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20 December 2019

Dear Dr Witcher,

I am writing to provide to the Scottish Commission on Social Security a revised draft of the Scottish Child Payment regulations for your consideration as part of the “super-affirmative” procedure outlined in section 97 of the Social Security (Scotland) Act. The revised draft takes account of the recent work we have undertaken in relation to service design, and also some very helpful points members of your Commission made to my officials during its scrutiny process.

The Commission received a policy note on 9 December which set out the rollout approach for the Scottish Child Payment and the rationale behind other proposed changes to the regulations. As such, the revised draft now includes adjustments which are set out in full in the accompanying annex to this letter.

As you know from discussions with officials the revised regulations do not contain commencement provisions for the introduction of the Scottish Child Payment, although we have shared with the Commission our thinking in this area. It is our intention to make our approach public as part of a policy and delivery paper which will be published in January 2020. I appreciate the Commission’s flexibility in agreeing to look at the specific legal provisions in relation to commencement at a later date (after 20 January when your final report is due); and to submit a supplementary note to your final report to cover this area. There is also likely to be some further small changes to the section in the regulations on ‘determination without application; we will provide the revised legislation to you at the same time as the section on commencement, and we would be grateful if you could also include any comments in your supplementary note.

I appreciate this results in a slightly elongated scrutiny process for the Commission, however, I am very grateful to the Commission for their understanding of the challenging timescales involved in delivering the Scottish Child Payment, in particular developing and

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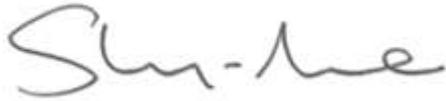
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drafting the regulations, so we can make first payments of the Scottish Child Payment to people who need it by Christmas next year.

I have provided a copy of the revised regulations to the Convener of the Social Security Committee and the regulations have also been published on the Scottish Government website. I look forward to receiving your recommendations and report in due course.

Yours sincerely,



SHIRLEY ANNE SOMERVILLE

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CHANGES MADE TO DRAFT REGULATIONS

Part 2: Expressions about inter-personal relationships

- Removal of legal/parental orders to evidence child responsibility.
- Provision to enable partners to apply for the Scottish Child Payment and meaning of “partner”.

Part 3: Eligibility and assistance to be provided

- Further to comments from SCoSS, removal of exclusion to claim for children in residential care.

Schedule: Part 1 Applications and determination of applications

- Provision which sets out multiple determinations involving the same child i.e. the hierarchy that will be used in the instances of competing claims.

Schedule: Part 4 Determination without application

Determination following backdated award of assistance

- Further to comments from SCoSS, removal of reference to the backdated award resulting from appeal.
- Further to comments from SCoSS, inclusion of provision relating to backdated award of child responsibility benefit.
- Clarification that an individual’s eligibility for the assistance should arise before or on the date of the original determination.

Determination following a change of circumstance

- Removal of drafting on uprating which is an administrative process.
- Clarification of determination where an award is to be made to a different person with respect of the hierarchy for competing claims outlined in part 1 of the schedule.

Determination following award of Scottish Child Payment in respect of another child

- Further to comments from SCoSS, we have included provision which means that clients do not have to submit a further application in relation to additional children.

Determination following cessation of award of Scottish Child Payment

- Further to comments from SCoSS, this new section sets out a 12 week linking period, during which the client would not have to reapply for the Scottish Child Payment if they came off the qualifying benefit or child responsibility benefit and were subsequently reawarded within this time period.

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