Northern Ireland Assembly

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Briefing Note

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The Childcare Payments Bill 2014-15: Legislative Consent Motion

1 Introduction

The UK Government announced in the Queen's Speech on 5 June 2014 its intention to introduce a Childcare Payments Bill[1] which would create a new scheme to give working families a proportion of their childcare costs. The scheme will be financed centrally by the UK Government and administered by HMRC. The UK Government will be seeking the Assembly's approval of a Legislative Consent Motion (LCM) in respect of some of the provisions of the Bill. The LCM and Bill are brought to this Committee as OFMdFM is the lead department on strategy for childcare. This paper outlines the purpose of the Bill and the Legislative Consent Motion.

2 What will the Childcare Payments Bill do?

The Childcare Payments Bill (hereafter "the Bill") will create a new scheme to provide financial support for working families with the cost of childcare. It is also anticipated that the scheme will assist parents to take up paid work or work longer hours where they may have been deterred from doing so because of the high costs of childcare. The government intends the scheme to be "as accessible and user-friendly as possible." It views the current scheme to support parents with the cost of childcare - Employer Supported Childcare (ESC) as

[1] http://www.publications.parliament.uk/pa/bills/cbill/2014-2015/0007/cbill_2014-20150007_en_1.htm

“neither effective nor fair” as half of employees as well as self-employed parents cannot access it. ESC is also considered to disadvantage lone parents by basing support on the number of eligible parents rather than the number of children[2]. ESC will be withdrawn after the new scheme comes into operation, however those employees who are in a scheme at that date can continue in it.

Through the new scheme, the Government will provide £2 for every £8 which a person pays for childcare. This support will be capped at an annual maximum of £2000 per child. There will be no restrictions on the number of children for which parents can claim support. The Government intends to introduce the HMRC managed scheme throughout the UK by the autumn of 2015.

Consultation

HM Treasury and HMRC ran a consultation on the design and operation of “tax-free childcare” between 5 August and 14 October 2013[3]. It also ran a series of short online surveys for parents, childcare providers and employers which received over 35,000 responses[4]. OFMdFM wrote to all NI Departments and key local stakeholders to draw their attention to the consultation and the opportunity to make a submission.[5] A list of respondents and a summary of responses can be found in *Delivering Tax-free childcare: the government’s response to the consultation on the design and operation 18 March 2014.*[6] The Executive Summary states:

> Stakeholders – particularly parents – welcome Tax-Free Childcare. This is especially so for those who will have access to support with childcare costs for the first time, such as the self-employed and those working for employers who do not offer the existing scheme, Employer-Supported Childcare. Indeed their most consistent message was that they want the support to be rolled out as quickly as possible.[7]

Reaction to the Bill

Following the announcement in the Queens’s Speech, there was a mixed reaction to the Bill. Some of the views reported in the press at the time included:

- It’s a welcome extra investment in childcare support by Government.
- It’s the first scheme to help self-employed parents.

[2] Page 1 *Childcare Payments Bill Impact Assessment (IA) Summary: Intervention and Options* HMRC HM Treasury 9 June 2014 http://www.parliament.uk/documents/impact-assessments/IA14-09.pdf

[3] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/318952/tax-free_childcare_consultation_on_design_and_operation.pdf

[4] See *Tax-Free Childcare Surveys : Introduction and Summary of Responses* 18 March 2014 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293081/TFC_online_questionnaires_summary_of_responses.pdf

[5] See paragraph 13 *Legislative Consent Memorandum Childcare Payments Bill* OFMdFM 23 June 2014

[6] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/318953/PU1607_Tax_free_Childcare_response.pdf

[7] Ibid. page 5

- It's easy to administer as it doesn't rely on employers agreeing to take part.
- Removal of the current Childcare Voucher scheme will be detrimental to parents, children and employers.
- More help is required for parents with a disabled child for whom childcare costs are much higher.
- More help is required for the poorest families.
- It may cause rapid childcare price rises – quickly wiping out any value of this financial support for parents.
- It is subsidising childcare for very high-earning families.
- There will be cuts elsewhere in the welfare budget to pay for this.
- There is still the question of whether existing government spending could be used more effectively.
- It doesn't address the quality deficit in childcare.

3 How will the scheme operate?

Parents will apply to HMRC to open an online childcare account[8] into which they will pay money; the government will then pay in top-up payments at a rate of 20%. Parents will then be able to allocate this money to the qualifying childcare provider(s) of their choice. Parents will have to satisfy eligibility requirements for example[9];

- They must be 16 or over
- They must be responsible for the child
- They must be in the UK
- They and their partner must be in qualifying paid work (the self-employed are included). They must be earning more than a certain minimum - likely to be set at 8 hours at the national minimum wage.
- Their incomes must not exceed a certain limit (£150,000 pa[10])
- They must not be claiming universal credit[11]

[8] Alternative access routes will be offered to people unable to make claims online.
[9] Anyone who has responsibility for a child will qualify as a 'parent'. Lone parents who are in work are entitled to make a claim although they lose this right if they start living with a partner who is out of work.
[10] The additional rate of tax is currently set at 45% and is payable by people whose income in a tax year exceeds £150,000. The amount of income, and how it should be calculated, will be specified in regulations. See the Explanatory Notes to the Bill for Clause 10. http://www.publications.parliament.uk/pa/bills/cbill/2014-2015/0007/en/15007en.pdf
[11] The Impact Assessment document, states "Families on lower incomes generally receive more generous support under the tax credit and Universal Credit regimes and will therefore not be entitled to receive support

- They must not be in a relevant childcare scheme[12]
- They must not be receiving other childcare support

The scheme applies to children under 12, or in the case of a disabled child, under 17. Separate childcare accounts must be opened for additional children. Parents must reconfirm their eligibility every three months. A series of compliance rules will be introduced. This is to ensure that support is only provided where it is rightly due and to counter cases of carelessness, deliberate error and fraud. Gateways for the exchange of information between HMRC and other public bodies will be used to ensure parents do not claim Government support from multiple sources.

4 Is there any potential impact on the implementation of the Bright Start Programme?

The current Programme for Government contains a commitment to publish and implement a childcare strategy for Northern Ireland which will provide integrated and affordable childcare.[13] Additional expenditure of £12 million has been allocated to support the strategy. A "strategic framework" for the new strategy, known as Bright Start was announced in September 2013.[14] Bright Start acknowledges that current childcare provision in Northern Ireland (particularly for school age and rural children) is inadequate and that many parents are unable to afford childcare costs. Bright Start's Key First Actions will, amongst other things[15],

- Sustain or create up to 8,000 registered childcare places by assisting current and prospective childcare providers
- Up to 7,000 of these will be school age childcare places within day care settings
- Up to 1,000 will be child minding places in rural areas
- The school age childcare places will be delivered through a grant scheme for childcare providers, which will run until 2017. It was launched on 27 March 2014 and is being administered by the Health and Social Care Board.

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under the new scheme. As working lone parents are more likely to have lower income levels than working couples, more lone parents will receive this generally more generous support through tax credits or Universal Credit."

Page 12, *Childcare Payments Bill Impact Assessment (IA) Summary: Intervention and Options* HMRC HM Treasury 9 June 2014

http://www.parliament.uk/documents/impact-assessments/IA14-09.pdf

[12] A relevant childcare scheme is one in which an employer provides their employees with either childcare vouchers or directly-contracted childcare under Employer-Supported Childcare.

[13] Page 38 *Northern Ireland Executive Programme for Government 2011-2015*

http://www.northernireland.gov.uk/pfg-2011-2015-final-report.pdf

[14] *Bright Start : The NI Executive's Programme for Affordable and Integrated Childcare Strategic Framework and Key First Actions* Northern Ireland Executive

http://www.ofmdfmni.gov.uk/bright-start-strategic-framework-key-actions.pdf

[15] 15 Key First Actions will be put in place. These include a workforce development programme and better access to information on childcare and financial support.

It is difficult to anticipate the Childcare Payments scheme having a *negative* impact on the implementation of the Bright Start Programme. The Key First Actions of this locally financed initiative are intended to benefit parents through the creation of more childcare places. The Childcare Payments scheme, funded and administered by the UK government, aims to help all working families with the cost of childcare. This money may well be used by some parents in NI to help pay for childcare places that were *created through* the Bright Start Programme. OFMdFM states that failure to extend the Bill to Northern Ireland would be a disadvantage for eligible working families living here as they would unable to claim the financial support along with the rest of the UK provided through the new Childcare Payments Scheme . It stresses that "*the NI administration does not have the financial resources to fund and administer a separate or similar scheme*".[16]

5 Why is a Legislative Consent Motion required?

The draft motion, which will be tabled by the First Minister and deputy First Minister, is:

> *"That this Assembly endorses the principle of the extension to Northern Ireland of the Childcare Payments Bill and that its operation be made an excepted matter under the Northern Ireland Act 1998"*

A Memorandum accompanying the draft motion explains why a LCM is required. It states:

> In general, matters dealt with by HMRC apply on a UK-wide basis and are excepted matters under the 1998 Act. However, as the childcare scheme is neither a tax nor a duty, it is a transferred matter in relation to Northern Ireland. As the scheme will be administered by HMRC and financed centrally by the UK Government, it is appropriate that the scheme should operate on a UK–wide basis and its operation made an excepted matter. The scheme will apply uniformly across all UK jurisdictions and the power to change, for instance, eligibility and entitlement criteria or the amount of Government top-up payments to parents, will rest solely with the UK Government[17].

Clause 67 of the Bill therefore amends Schedule 2 to the Northern Ireland Act 1998 to make the operation of the Scheme an excepted matter.

It would appear that no Legislative Consent Motions have been sought from the Scottish or Welsh Governments, as the matters covered in the Bill do not appear to be devolved in these jurisdictions. The Committee may wish to ask the Department to confirm that this is the case. In response to the Queen's Speech, the Scottish Government Minister for Parliamentary Business Joe Fitzpatrick, did, however, comment on the proposal to introduce the Childcare Payments Bill, stating that:

> Once again, we are seeing UK Government policies that are skewed to help those that are better off, leaving the poorest families struggling to make ends meet. Westminster's proposal

[16] Paragraphs 9 and 10, *Legislative Consent Memorandum Childcare Payments Bill* OFMdFM 23 June 2014

[17] Paragraph 8 *Legislative Consent Memorandum Childcare Payments Bill* OFMdFM 23 June 2014

on childcare is designed to save the best-off families up to £2,000 a year; this is in stark contrast with our universal plans under independence, which would deliver 1,140 hours of funded childcare for every family with a pre-school child aged one to five in Scotland, saving families up to £4,600 per child, per annum.

The UK's plan will save wealthier families the most since they currently spend the most on childcare and will be more likely to receive the maximum rebate possible under the scheme. Whereas our priority is to help workless households and those working families most struggling to make ends meet, to reach those most economically disadvantaged and provide routes out of poverty.[18]

6 References to the Welfare Reform Act 2012 and universal credit in the Childcare Payments Bill 2014-15

Although the Welfare Reform Act 2012[19] extends only to Great Britain, the Bill makes reference to the Act and universal credit in several places. It would appear that the Bill, as currently drafted, expects the universal credit system to be in operation in Northern Ireland. The Committee may wish to ask the Department to provide clarification on this matter. Sections 144 and 145 of the Explanatory Notes state:

Clause 30: Power to provide for automatic termination of universal credit

144. Clause 30 allows regulations to be made to terminate a person's or their partner's universal credit award or entitlement to payments related to universal credit, where the person has made a valid declaration of eligibility under the new scheme. This is to prevent anyone from receiving universal credit or related payments at the same time as claiming childcare support under the new scheme.

145. Subsection (2) gives the Treasury power to amend the Bill by regulations in order to provide that entitlement to universal credit ceases when a person has made a valid declaration of eligibility under the new scheme, and to amend or repeal the eligibility criteria in clause 11. This would mean that a universal credit award made to person who moved to the new scheme would simply terminate when they moved across. The subsection also enables the Secretary of State or a Northern Ireland department to be given power to make regulations to ensure that a person's or their partner's entitlement to universal credit is calculated correctly where an award is terminated under this clause.

[18] Scottish Government, News, Queen's Speech 4 June 2014 http://news.scotland.gov.uk/News/Queen-s-Speech-d40.aspx

[19] http://www.legislation.gov.uk/ukpga/2012/5/contents/enacted/data.htm

For further reading

Tax-free childcare website (HM Treasury and HMRC)

Tax-free childcare: consultation on design and operation August 2013

Delivering Tax-free childcare: the government's response to the consultation on the design and operation 18 March 2014

Tax-free Childcare Surveys: introduction and summary of responses 18 March 2014

Your detailed questions about tax free childcare answered 18 March 2014

Tax-free childcare consultation on childcare account provision 23 May 2014