

CHILD POVERTY (SCOTLAND) ACT 2017

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1 – 2030 Targets

4. **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.
5. 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.
6. 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 3 (relative poverty); subsection (2)(b) sets out a target of less than 5% of children falling within section 4 (absolute poverty); subsection (2)(c) sets out a target of less than 5% of children falling within section 5 (combined low income and material deprivation); and subsection (2)(d) sets out a target of less than 5% of children falling within section 6 (persistent poverty).

Section 2 – Interim targets

7. **Section 2** 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.
8. 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.
9. 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 3 (relative poverty); subsection (2)(b) sets out an interim target of less than 14% of children falling within section 4 (absolute poverty); subsection (2)(c) sets out an interim target of less than 8% of children falling within section 5 (combined low income and material deprivation); and subsection (2)(d) sets out an interim target of less than 8% of children falling within section 6 (persistent poverty).

Section 3 – Relative poverty

10. **Section 3** provides that a child falls within the section (relative 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 median equivalised net household income for the United Kingdom for the year (see section 7(2) which defines “median equivalised net household income” as the median equivalised net household income for the United Kingdom).
11. 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 the 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 4 – Absolute poverty

12. **Section 4** 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 the 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) provides that regulations under subsection (2) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).
13. 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 with 1 April 2010. The reason for this is to allow a ten year comparison between the 2010 base year and the 2020 target year which was originally set out in the Child Poverty Act 2010. As this Act sets 2030 targets, it is likely that in the future the base year will need to be changed to 2020 to ensure that the absolute poverty measure is consistent with contemporary living standards. Section 4(2) therefore allows the Scottish Ministers to make regulations changing the date of the base year for the absolute poverty target.
14. 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 5 – Combined low income and material deprivation

15. **Section 5** provides that a child falls within the section (combined low income and material deprivation) in a financial year if the child: (a) lives in a household whose equivalised net income for the year is less than 70% of the 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 measure material deprivation. This measure is then applied to households with incomes below 70% of the 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 6 – Persistent poverty

17. **Section 6** provides that a child falls within the section (persistent poverty) in a financial year if the child lived in a household in Scotland in the current calendar year and each of the 3 previous calendar years (see the definition of “survey years” in subsection (2)) and has also lived, in at least three of those survey years, in a household whose net income for the year was less than 60% of the median equivalised net household income for the survey year in question.

¹ 2011 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

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 living in poverty for brief periods. This target also ensures that the set of child poverty targets are not a snapshot of income at one time only.

Section 7 – Calculation of net household income

19. **Section 7** provides detail as to how net household income is calculated. Section 7(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 income.) Setting the targets on an after housing costs basis means that they are based on an assessment of 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 8 – Poverty and Inequality Commission

21. **Section 8** and the schedule establishes a Commission named the Poverty and Inequality Commission (“the Commission”) which is to be established on 1 July 2019, in accordance with section 16.
22. Subsection (2) provides that, in addition to the functions set out in the Act, the Commission may perform other functions, and prepare and publish reports, as it considers appropriate in connection with ensuring that the interim targets and 2030 targets are met.

Section 9 – Delivery plan

23. **Section 9** sets out provisions relating to the requirement on the Scottish Ministers to prepare delivery plans relating to the child poverty targets within the Act. 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.
24. 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; an explanation of how that assessment has been arrived at; and an assessment of the financial resources required to fund those measures. Section 14(2) defines “child poverty targets” as meaning both the interim and the 2030 targets to the extent that the plan relates to a period ending on or before 31 March 2024 and meaning only the 2030 targets to the extent that the plan relates to a period beginning on or after 1 April 2024.
25. 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 the end of the period of that plan on 31 March 2026; and the third delivery plan will relate to the 2030 targets only throughout the period of that plan.
26. Subsection (3) requires the Scottish Ministers to set out in each delivery plan what measures they propose to take during the period of the plan in relation to each of the matters that are listed in that subsection.
27. Subsection (4) 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

*These notes relate to the Child Poverty (Scotland) Act 2017 (asp 6)
which received Royal Assent on 18 December 2017*

for in section 24 of the Scotland Act 2016 (discretionary payments: top-up of reserved benefits) in relation to providing a top-up of child benefit.

28. Subsection (5) provides that the delivery plan may also include other information about child poverty, as the Scottish Ministers consider appropriate. Subsection (6) requires the Scottish Ministers to (a) consult the Poverty and Inequality Commission (see section 8) 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 recommendations made by the Commission.
29. Subsection (7) requires the Scottish Ministers to, as soon as reasonably practicable after preparing a delivery plan and before the beginning of the period of the plan, to: lay the plan before the Scottish Parliament, make a statement to the Parliament in relation to the plan and publish the plan.
30. Subsection (8) 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, (e) such persons and organisations working with or representing children or parents in households where the fact that someone in the household has one or more protected characteristics adversely affects the income, or increases the expenditure, of the household (see the definition of “protected characteristics” in section 14(1)), and (f) such persons who have experience of living in poverty and such other persons, all as the Scottish Ministers consider appropriate. The Scottish Ministers must also consult the Scottish Parliament (paragraph (d)).
31. Subsection (9) provides that the requirement to consult various persons (including the Commission) in the course of preparing the delivery plan is complied with even if the consultation is undertaken or initiated before section 9 comes into force.

Section 10 – Progress report

32. **Section 10** 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 9 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.
33. 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, (c) describe the effect of those measures on reducing the number of children living in single-parent households in Scotland to whom the various child poverty measurements set out in sections 3 to 6 apply, and (d) describe the effect of those measures on children in households where the fact that someone in the household has one or more protected characteristics adversely affects the income, or increases the expenditure, of the household.
34. The effect of the definition of “child poverty targets” in section 14(2) is that a progress report for a financial year of up to 31 March 2024 will relate to both the interim and the 2030 targets, and a progress report for a financial year from 1 April 2024 will relate to the 2030 targets only.
35. Subsection (3) provides that if, in preparing a progress report, the Scottish Ministers consider that the measures taken in accordance with the relevant delivery plan have not delivered sufficient progress towards meeting the child poverty targets, the report must set out how they propose to ensure sufficient progress towards meeting the targets is delivered in the future.

36. Subsection (4) requires the Scottish Ministers, in preparing a progress report, to consult the Poverty and Inequality Commission (see section 8) on: (a) progress made during the year towards meeting the child poverty targets, (b) whether it appears to the Commission that progress is sufficient to meet the child poverty targets, and (c) what further progress is required to meet the targets. Subsection (5) requires the progress report to include any comments or recommendations made by the Commission on these matters. Subsection (6) provides that reference in subsection (4) to progress towards meeting the child poverty targets includes progress towards reducing inequality for the purpose of meeting those targets.
37. Subsection (7) 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 to the Parliament in relation to the report and (c) publish the report.

Section 11 – Report on interim targets

38. 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 3), (b) in absolute poverty (see section 4), (c) in combined low income and material deprivation (see section 5) and (d) in persistent poverty (see section 6).
39. 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 against the four measurements mentioned in subsection (2). Subsection (4) sets out a requirement for the report to explain, where any of the interim targets has not been met, why this is the case.

Section 12 – Final report

40. **Section 12** applies to the progress report prepared for the financial year beginning 1 April 2030 (the end of the reporting period for the 2030 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 3), (b) in absolute poverty (see section 4), (c) in combined low income and material deprivation (see section 5) and (d) in persistent poverty (see section 6).
41. 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 four measurements mentioned in subsection (2). Subsection (4) sets out a requirement for the final report to explain, where any of the 2030 targets has not been met, why this is the case.

Section 13 – Local child poverty action reports

42. **Section 13** 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 9 delivery plan relates. Subsection (2) provides 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 14(2) is that a local child poverty action report for a financial year of up to 31 March 2024 will relate to both the interim and the 2030 targets, and a local child poverty action report for a financial year from 1 April 2024 will relate to the 2030 targets only.

43. Subsection (3) requires a local report to also describe any measures that the local authority or Health Board(s) propose to take in the future for the purpose of contributing to the meeting of the targets. Subsection (4) disappplies 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 i.e. the financial year beginning with 1 April 2030.
44. Subsection (5) 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.
45. Subsection (6) requires a local report to also describe any measures that the local authority or Health Board or Boards have taken, or propose to take, in relation to children in households where the fact that someone in the household has a one or more protected characteristics has adversely affected the income, or increased the expenditure, of the household.
46. Subsection (7) provides definitions of terms “relevant Health Board” and “reporting year” used in section 13.

Section 14 – Interpretation

47. Section 14(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 2(2). Subsection (1) also defines “child” as: (a) a person aged under 16 years, or (b) a person who is a qualifying young person for the purposes of 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.
48. Subsection (1) also defines “protected characteristics” as those listed in section 149(7) of the Equality Act 2010. Those are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.
49. Section 14(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 the interim targets and 2030 targets, where a plan or report relates to a period ending on or before 31 March 2024, and to the 2030 targets where a plan or report relates to a period beginning on or after 1 April 2024.

Section 15 – References to the Commission

50. Subsection 15(2) provides that, until section 8 (which establishes the statutory Poverty and Inequality Commission) comes into force, references to that Commission in sections 9(6) and 10(4) and (5) (which require the Scottish Ministers to consult that Commission in relation a delivery plan or a progress report) are to be read as references requiring the Scottish Ministers to consult the non-statutory Poverty and Inequality Commission, which was established by the Scottish Ministers on 3 July 2017.

Section 16 – Commencement

51. Section 16 sets out the timescales for the commencement of different provisions within the Act. Subsection (1) provides for sections 14 and 17 to come into force the day after Royal Assent is granted. Subsection (2) provides for section 8 and the schedule relating to the Poverty and Inequality Commission to come into force on 1 July 2019. Subsection

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

(3) provides that all other provisions within the Act will come into force two months after the day on which Royal Assent is granted.

Section 17 – Short title

52. [Section 17](#) provides for the short title of this Act to be the Child Poverty (Scotland) Act 2017.

Schedule

53. The schedule is introduced by section 8 and makes further provision about the Poverty and Inequality Commission established under that section.

Membership

54. [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 members other than the chair by regulations subject to the negative procedure (see sub-paragraph (6)). 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)).
55. [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 (as a whole) 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.
56. 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 the appointments process will be regulated by the Commissioner for Ethical Standards in Public Life in Scotland.

Independence

57. [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 the Act or any other enactment.

Access to information

58. [Paragraph 3\(1\)](#) allows the Commission a right of access at reasonable times to any information in the possession or under the control of a member of the Scottish Government, a local authority or other person (or a person of a description) as specified by the Scottish Ministers by regulations (“relevant information”) that the Commission may reasonably require for the purpose of performing its functions. It also 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.
59. Any regulations made by the Scottish Ministers specifying additional persons (or persons of a particular description) who possess or who are in control of “relevant information” are subject to the affirmative procedure (sub-paragraph (4)).

Exclusion of Crown status

60. [Paragraph 4](#) provides 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

61. [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

62. [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

63. [Paragraph 7](#) provides that a person's appointment as a member ceases if they become a person who the Scottish Ministers could not have appointed in the first place (on the basis of the disqualification provisions set out in paragraph 5).

Resignation

64. [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

65. [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

66. [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. Paragraph 10(2) provides that the Scottish Ministers are to pay any such remuneration and expenses.
67. [Paragraph 10\(3\)](#) requires the Scottish Ministers to provide the Commission with such staff and other resources as it requires to carry out its functions.

Regulation of procedure

68. [Paragraph 11](#) allows the Commission to regulate its own procedure (including the quorum at its meetings) and that of any committee established under paragraph 12.

Committees

69. [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

70. [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.
71. [Paragraph 13\(2\)](#) adds the Commission to Part 7 of schedule 1 of the Freedom of Information (Scotland) Act 2002. This provides that the Commission is a Scottish public authority for the purposes of that Act and subject to the requirements it places on such bodies.
72. [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.
73. [Paragraph 13\(4\)](#) adds the Commission to schedule 5 of the Public Services Reform (Scotland) Act 2010. This allows amendments to the functions of the statutory Commission to be modified by an order made under section 14(1) of that Act.