Draft Legislative Consent Motion

1. The draft motion, which will be lodged by the Cabinet Secretary for Social Justice, Communities and Pensioners’ Rights, is:

“That the Parliament agrees that the relevant provisions of the Welfare Reform and Work Bill, introduced to the House of Commons on 9 July 2015, relating to child poverty strategies and the Child Poverty and Social Mobility Commission, so far as these matters alter the executive competence of Scottish Ministers or fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Background

2. This memorandum has been lodged by Alex Neil, Cabinet Secretary for Social Justice, Communities and Pensioners’ Rights, under Rule 9.B.3.1(a) of the Parliament’s standing orders. The Welfare Reform and Work Bill (“the Bill”) was introduced in the House of Commons on 9 July 2015. The Bill can be found at:

http://services.parliament.uk/bills/2015-16/welfarereformandwork.html

Content of the Welfare Reform and Work Bill

3. The Bill will implement some of the measures announced in the UK Government’s Summer Budget 2015 on 8 July. It is essentially a Bill of three parts.

4. First, it will introduce a duty to report to Parliament on:

   - Progress towards achieving full employment.
   - Progress towards achieving 3 million apprenticeships in England.
   - Progress with the Troubled Families programme (England).

5. Second, it will repeal almost all of the Child Poverty Act 2010 and introduce a new duty for the Secretary of State to report annually on “life chances”: children living in workless households and educational attainment at age 16, in England. The name and remit of the Social Mobility and Child Poverty Commission is changed so that it becomes the Social Mobility Commission.

6. Finally, the Bill allows for the introduction of extensive changes to welfare benefits, tax credits and social housing rent levels. These will account for around 70% of the £12-13 billion in welfare savings identified in the Summer Budget 2015. The welfare/housing measures include:

   - Lowering the benefit cap threshold and varying it between London and the rest of the UK.
   - A four year benefits freeze.
• Limiting support through Child Tax Credits/Universal Credit.
• The abolition of Employment and Support Allowance Work-Related Activity Component.
• Changes to conditionality for responsible carers under Universal Credit.
• Replacing Support for Mortgage Interest with Loans for Mortgage Interest.
• Reducing social housing rent levels by 1% in each year for four years from 2016-17.

Provisions which relate to Scotland

7. Some of the provisions in the Bill apply across the UK while others apply in England, Wales and Scotland or to England only. This memorandum relates to the provisions amending the Child Poverty Act 2010; specifically, those relating to child poverty strategies, and those dealing with the Child Poverty and Social Mobility Commission. Those provisions deal with matters which are devolved. As a consequence, the legislative consent of the Scottish Parliament is required.

Reasons for Seeking a LCM

8. The Scottish Government does not support the changes that the Bill as introduced proposes to make to the Child Poverty Act 2010 ("the 2010 Act"); in particular, the Bill’s revised targets, which do not take income into account. In the Scottish Government’s view, this represents a shift towards characterising poverty as a lifestyle choice rather than addressing the social and economic drivers that cause people to fall into poverty.

9. The Scottish Government also disagrees with the removal of the child poverty aspects of the Commission’s remit. The new Commission will report on progress made towards improving social mobility in the UK, as well as promoting social mobility in England. This does not reflect how we see the work of the Commission, whose role in scrutinising the government’s tackling poverty efforts and reporting on progress towards the targets is crucial. The changes reflect a shift in focus from tackling poverty to promoting social mobility and equality of opportunity, rather than outcome. The child poverty elements of the Commission’s remit are fundamental to its work, and to remove them at a time when child poverty remains such a priority issue is not a step we can support. This is why the Scottish Government requested an opt-out from the UK Government’s approach, securing amendments that remove the 2010 Act’s duties on Scottish Ministers.

10. The Scottish Government was not consulted on, nor made aware of, the proposed inclusion of amendments to the 2010 Act (for which the Scottish Parliament previously approved a LCM on 25 November 2009) before introduction of the Bill. As soon as the Scottish Government became aware of the provisions to amend the 2010 Act we requested amendments to the Bill to repeal all parts of the 2010 Act imposing any duty on Scottish Ministers, including the duty to appoint a Commissioner to the new Social Mobility Commission.
11. This will allow Scotland to develop a unique approach to tackling poverty, with a view to introducing a refined approach to measuring and reporting on tackling poverty in the next parliamentary term. This is likely to be based on our existing child poverty measurement framework, as articulated in the Child Poverty Strategy for Scotland 2014-2017. The measurement framework was developed in collaboration with child poverty experts, and is widely supported by stakeholders.

12. Following discussion with the UK Government, the requested amendments to the Bill were tabled on 21 October and considered and accepted at Report Stage on 27 October. The amendments achieve the following policy aims:

- To repeal all parts of the 2010 Act imposing duties on the Scottish Ministers, including the duty to appoint a Commissioner;
- Remove any modified duties that relate to Scotland;
- To retain the Commission’s duty in respect of Scotland to publish a report setting out its views on the progress made towards improving social mobility in the UK.

13. The Bill’s provisions on introduction and as amended will have a direct effect in Scotland and deal with matters which are devolved. As a consequence, the legislative consent of the Scottish Parliament is required.

Consultation

14. There has been no consultation in Scotland specifically for this Bill and, as discussed above, the Scottish Government were not consulted over, nor made aware of, the inclusion of amendments to the 2010 Act before the introduction of the Bill.

15. However, in developing its response to the Bill, the Scottish Government has worked closely with its Ministerial Advisory Group on Child Poverty, and other stakeholders, including the Chair of the Child Poverty and Social Mobility Commission and the Scotland Commissioner.

Financial/Resource Implications

16. There are no additional financial or resource implications anticipated as a consequence of agreeing this LCM.

Conclusion

17. It is the view of the Scottish Government that it is in the best interests of the Scottish people and good governance that the relevant provisions of the Welfare Reform and Work Bill, as outlined above, which alter the executive competence of Scottish Ministers or fall within the legislative competence of the Scottish Parliament should be considered by the UK Parliament.

SCOTTISH GOVERNMENT
November 2015