

# LEGISLATIVE CONSENT MEMORANDUM

## WELFARE REFORM BILL

### Supplementary Legislative Consent Motion

1. "To propose that the National Assembly for Wales in accordance with Standing Order 29.6 agrees that in addition to the provisions referred to in motion NDM 4713 the further provisions referred to in the Welfare Reform Bill relating to the Social Mobility and Child Poverty Commission, in so far as they fall within the legislative competence of the National Assembly for Wales, should be considered by the UK Parliament."

### Background

2. The Supplementary Legislative Consent Motion at paragraph 1 above has been tabled by Gwenda Thomas AM, Deputy Minister for Children and Social Services under Standing Order 29.6 of the Standing Orders (SO) of the National Assembly for Wales (NAW). This Legislative Consent Memorandum is laid under SO29.2. SO29 prescribes that a Legislative Consent Motion must be tabled, and a Legislative Consent Memorandum laid, before NAW if a UK Parliamentary Bill makes provision in relation to Wales for a purpose that falls within the legislative competence of the National Assembly.
3. The Welfare Reform Bill (the Bill) was introduced on the 16 February 2011. The Bill can be found at:

<http://services.parliament.uk/bills/2010-11/welfarereform.html>

### Summary of the Bill and its Policy Objectives

4. The substantive provisions of the Bill provide for the introduction of a 'Universal Credit' to replace a range of existing means-tested benefits for people of working age from April 2013.
5. In addition, the UK Government tabled supplementary amendments to the Welfare Reform Bill in the House of Commons on 17 May 2011. These amendments amend the Child Poverty Act 2010 and concern changes to the role and remit of the Child Poverty Commission, which also entail renaming it the "Social Mobility and Child Poverty Commission".
6. In summary the provisions referred to in the Welfare Reform Bill relating to the Social Mobility and Child Poverty Commission are:
  - a. The Commission's remit will be extended to include social mobility as well as child poverty.

- b. The Commission will no longer provide advice on developing the UK Child Poverty Strategy.
  - c. The Commission must provide advice on measurement of socio-economic disadvantage, social mobility and child poverty, at the request of a Minister of the Crown.
  - d. The Commission will be required to produce independent annual reports assessing progress towards reducing child poverty and improving social mobility.
  - e. The Secretary of State will no longer be required to produce annual progress reports on the child poverty targets and the child poverty strategy, as the Commission will have the duty to produce an annual report on progress as detailed at point (d) above. The Secretary of State will however be required to make a statement on progress made towards the targets by the year 2020.
7. It is understood that the UK Government is considering further amendments to the Bill to be tabled at Lords Report stage. These amendments would remove the requirement for the Commission's annual report to present views on the progress made towards implementing devolved strategies. Instead the report would be required only to describe the measures taken by the Welsh Ministers, Scottish Ministers and relevant Northern Ireland departments in accordance with their respective strategies.

### **Provisions in the Bill for which consent is sought**

8. The relevant provisions contained in the Bill are:

**Schedule 13, paragraph 2 (the proposed new section 8B)**- This provides that the Commission must publish annual reports setting out its views on the progress made towards the 'goals' in section 8B(2) and (if amended as proposed in paragraph 7 above) the measures taken by the Welsh Ministers in accordance with a Welsh strategy. Provisions relating to the 'goals' of improving social mobility and reducing child poverty are within the legislative competence of the National Assembly for Wales pursuant to Schedule 7, subject 15, in so far as they relate to Wales.

**Schedule 13, paragraph 2 (the proposed new section 8C)** – This confers a function on a Minister of the Crown to direct the Commission to carry out any activities relating to the 'goals' in section 8B(2).

**Schedule 13, paragraph 3 (the proposed new schedule 1)** - This substitutes Schedule 1 of the Child Poverty Act 2010 and (amongst other things) removes the function of consulting the Welsh Ministers when a Minister of the Crown appoints any other members of the Commission. Previously this was a Secretary of State function however there was a duty on the face of the Child Poverty Act 2010 for the Welsh Ministers to be consulted before appointing any member. A new power is also inserted for a Minister of the Crown to appoint one of

the members as the deputy chair. The power for the Welsh Ministers to appoint a member of the Commission is unaltered.

The National Assembly for Wales has the legislative competence in relation to these provisions as contained in the “Social Welfare” subject (Protection and well-being of children including adoption and fostering. Care of young adults, vulnerable persons and older persons), at subject 15 of Part 1 of Schedule 7 to the Government of Wales Act 2006. The proposed clauses seek to make provision “in relation to Wales” for a purpose within section 108(7) and Schedule 7 of the Government of Wales Act 2006 which falls within the legislative competence of the National Assembly for Wales.

### **Advantages of utilising the Bill**

9. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable these provisions to apply in relation to Wales at the earliest opportunity in accordance with Welsh priorities and concerns.
10. It would be within the legislative competence of the National Assembly for Wales to make provision requiring the Commission to report on measures taken to implement the Welsh Child Poverty Strategy. However, including this provision in the Bill will enable this information to be presented as part of a UK wide picture. This would be consistent with what was agreed in the Child Poverty Act 2010.
11. If consent were withheld, the logical consequence would be that reference to the Welsh strategy and consultation of the Welsh Ministers would be removed. It is the view of the Welsh Government that the absence of the Welsh Ministers’ involvement in the Commission would not be desirable for a number of reasons. The role of the Commission and the engagement of the Welsh Ministers with it supports the Welsh Government’s policy commitment to eradicate child poverty by 2020. In particular its advice on shared indicators of socio-economic disadvantage and child poverty will be of great value and assist towards the implementation and work of the Welsh child poverty strategy.
12. Continued Welsh Ministerial involvement with the Commission will also ensure that views from Wales feature in future UK debates on the most effective ways of combating child poverty which is a Welsh Government commitment.
13. This Legislative Consent Memorandum has therefore been laid before the National Assembly for consideration.

### **Financial Implications**

14. There are no financial implications for the Welsh Government of any subsequent implementation of the relevant provisions of the Welfare Reform Bill which cannot be accommodated as part of existing obligations

as a result of the Children and Families (Wales) Measure 2010, whether in relation to responding to consultation by the Secretary of State or the participation of the Welsh Ministers appointed member on the Social Mobility and Child Poverty Commission.

Gwenda Thomas AM

Deputy Minister for Children and Social Services

January 2012