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Graham Simpson, MSP
Delegated Powers and Law Reform Committee
Room T1.01
Scottish Parliament

30 May 2019

Dear Graham

FUEL POVERTY (TARGETS, DEFINITION AND STRATEGY) (SCOTLAND) BILL – NEW POWERS TO MAKE SUBORDINATE LEGISLATION AT STAGE 3

I am writing to inform you that I have lodged amendments to one of the regulation-making powers in the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Bill.

I have proposed an amendment to the power in section 9A(6) of the Bill which is a power which was introduced by non-Government amendment to make provision about the Scottish Fuel Poverty Advisory Panel (“the Panel”).

Currently, the rules about the governance, remuneration and membership of the Panel are to be laid down in regulations. However, there are a number of other matters about which provision may need to be made which will not fall within even these broad categories. For example, regulations may need to make provision about the legal status of the Panel. I have therefore proposed broadening the power in order to ensure that the proper functioning of the Panel can be guaranteed. The amendments also clarify that provision can be made about the appointment of members to the Panel, and provide that the regulations may make provision about matters such as membership, rather than the regulations themselves specifying the names of the appointed members.

I also proposed extending the power to allow for the dissolution of the Panel after the target year mentioned in section 1 of the Bill has passed and the Panel no longer has any functions. In reviewing the extent of the powers for Scottish Ministers to make provision about the Panel, it was thought that the dissolution of the Panel could not necessarily be provided for under the current power, as regulations “about” the Panel presuppose the existence of the Panel (the existence of which will be provided for by the Bill). However, the continued legal requirement to have a Panel, even though it then has no functions, could cause problems. Therefore, I have proposed an amendment to section 9A(6) so that this will be a separate power in itself. This will allow the necessary flexibility to wind the panel up

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after the target date has passed and the Panel has completed its work on reviewing the final periodic report (the precise date of which cannot be ascertained at the moment).

I have also proposed including a power to amend other enactments, including the Bill. This is to address the scenario where it is necessary or appropriate to make reference to the Panel in other legislation (for example, in applying freedom of information legislation to the Panel if that is considered appropriate) and to remove such references once the Panel is no longer in existence.

I am grateful for your consideration of the Government's proposals at this late stage. Should you require any further information in relation to this, please do not hesitate to ask.

Yours sincerely

Kevin Stewart
Minister for Local Government, Housing & Planning

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