must, in particular, set out what (if any) measures the Scottish Ministers propose to take in relation to—
- (a) the provision of financial support for children and parents, including the making of such provision by virtue of Part 3 of the Scotland Act 2016 (welfare benefits and employment support),
 - (b) supporting local authorities to consider the automatic payment of benefits and support,
 - (c) the provision and accessibility of information, advice and assistance to parents in relation to—
 - (i) social security matters,
 - (ii) income maximisation,
 - (iii) financial support,
 - (d) education,
 - (e) the availability and affordability of housing,
 - (f) the availability and affordability of childcare,
 - (g) the facilitation of—
 - (i) the employment of parents (with remuneration that is sufficient to secure an adequate standard of living), and

- (ii) the development of the employment-related skills of parents,
 - (h) children living in single-parent households,
 - (i) arrangements for setting the amount of the revenue support grant payable to each local authority in order to ensure that resources are directed for the purpose of contributing to the meeting of the child poverty targets.
- (4) A delivery plan may include such other information about child poverty as the Scottish Ministers consider appropriate.
- (5) In preparing a delivery plan, the Scottish Ministers must—
 - (a) consult the Commission on the measures they propose to include in the delivery plan,
 - (b) have regard to any recommendations made by the Commission,
 - (c) set out in the delivery plan the changes, if any, they have made in the delivery plan as a result of any such recommendations.
- (6) As soon as reasonably practicable after preparing a delivery plan, and before the beginning of the period of the plan, the Scottish Ministers must—
 - (a) lay the plan before the Scottish Parliament,
 - (b) make a statement to the Parliament in relation to the plan, and
 - (c) publish the plan.
- (7) In preparing a delivery plan, the Scottish Ministers must consult—
 - (a) such local authorities or associations of local authorities as they consider appropriate,
 - (b) such persons and organisations working with or representing children as they consider appropriate,
 - (c) such persons and organisations working with or representing parents as they consider appropriate,
 - (d) the Scottish Parliament, and
 - (e) such persons who have experience of living in poverty and such other persons as they consider appropriate.
- (8) Subsections (5)(a) and (7) are complied with even if the consultation has been undertaken, or initiated, before this section comes into force.

11A References to Commission

- (1) In this Act, references to the Commission are to be construed in accordance with section 6A(1).
- (2) But until that section comes into force, the references to the Commission in sections 7[(5)] and *[the relevant subsections of section 8 relating to progress reports]* are to be read as references to the body known as the Poverty and Inequality Commission established by the Scottish Ministers on 3 July 2017.