

# LEGISLATIVE CONSENT MEMORANDUM

## CHILD POVERTY BILL

### Supplementary Legislative Consent Motion

1. "That the National Assembly for Wales, in accordance with Standing Order 26.4, agrees that, in addition to the provisions referred to in motion NDM4246, those further provisions which have been brought forward in the Child Poverty Bill relating to free school meals, 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 Legislative Consent Motion at paragraph 1 above has been tabled by Leighton Andrews AM, Minister for Children, Education and Lifelong Learning, under Standing Order 26.4 of the Standing Orders (SO) of the National Assembly for Wales (the National Assembly). This Legislative Consent Memorandum is laid under SO 26.2. SO 26 prescribes that a Legislative Consent Motion must be tabled, and a Legislative Consent Memorandum laid, before the National Assembly 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 Child Poverty Bill (the Bill) was introduced on the 11th June 2009. The Bill can be found at: <http://services.parliament.uk/bills/2009-10/childpoverty.html>

### Summary of the Bill and its Policy Objectives

4. The Bill is sponsored by the Department for Work and Pensions, the Department for Children, Schools and Families and HM Treasury and the lead Minister is the Financial Secretary to the Treasury. The main purpose of the Bill is to set targets for the eradication of child poverty by 2020 which it is the duty of the Secretary of State to meet; for the Secretary of State to prepare, keep under review and report against a UK child poverty strategy; and for the creation of a child poverty commission to advise the Secretary of State and participate in the exercise of the power to amend the targets. The targets for the eradication of child poverty pick out a number of measures covering relative low income, material deprivation, absolute low income and persistent poverty, which will be used in determining whether child poverty is being reduced towards the target.
5. The UK child poverty strategy will set out the steps the Secretary of State proposes to take firstly to meet the targets for the eradication of child poverty and secondly to ensure that children in the United

Kingdom do not, as far as possible, experience socio-economic disadvantage.

6. The Child Poverty Bill has already been the subject of a Legislative Consent Motion (NDM4246) in the National Assembly, where the National Assembly gave its consent for the relevant provisions of the Bill, in so far as they fall within the competence of the National Assembly should be considered by Parliament.

<http://www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm?act=dis&id=133062&ds=6/2009>

7. **The Memorandum that accompanied that Motion is attached at Annex 1.**

### **Further provisions which require the consent of the National Assembly and policy objectives.**

8. Since the time of introduction of the Bill in June 2009, the UK Government has been considering how, in the face of the economic downturn, it might deliver support to the economy, businesses and households to secure their recovery and provide a platform for growth and opportunity.
9. The 2009 Pre-Budget Report, "Securing the Recovery: Growth and Opportunity" presented a package of measures to address child poverty, which includes helping low income families make the transition into work by extending the entitlement to Free School Meals (FSM) to primary school aged children of low income working families. The extension of the free school meal entitlement could assist in the reduction of child poverty by supporting low income families and improving incentives to work.
10. An amendment tabled by the UK Government on 15 January 2010 proposes a new Clause to be inserted into the Bill. This Clause provides that section 512ZB of the Education Act 1996 (Provision of Free School Lunches and Milk) is amended so that the Secretary of State (in relation to England) and the Welsh Ministers (in relation to Wales) may, by way of Order, prescribe conditions for the purposes of receiving free school meals if the child's parent (or the child him/herself) is in receipt of particular benefits. The tabled amendment (to be inserted before Clause 25) may be accessed on the Parliamentary website at  
  
<http://www.publications.parliament.uk/pa/ld200910/ldbills/021/amend/am021-f.htm>
11. It is the view of the Assembly Government that the provision referred to in paragraph 10 falls within the National Assembly's legislative

competence in relation to Matter 5.9 in Part 1 of Schedule 5 to the Government of Wales Act 2006 “provision of food and drink provided on school premises or provided for children at a place where they receive education or childcare.”

12. As the proposed amendment to section 512ZB of the Education Act 1996 goes beyond the consent previously given by the National Assembly, a further Legislative Consent Motion is required under SO 26.

### **Advantages of utilising this Bill**

13. It is the view of the Assembly 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 Wales at the earliest opportunity and will allow the Welsh Ministers to introduce appropriate legislation in accordance with Welsh priorities and concerns.
14. If those amendments are to apply only to England then children attending maintained schools in Wales could potentially be at a disadvantage.
15. This Legislative Consent Memorandum has therefore been laid, and the Legislative Consent Motion tabled, before the National Assembly for consideration.

### **Financial Implications**

16. The financial implications of any subsequent consultation, legislation or guidance arising from a future decision to exercise the power to make Orders under the relevant provisions will be subject to full consideration of affordability and to a Regulatory Impact Appraisal which would include an analysis of costs and benefits.

**Leighton Andrews AM**  
**Welsh Minister for Children, Education and Lifelong Learning**  
**January 2010**

## LEGISLATIVE CONSENT MEMORANDUM

### CHILD POVERTY BILL

#### Legislative Consent Motion

1. “To propose that the National Assembly for Wales, in accordance with Standing Order 26.4, agrees that provisions of the Child Poverty Bill 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 Legislative Consent Motion at paragraph 1 above has been tabled by Dr Brian Gibbons AM, Minister for Social Justice and Local Government, under Standing Order 26.4 of the Standing Orders (SO) of the National Assembly for Wales (the National Assembly). This Legislative Consent Memorandum is laid under SO26.2. SO26 prescribes that a Legislative Consent Motion must be tabled, and a Legislative Consent Memorandum laid, before the National Assembly 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 Child Poverty Bill (the Bill) was introduced on the 11<sup>th</sup> June 2009. The Bill can be found at:

<http://services.parliament.uk/bills/2008-09/childpoverty.html>

#### Summary of the Bill and its Policy Objectives

4. The Bill is sponsored by the Department for Work and Pensions, the Department of Children Schools and Families and HM Treasury and the lead Minister is the Financial Secretary to the Treasury. The main purpose of the Bill is to set targets for the eradication of child poverty by 2020 which it is the duty of the Secretary of State to meet; for the Secretary of State to prepare, keep under review and report against a UK child poverty strategy; and for the creation of a child poverty commission to advise the Secretary of State and participate in the exercise of the power to amend the targets. The targets for the eradication of child poverty pick out a number of measures covering relative low income, material deprivation, absolute low income and persistent poverty which will be used in determining whether child poverty is being reduced towards the target.

5. The UK child poverty strategy will set out the steps the Secretary of State proposes to take firstly to meet the targets for the eradication of child poverty and secondly to ensure that children in the United Kingdom do not, as far as possible, experience socio-economic disadvantage.

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

7. The Child Poverty Bill sets out a number of provisions with the purpose of reducing the number of children in the UK who are brought up in low income households.

8. The Bill sets a number of different measures of child poverty and sets targets to reduce the percentage of children in the overall population who fall within the group in poverty within a defined number of years. The duty to meet the targets is imposed on the Secretary of State.

9. The Secretary of State also has a duty to prepare a child poverty strategy which will contain his or her proposals on how the targets will be met and also the steps it is proposed to take to mitigate the effects of poverty among children.

10. There is provision for the establishment of a Child Poverty Commission whose principal functions are to advise the Secretary of State about the UK child poverty strategy and to participate in the exercise of the Secretary of State's power to amend the targets

11. The National Assembly has legislative competence in relation to Matter 15.2 in Part 1 of Schedule 5 to GOWA 2006 to legislate in relation to "reducing inequalities in well-being between children or young persons". This competence applies in relation to the functions of public authorities whose principal functions relate to one or more of the fields in Schedule 5. "Well-being" in this context is defined as including "social and economic well-being" and "protection from harm and neglect". The National Assembly also has competence under matter 15.6 in relation to "cooperation and arrangements to safeguard and promote the well-being of children and young persons" by relevant public bodies.

12. It is the view of the Assembly Government that making provision for the following matters falls within the National Assembly's legislative competence in relation to Matter 15.2 and therefore the agreement of the National Assembly is required under SO 26 –

(i) the creation of a UK child poverty strategy which covers matters falling within the competence of the Assembly and arrangements for the Welsh Ministers to contribute to progress reports;

(ii) arrangements for establishing the UK Child Poverty Commission to advise on the strategy ;

(iii) provision for the Welsh Ministers to appoint a member of such a commission and be consulted about the appointment of other members.

SO 26 prescribes that a Legislative Consent Motion and Memorandum needs to be tabled and laid, respectively, before the National Assembly, if a UK

Parliamentary Bill makes provision in relation to Wales that falls within the legislative competence of the National Assembly.

### **Advantages of utilising this Bill**

13. The provisions in the Bill relating to a child poverty strategy cover areas that are dealt with in the proposed Children and Families (Wales) Measure to the extent that they are matters which are within the Assembly's competence in relation to Matter 15.2. However some elements of the UK strategy will be outside the competence of the National Assembly. The UK Bill includes provision for the Welsh Ministers' proposals to be referred to in the strategy. The Assembly Government considers it appropriate that legislative provision for the UK Child Poverty Strategy should not exclude matters which may be covered by the Welsh Ministers' Child Poverty Strategy under the Measure. The policy of the Assembly Government is that the Child Poverty Strategy of the Welsh Ministers should be aligned with the UK Child Poverty Strategy and it is therefore appropriate for the UK Bill to include provision for the UK strategy to cover matters which are devolved in Wales by reference to proposals of the Welsh Ministers or by reference to the Welsh Ministers' Child Poverty Strategy.

14. Likewise legislative provision in relation to Welsh Assembly Government participation in an advisory body in relation to child poverty could be made by the National Assembly in relation to Matter 15.2. The Assembly Government considers it appropriate that provision for this is dealt with alongside the other provision about the Commission in the UK Bill.

15. This Legislative Consent Memorandum has therefore been laid, and the Legislative Consent Motion tabled, before the National Assembly for consideration.

### **Financial Implications**

16. There are no anticipated financial implications for the Welsh Assembly Government of any subsequent implementation of the relevant provisions of the UK Child Poverty Bill which cannot be absorbed as part of existing obligations or obligations which will arise as a result of the proposed Children and Families (Wales) Measure, whether in relation to responding to consultation by the Secretary of State on the UK Child Poverty Strategy or the participation of a Welsh Ministers-appointed representative on the Child Poverty Commission.

**Dr Brian Gibbons AM**  
**Welsh Minister for Social Justice and Local Government**  
**June 2009**