



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

WELFARE REFORM COMMITTEE

Wednesday 13 June 2012

Session 4

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WELFARE REFORM COMMITTEE

9th Meeting 2012, Session 4

CONVENER

*Michael McMahon (Uddingston and Bellshill) (Lab)

DEPUTY CONVENER

*Jamie Hepburn (Cumbernauld and Kilsyth) (SNP)

COMMITTEE MEMBERS

*Margaret Burgess (Cunninghame South) (SNP)

*Annabelle Ewing (Mid Scotland and Fife) (SNP)

*Alex Johnstone (North East Scotland) (Con)

*Drew Smith (Glasgow) (Lab)

*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jackie Baillie (Dumbarton) (Lab)

Nicola Sturgeon (Deputy First Minister and Cabinet Secretary for Health, Wellbeing and Cities Strategy)

CLERK TO THE COMMITTEE

Simon Watkins

LOCATION

Committee Room 3

Scottish Parliament
Welfare Reform Committee

Wednesday 13 June 2012

[The Convener *opened the meeting at 10:00*]

Decision on Taking Business in Private

The Convener (Michael McMahon): Good morning, everyone. I open the ninth meeting in 2012 of the Welfare Reform Committee. I remind everyone to switch off all mobile phones and other electronic devices, please. I welcome the Cabinet Secretary for Health, Wellbeing and Cities Strategy. We will come to the stage 2 amendments in due course.

Agenda item 1 is a decision on taking business in private. The committee is invited to discuss a work programme paper in private at future meetings. Do members agree?

Members *indicated agreement.*

**Welfare Reform (Further Provision) (Scotland) Bill:
Stage 2**

10:00

The Convener: We move to item 2. I apologise, but I have to read some technical information into the *Official Report*. It will take a wee bit of time, but we must go through this.

Agenda item 2 is stage 2 consideration of the Welfare Reform (Further Provision) (Scotland) Bill. I formally welcome to our meeting Nicola Sturgeon, the cabinet secretary. She will steer us through the Government's perspective at stage 2. I also welcome the officials who are accompanying the cabinet secretary.

Everyone should have a copy of the bill as introduced, the marshalled list of amendments that was published on Monday and the list of groupings of amendments, which sets out the order in which the amendments will be debated. The running order is set by the rules of precedence that govern the marshalled list. I will call the amendments in strict order from the marshalled list, and we cannot move backwards in the list. There will be one debate on each group of amendments.

I will call the member who lodged the first amendment in a group to speak to and move the amendment and speak to all the other amendments in the group. Members who have not lodged amendments in the group but who wish to speak should indicate that by catching my attention in the normal way. I will invite the cabinet secretary to contribute to the debate just before I move to the winding-up speech—the debate on the group will be concluded by my inviting the member who moved the first amendment in the group to wind up.

Following the debate on the group, I will check whether the member who moved the first amendment in the group wishes to press it to a vote or to withdraw it. If they wish to press it, I will put the question on the amendment. If a member wishes to withdraw their amendment after it has been moved, they must seek the committee's agreement to do that. If any committee member objects to that, the committee will immediately move to the vote on the amendment. If any member does not want to move their amendment when called, they should say, "Not moved." Please note that any other member may move the amendment under rule 9.10.14 of the standing orders. If no one moves the amendment, I will immediately call the next amendment on the marshalled list.

Only committee members are allowed to vote. Voting in any division will be by a show of hands, and it is important that members keep their hands clearly raised until the clerks have recorded the vote. The committee is required to indicate formally that it has considered and agreed each section of the bill, so I will put the question on each section at the appropriate point.

Section 1—Universal credit: further provision

The Convener: Amendment 1, in the name of Jackie Baillie, is grouped with amendment 2.

Jackie Baillie (Dumbarton) (Lab): I followed every word of what you said most diligently, convener, but I suspect that I might still get it wrong.

The amendments rehearse arguments that we have dealt with before, so I do not think that the debate will take too long. The purpose of amendments 1 and 2 is to ensure the appropriate level of scrutiny of the regulations by changing the requirement in the legislation from negative to affirmative procedure. As I said, the matter has exercised the committee and there is substantial support among stakeholders for a degree of scrutiny.

It might be worth explaining briefly the three different forms of procedure for subordinate legislation, but I will not do so in detail—I will spare members that. They are negative procedure, affirmative procedure and superaffirmative procedure. The committee discussed the matter, and some of the witnesses at stage 1 preferred the superaffirmative procedure, which would afford the greatest level of scrutiny. However, like the rest of the committee, I am mindful of the need not to prolong the timetable, as it is essential to ensure the continued payment of passported benefits and that we conclude our consideration in time for the new financial year. We acknowledge the cabinet secretary's very helpful comment at stage 1 that she will consult over the summer, and I welcome that. On balance, the judgment was that we did not favour superaffirmative procedure in order to provide a degree of flexibility.

In essence, the difference between affirmative and negative procedure is that, under affirmative procedure, a vote in Parliament is required. There is no fundamental difference in timescale, because a period of 40 days is required for both procedures; however, the judgment is that the amendments would provide stakeholders with what they desire, which is more time and, certainly, more participation in the scrutiny. The committee has shown that it can work collaboratively with the cabinet secretary—everyone is agreed on the need to ensure that the

regulations get through—and the judgment is that we can afford the greater degree of scrutiny.

There is an overwhelming desire for this on the part of stakeholders—it is not what we as parliamentarians want that matters. Those who have written in at stage 2, including Children 1st, Barnardo's and Citizens Advice Scotland, and at stage 1, including Inclusion Scotland and the Scottish campaign on welfare reform, consider the regulations to be substantial, and when one considers some of the changes that will have consequences for Scotland that the United Kingdom Welfare Reform Act 2012 enacts, one can see that they are substantial issues. The judgment is that there is a requirement for much more emphasis on the negative procedure. The Subordinate Legislation Committee also acknowledged that in its report to the committee.

The Convener: I have been aware from the outset that, in some respects, we are in uncharted territory. Of necessity, this bill has not followed the normal procedures, and the members who have participated in the discussions that we have had have agreed that because of the circumstances in which we find ourselves, we cannot simply do things in the way in which they would normally be done.

There was no consultation period, which we would normally have had for primary legislation. There was an understanding that the legislation would have to encompass as much as possible, because the cabinet secretary could not know all the detail that was coming from the Department of Work and Pensions, and is probably still not as aware of that as she would like to be. However, that also means that those who will be impacted on are not aware of the information either. Therefore, there will have to be a degree of scrutiny of the information that has not yet been made available to us.

Given that that is the case, does the cabinet secretary agree that, although she will consult over the summer, a lot of detail will be missing and there will be a lot of speculation around that consultation, and that, in order to get detailed scrutiny of the legislation, we have to discuss that information as fully as possible? Does she also agree that the only way in which to ensure that that will happen is through the affirmative procedure?

Kevin Stewart (Aberdeen Central) (SNP): If I could answer that, convener, I think that one of the key issues is the level of flexibility that has been included, and I am pleased that the cabinet secretary has said that she will be consulting over the summer.

My fear about using affirmative rather than negative procedure is that there may well be

delay. We must also consider UK deadlines, some of which the cabinet secretary will not yet be aware of. Perhaps the cabinet secretary could address that when she responds.

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): This is a little bit like “Groundhog Day”. We went over the issue a number of times during stage 1 consideration of the bill. I am still not entirely convinced of the necessity of dealing with every procedure under affirmative procedure, which is what the amendments seek to ensure.

I am aware that it has been argued that that is the basis on which some witnesses wanted us to proceed—I do not think that it was the universal view. I do not get the sense that the proposal is something that every organisation was demanding of the Government. We have had, I think, one briefing from three organisations in support of the amendments. I do not think that that is an overwhelming call for the proposal to be adopted. On that basis, I am still concerned that we could be setting up an onerous task not only for the Government but for the Parliament. I do not think that it is necessary to consider every resolution on an affirmative basis, and I would be interested to hear the cabinet secretary’s views on that.

Annabelle Ewing (Mid Scotland and Fife) (SNP): I support what Jamie Hepburn has said. As I have said already in the “Groundhog Day” debates that we have had on the subject, we must ensure that there is no gap—that is our duty as parliamentarians. I fear that, if we are overly prescriptive about the process, we will miss out on the most important thing, which is to ensure that there is no gap in benefits provision.

My question for the cabinet secretary concerns her open invitation, which was made on 23 May in the stage 1 debate, for helpful suggestions from stakeholders on all issues going forward. To what extent has that offer been taken up so far?

Margaret Burgess (Cunninghame South) (SNP): My question follows on from what Annabelle Ewing just said. The Subordinate Legislation Committee does not see the need for affirmative procedure for all regulations made under the bill. Will the cabinet secretary comment on that? Will she elaborate on the type of consultation that she intends to undertake with the third sector throughout the whole process?

The Deputy First Minister and Cabinet Secretary for Health, Wellbeing and Cities Strategy (Nicola Sturgeon): I will be as brief as possible in responding to all the points that have been made.

I begin with the general point that none of the four amendments that we are debating today relates to the fundamental principle of the bill, which is that ministers should be given powers in

respect of the UK Welfare Reform Act 2012. On the one hand, we should be pleased about that, because it signals general agreement on and satisfaction with what the bill is trying to do. On the other hand, there is a legitimate question about all the issues that the amendments address—I will return to the specific points in discussing later groups—which is whether any of them are best dealt with in the bill. That will perhaps be a recurring theme in my comments today.

That said, I recognise the level of stakeholder interest in these matters and that there is merit in having a further debate on the record. Everybody must understand that, although this is a debate about parliamentary procedure, it is fundamentally a debate about a real situation—whether the Parliament will be able to ensure continuity of benefit payments to some of the most vulnerable people in our society. That will be central in my mind as we go through the debate.

The convener asked a legitimate question about the fact that the bill has not followed standard, traditional parliamentary procedure and timescales because we are in uncharted territory. I am mindful of that but, as Kevin Stewart said, the fact that we are in uncharted territory will continue after the bill is on the statute book. Although I hope that the situation will change as time passes, to some extent we will still not know all the detail that we require to know. We are also always going to be subject to last-minute changes that are completely outwith our control. What we are dealing with here—perhaps for the first time in the Parliament—is a clash of parliamentary procedures. The Scottish Parliament’s procedures are not being given the respect that they are due, as we are having to operate within a timescale that has been set by the decision making and procedures of another Parliament.

The fact that we will continue to be in uncharted territory means that retaining a degree of flexibility and the ability to move quickly is absolutely paramount if we are to fulfil our primary duty of ensuring that vulnerable people are not exposed to the risk of not having continued access to passported benefits. Therefore, I cannot recommend support for amendments 1 and 2 not only because I believe that the approach that we have set out in the bill is the best, as it strikes a balance between using affirmative procedure where that is merited and having recourse to negative procedure where that is appropriate, but—and this is my fundamental concern about the amendments—because the amendments take us to the dangerously extreme position of ruling out the use of negative procedure altogether, which would expose vulnerable people to an unacceptable level of risk.

10:15

As cabinet secretary, I cannot, in all conscience, advise the committee to do that. It would create a risk that if changes had to be made at the last minute, or at very short notice, we would be left with insufficient time to make them ahead of the UK deadline. It was suggested during the debate in the chamber and again this morning that there is no fundamental difference in the timescales for the affirmative and negative procedures. I want to challenge that, head on, because it is not the case. The length of time that must concern me is the length of time that it takes for regulations to come into force. Under the affirmative procedure, regulations can come into force only after Parliament has approved them, which can take up to 40 days. Although the negative procedure still ensures that 40-day period of scrutiny, it enables regulations to come into force sooner—if necessary, after 28 days, or even sooner than that with the dispensation of the Presiding Officer. It gives the flexibility to bring regulations into force much more quickly, although the 40-day period of scrutiny is retained whether the procedure is affirmative or negative. If we rule out negative procedure, we rule out something that allows that flexibility, should we need it if we face last-minute changes.

Margaret Burgess correctly made the point that amendments 1 and 2 would go further than could be reached by any reasonable interpretation of what the Subordinate Legislation Committee said. The committee said that regulations that do not amend primary legislation should be able to be made under either the affirmative or negative procedure. Amendments 1 and 2 would remove the possibility of using the negative procedure. Applying that one-size-fits-all approach is not the right thing to do. More importantly, that approach would put vulnerable people at an unacceptable level of risk.

A couple of people have mentioned the commitment to consult. Beyond any shadow of a doubt, the commitment to consult is absolute. We will go out of our way to consult stakeholder interests as much as possible. My views on the correct level of parliamentary procedure come from a driving need to get these regulations enforced, not because I want to diminish the level of scrutiny. We will have the consultation over the summer.

Partly in response to Margaret Burgess and partly in response to Jackie Baillie, I say that I understand stakeholder groups' views on parliamentary procedure. However, my reading of stakeholder groups' fundamental desire is that they want to ensure that people who access passported benefits are protected. That is their overriding concern, as it is the Government's.

What we are proposing is proportionate. It recognises the reality of our situation, which is not a reality of our making or choosing but is nevertheless one that we must deal with. It allows us to work to ensure scrutiny and to build in extra parliamentary scrutiny. I have given a very clear offer to the committee to come back at the end of the consultation, to discuss its outcome in detail, and I will continue to work as openly as I possibly can with the committee and stakeholder interests. However, we must be in a position where we can serve the interests of the people who need access to passported benefits. I think that we have struck the right approach in the bill. Amendments 1 and 2 would take us to an extreme position, which would put the people that we are meant to protect in a very exposed position. We should not do that.

Jackie Baillie: I intend to press amendment 1. The debate was very interesting. I apologise to my colleagues who may feel that it is a bit like "Groundhog Day", but this is the Parliament's legislative process. Until the bill is passed, it is absolutely appropriate to test these arguments.

I say to Kevin Stewart and the cabinet secretary that it would indeed be extreme if we were advocating the superaffirmative procedure; we recognise that there is a balance to be struck. In their report to the committee on the differences between legislative processes, the clerks made it clear that a 40-day period applies in relation to affirmative and negative instruments. The cabinet secretary explained the circumstances in which the coming into force of an instrument is triggered earlier.

We expect information from the UK Government by the middle of June, as was confirmed to us in writing. Perhaps the Scottish Government is in receipt of the information. The use of the affirmative procedure would encourage all stakeholders and the Government to ensure that we get the regulations right. I think that we all want to ensure that vulnerable people have continuity of benefit provision.

It strikes me that, as well as the opportunity to consult on options, the sector wants to be consulted on draft regulations. I am not sure whether draft regulations will be available over the summer or whether an alternative approach, in which options are considered, will be taken. The Subordinate Legislation Committee's intentions vis-à-vis its preference for the affirmative procedure are clear to me and to the convener, who happens to be a member of the Subordinate Legislation Committee.

Stakeholder groups, who work with vulnerable clients who need continuity in the provision of their passported benefits, are calling for the affirmative procedure to be used, to afford the greatest level of scrutiny. Rather than listen to me, perhaps the

committee will consider the views of stakeholder organisations. This Parliament has always been known for its evidence-based approach, both to policy making and in the operation of its committees.

I reviewed the written submissions and oral presentations and found that something like 90 per cent of the organisations that we regard as stakeholders argued for more scrutiny and for the affirmative procedure. It would be difficult for the committee to deny that evidence. Children 1st called for the superaffirmative procedure, as did Citizens Advice Scotland, although CAS acknowledged that the affirmative procedure would be sensible in the circumstances. The Child Poverty Action Group, Ecas, Enable Scotland and the Poverty Alliance all called for the affirmative procedure—and there were many more such calls.

We should have due regard to what the Scottish Association for Mental Health said, so I will quote it in full. SAMH said:

“The Joint Committee on Human Rights published a critical report on the UK Welfare Reform Bill which stated:

‘The traditional approach to welfare reform—which focuses on a framework in primary legislation accompanied by multiple regulation-making powers—can undermine parliamentary scrutiny.’

The Scottish Parliament has an opportunity to learn lessons from the passing of the UK Welfare Reform Bill, but is in danger of replicating some of the same mistakes. The Scottish Bill states that regulations will only be subject to the affirmative procedure if they add to, replace or omit any part of the text of an existing Act, otherwise they will be subject to the negative procedure.”

Members should make no mistake: the majority of regulations will be subject to the negative procedure. SAMH went on to say:

“Given the far reaching implications of these regulations, SAMH does not regard such an approach as satisfactory.”

The committee needs to reflect on the evidence with which we were presented. I press amendment 1.

The Convener: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McMahon, Michael (Uddingston and Bellshill) (Lab)
Smith, Drew (Glasgow) (Lab)

Against

Burgess, Margaret (Cunninghame South) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 1 disagreed to.

Section 1 agreed to.

Section 2—Personal independence payment: further provision

Amendment 2 moved—[Jackie Baillie.]

The Convener: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McMahon, Michael (Uddingston and Bellshill) (Lab)
Smith, Drew (Glasgow) (Lab)

Against

Burgess, Margaret (Cunninghame South) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 2 disagreed to.

Section 2 agreed to.

After section 2

The Convener: Amendment 3, in the name of Jackie Baillie, is in a group on its own.

Jackie Baillie: Amendment 3 is a fairly straightforward amendment, the purpose of which is to require ministers to publish an annual report setting out the likely social, economic and financial effects of the UK Welfare Reform Act 2012. I recognise that there has been modelling, which is very welcome, but it is focused primarily on individuals and households.

We looked at the evidence that the cabinet secretary's officials provided of additional modelling, but in my view it does not go far enough. We need to consider wider modelling, particularly of the impact on devolved services. That would reflect the Welsh Assembly Government's approach, which I commend to the committee.

As I said before, I very much welcome the Scottish Government's initial work, but we now need more extensive work on the impact of welfare reform on services in Scotland that we can use to inform our policy responses, monitor need and anticipate it, and shape eligibility criteria much better in the future.

I appreciate that the cabinet secretary has indicated to the committee that she is taking a two-stage approach: an interim position that ensures continuity; then a return to the whole area, with the

possibility of legislation in 2013-14, although I can be corrected on that date. If we are to undertake such consideration, we will need robust information to inform it so that we get the right policy responses and address any unforeseen consequences.

Amendment 3 is supported by Children 1st, Barnardo's, CAS and the Scottish Council for Voluntary Organisations, and what it seeks was positively articulated by the Scottish campaign on welfare reform at stage 1.

I move amendment 3.

Jamie Hepburn: I am not unsympathetic to the notion that the Scottish Government should provide as much information as possible. Indeed, it is imperative that the Scottish Government provide all the information that it can to this committee and to stakeholders out there. However, I question whether it is necessary to include in the bill a requirement for the Scottish Government to publish an annual report in that regard.

Jackie Baillie was quite right to raise consistently during stage 1 consideration the interesting point of the Welsh Assembly Government's modelling work, but I wonder whether there was a legislative requirement for it to do that work—it is not clear to me that there was. In light of that, I question whether we need such a requirement in the bill. I would be interested to hear the cabinet secretary's perspective on that.

Annabelle Ewing: In preparation for this meeting, I looked again at the stage 1 report. I think it deals with the issue of amendment 3 in paragraph 50, which states:

"The Committee believes that it is necessary to undertake extensive modelling to understand the impacts of welfare reform in Scotland and the policy responses to it, for example in establishing criteria for passported benefits. The Committee considers that it is primarily the responsibility of the DWP to undertake this work and to provide the Scottish Government with full access to this information. The Committee supports the work that the Scottish Government is undertaking and urges it to make the results public."

That is a fair reflection of what the committee felt during the debate that led to the stage 1 report. In light of that, I do not think that amendment 3 is necessary. The Scottish Government has made it clear that it intends to collate as much information as possible in this regard and to make it publicly available.

We must recall the parameters within which we operate in this debate, which is that powers over welfare are reserved to the Westminster Parliament and that welfare is resourced through that Parliament. We must bear that in mind in every discussion that we have on welfare,

otherwise there might be an expectation that the Scottish Government, which has no resources for welfare nor power over it, will do things that cut across what the Westminster Government should do. I hope that all the people who are interested in the debate will call for the Westminster Government to provide as much modelling as possible.

10:30

Drew Smith (Glasgow) (Lab): It seems to me that there were a couple of contradictory arguments there. Irrespective of whether it is the DWP's responsibility to do the modelling work, if it is not done, will we be satisfied just to leave it at that?

There is an acknowledgment across the sector that the work that the Welsh Government has done on the broader analysis, particularly how it affects the totality of devolved services, suggests that there is more that we could do.

It seems to me that there are two arguments. One is that the modelling is being done anyway and that all the information will be available, in which case, I do not see what the argument is against ensuring that we have a device to pull it all together—that does not seem to be a particularly onerous task for the Government. The other argument is that the work is not being done, or at least is not being done at the same level as it is in Wales, or there is a deficiency on the part of the DWP, in which case the amendment is absolutely necessary.

Kevin Stewart: I agree completely and utterly with my colleague, Annabelle Ewing, about where the responsibility lies. I know that we are not going to debate the constitutional issue to any huge degree today, but members need to take cognisance of where powers lie at this moment in time.

I do not understand why it would be necessary to write the measure into the bill. An annual report is quite restrictive. We should be looking at more flexibility in relation to scrutiny over the next few months and years, as the measures impact. I do not think that scrutiny will be possible to the same degree if we say, in the bill, that there will be only an annual report. Any Government would simply say, "You will get the information when the annual report comes out." If you have flexibility, which I think that the cabinet secretary has offered previously, you can scrutinise issues throughout the year. That will enable us to scrutinise the actions of not only this Government, with regard to its responsibilities for passported benefits, but the DWP, in relation to its responsibilities for other aspects of the modelling.

I see no need to include in the bill a requirement for an annual report. Further, I think that that is more restrictive than it is beneficial, which the mover of the amendment seems to think that it would be.

The Convener: Kevin Stewart raised the issue of where power lies in relation to this legislation. We are dealing with a bill that is before the Scottish Parliament, and the power lies with the Scottish Parliament. As I mentioned earlier, at stage 1 we agreed the principle that, under the circumstances, the cabinet secretary needs to have the widest possible powers so that she is able to take forward the issues that stakeholders want her to address in relation to the Westminster legislation. Given the powers that the cabinet secretary will get from the bill, it is not too much to ask that she deliver one report to ensure that people are informed of what progress is being made. Given the extent of the powers that are available to her, I do not think that that is an onerous task.

Nicola Sturgeon: The first thing to say about amendment 3 is that I have no difficulty whatsoever with it in principle. I have already said to the committee and have said previously to the Parliament that this is the kind of information that I have no difficulty in agreeing to provide. I have already given the committee in writing a clear undertaking to assess the available information on economic and social impacts and see whether that points to further work that we should be doing. As envisaged, that would not go as far as an annual report to the Parliament, but that is something that we are happy to consider. I have no difficulty with the principle behind the amendment, which is that we should ensure that the Parliament is kept informed of the economic and social impacts of the UK act.

Like Jamie Hepburn, Annabelle Ewing and Kevin Stewart, I seriously question the need to include the proposal in the bill. Jamie Hepburn asked a legitimate question. We are holding up the Welsh model as the model of what we are trying to achieve, but that does not necessarily need a legislative underpinning to achieve it. What the amendment is trying to achieve can be achieved easily without putting the proposal in statute. Kevin Stewart's point about the danger that putting something in statute ends up restricting flexibility is also valid. That is my view on the matter.

In the interests of consensus and trying to see whether there is a way forward, I will make a proposal in relation to amendment 3—although not in relation to amendment 4, because, as I will make clear in a minute, I believe that there is absolutely no argument for the inclusion of that amendment in the bill. If there is a way of including something in the bill that gives a commitment of

the nature that is called for in amendment 3, I am happy to explore that further. However, I do not think that amendment 3 is the right way in which to do that.

There are two reasons for that. First, there does not appear to be any overwhelming reason why the first annual report should be produced before we lay regulations. The issue is an on-going one. Jackie Baillie mentioned primary legislation that is coming down the track on the social fund. We would clearly want to have the most up-to-date information on that. There is no real grounding in argument for tying ourselves into producing an annual report before we lay regulations.

Secondly, to return to Kevin Stewart's point, we would have to be clear about what we want the annual report to cover, to avoid casting it so widely that it is potentially meaningless or so narrowly that we run into the restrictions that Kevin Stewart talked about.

I do not see the need for an annual report to the Parliament but, if Jackie Baillie is prepared to withdraw amendment 3, I would be happy to discuss with her or other committee members whether it is possible to frame an amendment for stage 3 that would fit those purposes. I am not saying that we will definitely get to that outcome, but I am certainly willing for my officials to have that discussion.

Jackie Baillie: In the spirit of consensus, I will accept that offer and will be happy to seek leave to withdraw amendment 3. In doing so, I observe Jamie Hepburn's nice turn of phrase in talking about consistency, rather than groundhog day—I much prefer his formulation. The difference between the proposal in the amendment and the Welsh model is that, in Wales, they are actually doing it. Here, we have invited the cabinet secretary to consider the proposal and she has repeated the commitment that she has already given us to assess what has been done and whether there is a requirement to do more. At this stage, there is no indication of whether she agrees that there is a requirement to do more.

A fundamental point is that the issue is not, as Annabelle Ewing suggested, a matter for the DWP. The DWP should absolutely do work to model the impact on individuals and households but, in relation to devolved services, who is better placed to model the impact than the Parliament to which those services are devolved? Although I do not want to fall out with Annabelle Ewing, she failed to quote from a further paragraph in the stage 1 report that noted the need to model the impact on devolved services.

We have all talked consistently about the impact on care services. We know that some local authorities base their charging structures on the

receipt of disability living allowance. A number of people who currently receive DLA will not qualify for the personal independence payment. We are in danger of creating—not at our own hand, but as a consequence of the UK Government's welfare reform—a perfect storm in which those people will be unable to pay for services and local authorities will not have the resources to deal with them. We cannot afford simply to stick our heads in the sand and say that there is no impact on devolved services or that we are waiting for the UK Government to model that. This Parliament has a responsibility to model the impacts and to do an effective job to protect the most vulnerable.

As I said, in the spirit of consensus, I am prepared to seek leave to withdraw the amendment on the basis that there will be dialogue with the cabinet secretary's officials.

Amendment 3, by agreement, withdrawn.

Section 3—Regulations under this Act: ancillary provision

The Convener: Amendment 4, in the name of Jackie Baillie, is in a group on its own.

Jackie Baillie: I promise that the discussion on amendment 4 will be the briefest of the lot, but it will certainly, in Jamie Hepburn language, be consistent. The purpose of the amendment is to require the Government to lay a policy statement before the Parliament explaining the intended effect of the regulations. Currently, regulations are accompanied by a technical note, which does not set the policy context or the underpinning approach. There is a story to tell about the policy context and the impact of the UK Welfare Reform Act 2012. Potentially, there is a good story to tell about the Scottish Government's approach to mitigating that impact. That will not be captured by a plethora of technical notes on regulations.

If we want to be clear about what we are aiming to do, a policy statement is the very least that we can do. It is equally important that the regulations are coherent and consistent with that framework and that we understand what ministers are trying to do. It is a complex area. In lodging amendment 4, my desire is to introduce clarity of intention.

I move amendment 4.

Drew Smith: I have a question for the cabinet secretary. A range of regulations might flow from the bill, which will impinge on a number of Government portfolios. Although the cabinet secretary has set out her policy intention in the debate on the bill, amendment 4 gives her the opportunity to set out the policy direction of the Government as a whole. Other ministers may bring forward regulations at different times in future. Does she recognise that there might be

some benefit in having consistency in ministers' approach across Government?

Nicola Sturgeon: As with amendment 3, I have no difficulty in principle with amendment 4. I am happy to give a commitment to introduce a policy statement. However, I do not think that it is appropriate to make a provision for that in the bill, for all the reasons that we discussed in relation to amendment 3.

Furthermore, amendment 4 does not take the right approach. I shall explain that. There is merit in having a policy statement when regulations are laid—I am happy to give that commitment—but that will be next year, and I argue that the Parliament should see that kind of policy statement earlier than that. We are about to have a consultation. The appropriate time to have an initial indication of an overall policy direction is when that consultation concludes. My intention is to bring a policy statement earlier—before the regulations are laid—and to update it when we get towards the regulations in the new year. That is a far more sensible approach, which sets a clear policy direction while allowing flexibility to ensure that the Parliament is being meaningfully informed of overall policy intent and not boxed in to a procedural approach that might not suit the circumstances that we are dealing with.

I have no problem in principle with a policy statement, but I fundamentally disagree that a requirement for it should be included in the bill. Even if we were persuaded that it should be in the bill, if we wanted to get the most benefit out of that approach, amendment 4 is not drafted in the most sensible way.

Jackie Baillie: It is interesting how debates move on. This is not groundhog day, because in committee a number of members rejected the notion of any policy statement, so this is a welcome move from the cabinet secretary. However, I did not quite hear her suggest that she would be willing to discuss the issue further and consider a redraft to get to where we intended. On the basis that that olive branch was not offered to me, I will press amendment 4.

The Convener: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Johnstone, Alex (North East Scotland) (Con)
McMahon, Michael (Uddingston and Bellshill) (Lab)
Smith, Drew (Glasgow) (Lab)

Against

Burgess, Margaret (Cunninghame South) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)

Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 4 disagreed to.

Section 3 agreed to.

Sections 4 to 6 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank the cabinet secretary for her attendance.

The Parliament has not yet determined when stage 3 will take place, but members can lodge stage 3 amendments with the legislation team at any time. Members will be informed of the deadline for amendments once it has been determined.

Meeting closed at 10:44.

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