

CHILD POVERTY (SCOTLAND) BILL

[AS AMENDED AT STAGE 2]

REVISED EXPLANATORY NOTES

INTRODUCTION

1. As required under Rule 9.7.8A of the Parliament's Standing Orders, these revised Explanatory Notes are published to accompany the Child Poverty (Scotland) Bill (which was introduced in the Scottish Parliament on 9 February 2017) as amended at Stage 2. Text has been added or amended as necessary to reflect the amendments made to the Bill at Stage 2 and these changes are indicated by sidelining in the margin.

2. These revised Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

THE BILL

Summary and Background

4. The Child Poverty (Scotland) Bill contains the following key elements. It:

- Sets out four statutory income targets, with interim targets.
- Places a duty on the Scottish Ministers to publish child poverty delivery plans, with the first plan covering the 4 year period from 1 April 2018 and two further plans covering a 4 and 5 year period respectively, and to report on those plans annually.
- Places a duty on local authorities and health boards to report annually on activity to contributing to the meeting of the child poverty targets.

COMMENTARY ON SECTIONS

Section 1 – 2030 Targets

5. Section 1 places a duty on the Scottish Ministers to ensure that four child poverty targets are met during the financial year beginning with 1 April 2030, and sets out what those targets are.

6. Subsection (1) places a duty on the Scottish Ministers to ensure that the child poverty targets set out in subsection (2) are met in the financial year beginning with 1 April 2030.

7. Subsection (2) sets out what the targets are for children living in households in Scotland. Subsection (2)(a) sets out a target of less than 10% of children falling within section 2 as living in relative poverty; subsection (2)(b) sets out a target of less than 5% of children falling within section 3 as living in absolute poverty; subsection (2)(c) sets out a target of less than 5% of children falling within section 4 as living in combined low income and material deprivation; and subsection (2)(d) sets out a target of less than 5% of children falling within section 5 as living in persistent poverty.

Section 1A – Interim targets

8. Section 1A places a duty on the Scottish Ministers to ensure that four interim targets are met during the financial year beginning with 1 April 2023, and sets out what those targets are.

9. Subsection (1) places a duty on the Scottish Ministers to ensure that the interim targets set out in subsection (2) are met in the financial year beginning with 1 April 2023.

10. Subsection (2) sets out what the interim targets are for children living in households in Scotland. Subsection (2)(a) sets out an interim target of less than 18% of children falling within section 2 (relative poverty); subsection (2)(b) sets out an interim target of less than 14% of children falling within section 3 (absolute poverty); subsection (2)(c) sets out an interim target of less than 8% of children falling within section 4 (combined low income and material deprivation); and subsection (2)(d) sets out an interim target of less than 8% of children falling within section 5 (persistent poverty).

Section 2 – Relative poverty

11. Section 2 provides that a child falls within the section (relative poverty) if the child lives in a household whose equivalised net income for the year is less than 60% of the median equivalised net household income for the United Kingdom for the year (see section 6(2) which defines “median equivalised net household income” as median equivalised net household income for the United Kingdom).

12. The relative poverty target is a recognition that individual and household needs are relative to societal standards of living. Children are considered to be in relative poverty if they are living in households whose combined income is below 60% of median UK household income, calculated in the same year. Note that the poverty threshold for all four child poverty targets is adjusted (equivalised) to take household size and composition into account.

Section 3 – Absolute poverty

13. Section 3 provides that a child falls within the section (absolute poverty) in a financial year if the child lives in a household whose equivalised net income for the year is less than 60% of the amount of median equivalised income for the financial year beginning on 1 April 2010, adjusted so as to take account of changes in the value of money. Subsection (2) sets out the power of the Scottish Ministers to change the date referred to in subsection (1) (currently 1 April

2010). Subsection (3) states that regulations under subsection (2) are subject to the affirmative procedure.

14. The absolute poverty target enables an assessment of whether living standards at the bottom of the income distribution are rising or falling over time. It is a measure of whether the incomes of the lowest income households are keeping pace with inflation. The baseline for the absolute poverty measure is currently the financial year beginning on 1 April 2010. The reason for this is to allow a ten year comparison between the base year and the 2020 target year which was originally set out in the Child Poverty Act 2010. Children are considered to be living in absolute poverty if they are living in households whose adjusted income is below 60% of the (inflation adjusted) median income in 2010/11.

Section 4 – Combined low income and material deprivation

15. Section 4 provides that a child falls within the section (combined low income and material deprivation) if the child: (a) lives in a household whose equivalised net income for the year is less than 70% of median equivalised net household income for the year; and (b) experiences material deprivation in the year.

16. The combined low income and material deprivation target assesses whether households can afford essential goods and services. The Scottish Government uses the questions in the Family Resources Survey about whether people can afford to buy certain items and participate in leisure or social activities¹ to calculate material deprivation. This measure is then applied to households with incomes below 70 per cent of UK median income in the same year. Households which, for example, need to spend a greater proportion of their income on health or education costs, or on servicing debts, are less likely to be able to access the essentials identified on the list of items used for measuring material deprivation.

Section 5 – Persistent poverty

17. Section 5 provides that a child falls within the section (persistent poverty) in a financial year if the child lived in a household in Scotland in each of the current calendar year and 3 previous calendar years (see the definition of “survey years” in subsection (2)) and also has lived, in at least three of those years, in a household whose net income for the year was less than 60% of median equivalised net household income for the year.

18. The persistent poverty target is a recognition that living in poverty for an extended period of time is likely to be more damaging than brief periods in poverty. This target also makes sure that the set of child poverty targets are not a snapshot of income at one time only.

Section 6 – Calculation of net household income

19. Section 6 provides detail as to how net household income is calculated. Section 6(1) provides that housing costs are to be deducted in calculating the net income of a household. This represents a departure from the position taken in the UK Child Poverty Act 2010. Section 7(2) of that Act provided that housing costs were not to be deducted in calculating net household

¹2011 Review of the child material deprivation items in the Family Resources Survey:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214520/rrep746.pdf

income. Setting the targets on an after housing costs basis measures the disposable income households have once they have paid their housing costs.

20. Subsection (2) defines what is meant by “equivalised” – which is that household income has been adjusted to take account of variations in household size and composition. Subsection (2) also defines “median equivalised net household income” as the median equivalised net household income for the United Kingdom.

Section 6A – Poverty and Inequality Commission

21. Section 6A and the schedule establishes a Commission named the Poverty and Inequality Commission (“the Commission”).

22. Subsection (1A) sets out that, in addition to the functions set out in the Bill, the Commission may perform other functions, and prepare and publish reports, as it considers appropriate in connection with ensuring the child poverty targets are met.

23. The schedule makes further provision about the Commission.

Membership

24. Paragraph 1(1) of the schedule sets out the membership of the Commission. The Commission is to consist of (a) a member to chair it, and (b) 2, 3 or 4 other members. Sub-paragraph (5) allows the Scottish Ministers to amend the number of other members. That would be done by regulations subject to the negative procedure. The members will be appointed by the Scottish Ministers, but the appointment may only be made if the Scottish Parliament has approved the appointment (sub-paragraphs (2) and (3)).

25. Paragraph 1(4) requires the Scottish Ministers, in proposing persons to the Scottish Parliament for approval for appointment to the Commission, to have regard to the desirability of securing that the Commission has experience in or knowledge of (a) the formulation, implementation and evaluation of policy relating to child poverty, (b) research in connection with child poverty, and (c) work with children and families experiencing poverty.

26. In addition, appointments to the Commission will be public appointments and therefore subject to the Public Appointments and Public Bodies etc. (Scotland) Act 2003. That means that appointments will be made after fair and open competition and that the appointments process will be regulated by the Commissioner for Ethical Standards in Public Life in Scotland.

Independence

27. Paragraph 2 states that in performing its functions, the Commission is not subject to the direction or control of any member of the Scottish Government. This paragraph is subject to any contrary provision in this or any other enactment.

Access to information

28. Paragraph 3(1) allows the Commission a right of access at reasonable times to any relevant information that the Commission may reasonably require for the purpose of performing its functions,

and allows the Commission to require any person who holds or is accountable for relevant information to provide at reasonable times any assistance or explanation that the Commission may reasonably require for the purpose of performing its functions (or exercising its right of access to relevant information for the purpose of performing its functions). Sub-paragraph (3) provides that these provisions are subject to any other enactment or rule of law that prohibits or restricts the disclosure of any information or the giving of any assistance or explanation.

29. Paragraph 3(2) defines “relevant information” as information in the possession or under the control of (a) any member of the Scottish Government, (b) a local authority, (c) such other person, or person of such description, as the Scottish Ministers may by regulations specify. Any such regulations are subject to the negative procedure (sub-paragraph (4)).

Corporate status

30. Paragraph 4 states that the Commission is not to be regarded as the servant or agent of the Crown, or as enjoying any status, privilege or immunity of the Crown.

Disqualification for appointment

31. Paragraph 5(1) lists persons that the Scottish Ministers may not appoint as a member of the Commission, and sub-paragraph (2) makes interpretative provision relating to the meaning of a person being insolvent for the purposes of sub-paragraph (1)(b).

Period and terms of appointment

32. Paragraph 6 provides that the Scottish Ministers are to determine how long a member is appointed for, which cannot exceed 5 years, and the other terms of appointment. Members may be reappointed, but only once.

Disqualification after appointment

33. Paragraph 7 provides that a person’s appointment as a member ceases if they become a person whom the Scottish Ministers could not have appointed in the first place (on the basis of the restrictions set out in paragraph 5).

Resignation

34. Paragraph 8 allows a member to resign by giving notice in writing to the Scottish Ministers and the Presiding Officer of the Scottish Parliament.

Removal

35. Paragraph 9 allows the Scottish Ministers to remove a member, by giving the member notice in writing, if the Scottish Ministers consider that the member is (a) unable to perform the member’s functions, or (b) otherwise unfit to continue to be a member. The Scottish Ministers may remove a member under this paragraph only with the approval of the Scottish Parliament.

Remuneration, expenses and resources

36. Paragraph 10(1) states that members of the Commission, and any members of committees established by the Commission under paragraph 12 who are not members of the Commission, are entitled to such remuneration and expenses as the Scottish Ministers may determine.

37. Paragraph 10(2) requires the Scottish Ministers to provide the Commission with such staff and other resources as it requires to carry out its functions.

General

38. Paragraph 11 allows the Commission to regulate its own procedure (including the quorum at its meetings).

39. Paragraph 12(1) gives the Commission the power to establish committees. Paragraph 12(2) provides that the membership of a committee may include (but may not consist entirely of) persons who are not members of the Commission but those persons are not entitled to vote at meetings.

Amendment of public bodies' legislation

40. Paragraph 13(1) adds the Commission to schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000. This requires the Commission to draw up a code of conduct for its members and applies the enforcement provisions of that Act to the code.

41. Paragraph 13(2) adds the Commission into Part 7 of schedule 1 of the Freedom of Information (Scotland) Act 2002. This makes the Commission a Scottish public authority for the purposes of that Act and subject to the requirements it places on such bodies.

42. Paragraph 13(3) adds the Commission to schedule 2 of the Public Appointments and Public Bodies etc. (Scotland) Act 2003. The effect is to apply the Code of Practice prepared by the Commissioner for Ethical Standards in Public Life in Scotland, and other provisions of that Act, to the making of appointments to the Commission.

Section 7 – Delivery plan

43. Section 7 sets out provisions relating to the requirement on the Scottish Ministers to prepare delivery plans relating to the child poverty targets within the Bill. Subsection (1) states that the Scottish Ministers must prepare plans for the periods: (a) 1 April 2018 to 31 March 2022; (b) 1 April 2022 to 31 March 2026; and (c) 1 April 2026 to 31 March 2031.

44. Subsection (2) states that a delivery plan must set out the measures that the Scottish Ministers propose to take during the period of the plan in order to meet the child poverty targets; an assessment of the contribution that those measures are expected to make to meeting the child poverty targets; and an explanation of how that assessment has been arrived at. Section 11(2) defines “child poverty targets” as meaning both the interim and the 2030 targets to the extent that the report relates to a period ending on or before 31 March 2024 and meaning only the 2030 targets to the extent that the report relates to a period beginning on or after 1 April 2024.

45. This means that: the first delivery plan will relate to both the interim and the 2030 targets throughout the period of that plan; the second delivery plan will relate to both the interim and the 2030 targets until 31 March 2024 and the 2030 targets only from 1 April 2024 until 31 March 2026; and the third delivery plan will relate to the 2030 targets only.

46. Subsection (2A) sets out the matters that the Scottish Ministers must consider in preparing a delivery plan.

47. Subsection (2B) requires delivery plans to set out whether the Scottish Ministers intend to bring forward legislation during the period of the plan to exercise the powers provided for in section 24 of the Scotland Act 2016 (discretionary payments: top-up of reserved benefits) in relation to the reserved benefits mentioned at subsection (2C).

48. Subsection (2C) identifies those reserved benefits as benefits 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, or in which an additional amount may be included because the claimant's household includes a child. Subsection (2D) confirms that these include child benefit, child tax credit and universal credit.

49. Subsection (2E) states that a delivery plan must set out:

- Whether the Scottish Ministers intend to bring forward legislation to exercise 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 (paragraph (a)(i)), or any other power provided for in Part 3 of the Scotland Act 2016 (welfare benefits and employment support) (paragraph (a)(ii)).
- The measures that the Scottish Ministers intend to take during the period of a plan:
 - 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 (paragraph (b)(i)).
 - To ensure the availability of suitable and affordable housing (paragraph (b)(ii)).
 - To ensure the availability of childcare (paragraph (b)(iii)).
 - To facilitate the ability of parents and carers to take up employment that pays at least the Scottish living wage (paragraph (b)(iv)). Subsection (2F) defines the Scottish living wage as remuneration which is sufficient to ensure an acceptable standard of living.

50. Subsection (2G) requires each delivery plan to set out, in particular, measures that the Scottish Ministers propose to take during the period of that plan for the purpose of meeting the child poverty targets in relation to households that contain a person who is not a member of a couple and one or more children for whom that person is responsible. In practice, this means single parent households.

51. Subsection (2H) requires a delivery plan to 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.

52. Subsection (3) provides that the delivery plan may also include other information about child poverty, as the Scottish Ministers consider appropriate. Subsection (3A) requires the Scottish Ministers to (a) consult the Poverty and Inequality Commission (see section 6A) on the measures they propose to include in the delivery plan, (b) have regard to any recommendations made by the Commission, and (c) set out in the plan any changes they have made as a result of any such recommendations.

53. Subsection (4) requires the Scottish Ministers to lay the plan before the Scottish Parliament, make a statement and publish the plan as soon as reasonably practicable after preparing a delivery plan, and before the beginning of the period of the plan.

54. Subsection (5) provides that, in preparing a delivery plan, the Scottish Ministers must consult (a) such local authorities, or associations of local authorities, (b) such persons and organisations working with or representing children; (c) such persons and organisations working with or representing parents and (d) such persons who have experience of living in poverty and such other persons, all as they consider appropriate. The Scottish Ministers must also consult the Scottish Parliament (paragraph (ca)).

55. Subsection (6) defines a parent for the purpose of this section as including an individual with whom a child resides and who has care of the child.

Section 8 – Progress report

56. Section 8 sets out provisions relating to the requirement on the Scottish Ministers to prepare progress reports on an annual basis. Subsection (1) states that, within 3 months of the last day of each year to which a section 7 delivery plan relates, the Scottish Ministers must prepare a report on progress made during that year (a) towards meeting the child poverty targets and (b) in implementing the delivery plan that applies during the year.

57. Subsection (2) highlights that the progress report must (a) describe the measures taken by the Scottish Ministers in accordance with that delivery plan, (b) describe the effect of those measures on progress towards meeting the child poverty targets and (c) describe the effects of those measures on progress towards meeting the child poverty targets in respect of households that include a person who is not a member of a couple and is responsible for, and a member of the same household as, a child.

58. The effect of the definition of “child poverty targets” in section 11(2) is that a progress report for a period up to 31 March 2024 will relate to both the interim and the 2030 targets. Furthermore, a progress report for a period from 1 April 2024 will relate to the 2030 targets only.

59. Subsection (2A) states that if, in preparing a progress report, the Scottish Ministers consider that the measures taken in accordance with the relevant delivery plan do not appear to be ensuring sufficient progress towards the child poverty targets, the report must set out how they propose to rectify this.

60. Subsection (2B) requires the Scottish Ministers, in preparing a progress report, to consult the Poverty and Inequality Commission (see section 6A) on (a) progress made during the year towards meeting the child poverty targets, (b) whether it appears that progress is sufficient to meet the child poverty targets, and (c) further progress that is required to meet the targets. Subsection (2C) requires the progress report to include any of these comments or recommendations. Subsection (2D) provides that references in (2B) to progress towards meeting the child poverty targets include progress towards reducing inequality for the purpose of meeting those targets.

61. Subsection (3) requires the Scottish Ministers, as soon as reasonably practicable after preparing a progress report, to (a) lay it before the Scottish Parliament, (b) make a statement and (c) publish the report.

Section 8A – Report on interim targets

62. This section applies to the progress report prepared for the financial year beginning with 1 April 2024 (the year in which statistics will be available for the interim target year 2023/24). Subsection (2) sets out that the report must include data on the percentage of children living in households in Scotland in the financial year beginning with 1 April 2023 who were (a) in relative poverty (see section 2), (b) in absolute poverty (see section 3), (c) in combined low income and material deprivation (see section 4) and (d) in persistent poverty (see section 5).

63. Subsection (3) states that whether or not the interim targets are deemed to have been met will be determined by reference to the percentages given in the report. The report must set out the four measurements mentioned in subsection (2). These will be compared with the interim targets for those measurements set out in section 1A. Subsection (4) sets out a requirement for the report to explain, where any of the interim targets have not been met, why this is the case.

Section 9 – Final report

64. Section 9 applies to the progress report prepared for the financial year beginning 1 April 2030 (the end of the reporting period for the targets). Subsection (2) sets out that the report must include data on the percentage of children living in households in Scotland in that year (a) in relative poverty (see section 2), (b) in absolute poverty (see section 3), (c) in combined low income and material deprivation (see section 4) and (d) in persistent poverty (see section 5).

65. Subsection (3) states that whether or not the 2030 targets are deemed to have been met will be determined by reference to the percentages given in the report against the different measures mentioned in section 9(2). Subsection (4) sets out a requirement for the final report to explain, where any of the 2030 targets have not been met, why this is the case.

Section 10 – Local child poverty action report

66. Section 10 sets out provisions relating to the requirement to produce annual local child poverty action reports. Subsection (1) places a duty on each local authority and the health board or boards for all or part of the local authority area, acting jointly, to prepare and publish a report termed a “local child poverty action report” as soon as reasonably practicable after the end of each year to which a section 7 delivery plan relates. Subsection (2) requires that the action reports must describe any measures taken by the local authority or the health board(s) in each local authority area during the year to contribute to the meeting of the child poverty targets. The effect of the definition of “child poverty targets” in section 11(2) is that a local child poverty action report for a period up to 31 March 2024 will relate to both the interim and the 2030 targets. Furthermore, a local child poverty action report for a period from 1 April 2024 will relate to the 2030 targets only.

67. Subsection (2A) requires a local report to also describe any measures that the local authority or health board or boards propose to take in future for the purpose of contributing to the

meeting of the targets. Subsection (2B) disapplies this requirement for the final progress report. This is because it is not necessary for the final report to include information about action that will be taken after the final target year.

68. Subsection (2C) requires a local report to describe income maximisation measures taken in the local authority area during the reporting year to provide pregnant women and families with children with information, advice and assistance about eligibility for financial support and assistance to apply for that support.

69. Subsection (3) provides definitions of terms used in section 10.

Section 11 – Meaning of “child” and “child poverty targets”

70. Section 11(1) defines, for the purposes of the Act, “2030 targets” as those set out in section 1(2) and “interim targets” as those in section 1A(2). Subsection (2) provides that any reference to “the child poverty targets” in relation to a delivery plan, progress report or a local child poverty action report is a reference to either both the interim and the 2030 targets (to the extent that the plan or report relates to the period until 31 March 2024), or to the 2030 targets alone (to the extent that the plan or report relates to the period from 1 April 2024).

71. Section 11(1) also defines “child” as (a) a person aged under 16 or (b) a person who can be defined as a qualifying young person under Part 9 of the Social Security Contributions and Benefits Act 1992 i.e. a qualifying young person for the purpose of receipt of Child Benefit under that Act. This is currently defined in regulations made under that Act. In summary, a “qualifying young person” is currently defined for the purposes of that Act as meaning a person who has not yet reached 20 years of age (other than a “child” under that Act) and who is in “relevant education” or “approved training” under that Act².

Section 12 – Commencement

72. Section 12 sets out the timescales for the commencement of different provisions within the Bill. Subsection (1) provides for sections 11 to 13 to come into force the day after Royal Assent is granted. Subsection (2) provides that all other provisions within the Act will come into force two months after the day on which Royal Assent is granted.

Section 13 – Short title

73. Section 13 provides for the short title of this Act to be the Child Poverty (Scotland) Act 2017.

² For further details see: <https://www.gov.uk/child-benefit-16-19>

CHILD POVERTY (SCOTLAND) BILL
[AS AMENDED AT STAGE 2]

REVISED EXPLANATORY NOTES

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website -
www.parliament.scot

Produced and published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:
www.parliament.scot/documents