



The Scottish Parliament
Pàrlamaid na h-Alba

Clerk to the Delegated Powers and Law Reform Committee
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Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill at Stage 1

The Delegated Powers and Law Reform Committee considered the above Bill on 18 September 2018 and seeks an explanation of the following matters:

Section 2(6)(e)(ii) – Power to determine other person to determine “minimum income standard”

Power conferred on: Scottish Ministers

Power exercisable by: Administrative determination

Parliamentary procedure: None

Section 2(6)(e)(ii) defines “minimum income standard” as the minimum income standard determined by (i) the Centre for Research in Social Policy at Loughborough University in conjunction with the Joseph Rowntree Foundation, or (ii) such other person as the Scottish Ministers may from time to time determine.

No explanation is provided in the DPM as to why it is considered appropriate that the Scottish Ministers may from time to time administratively determine an alternative person to that set out in section 2(6)(e)(i) to determine the “minimum income standard”. It is also not clear in what circumstances the regulation-making power in section 10(b) would be used instead to modify the definition of “minimum income standard”.

Furthermore, the person chosen to determine the minimum income standard may do so differently to the body currently set out in section 2(6)(e)(i). There is no requirement that the person chosen to determine the “minimum income standard” is independent. The Parliament also cannot exercise any scrutiny of the person chosen administratively by the Scottish Ministers under the power in section 2(6)(e)(ii).

- (a) **Please explain the circumstances in which Ministers would rely on a “minimum income standard” determined by a person other than the person currently set out in section 2(6)(e)(i)?**
- (b) **Please explain why the administrative power in section 2(6)(e)(ii) is considered necessary and appropriate.**
- (c) **Please explain the circumstances in which the regulation-making power in section 10(b) would be used instead to modify the definition of “minimum income standard” and whether this could be clearer.**

Section 10(b) – Power to amend the definitions in section 2(6)

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Affirmative

Section 10(b) allows the Scottish Ministers by regulations to amend section 2 so as to modify the definitions for the time being in section 2(6).

No explanation is provided in the DPM as to why the Scottish Ministers would need to amend the definitions of “adjusted” or “household”.

Please explain why these terms would need to change, whether to take account of changing economic circumstances or otherwise, over the lifespan of the legislation.

Section 10(c) – Power to make different provision in section 2(5) as to a household’s sufficient/insufficient remaining net income

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Affirmative

- (a) The power in section 10(c) allows the Scottish Ministers by regulations to amend section 2 so as to make different provision as to when a household’s remaining adjusted net income is sufficient, or is insufficient, to maintain an acceptable standard of living for members of the household.

Please explain why it is necessary and appropriate that the scope of the power in section 10(c) is drafted widely to allow the Scottish Ministers to adjust the figure of 90% of the minimum income standard at which a household’s remaining adjusted net income is sufficient to maintain an acceptable standard of living in section 2(5).

- (b) More widely, considered as a whole, it appears that the three powers in section 10 of the Bill (in addition to the power in section 2(4)) allow the Scottish Ministers to make significant amendments to the overall definition of fuel

poverty. By way of contrast, the Child Poverty (Scotland) Act 2017 only contains one delegated power relating to one of the four poverty targets (absolute poverty) that make up the “2030 targets”.

Please explain why it is necessary for the Scottish Ministers to have the powers in section 10 to alter a number of the key metrics that make up the definition of fuel poverty when a similar number of powers were not necessary in relation to the four poverty targets that make up the 2030 targets in the 2017 Act.

Please email your response to the Delegated Powers and Law Reform Committee e-mail address above by 5pm on Friday, 12 October 2018.

Thank you.

Andrew Proudfoot

Clerk to the Delegated Powers and Law Reform Committee