WHAT YOU NEED TO KNOW ABOUT PROPOSED NEW POWERS FOR SCOTLAND

This briefing is for CIH members only and not intended for a broader or public audience

Background

As per the commitment that the three main UK political parties made in the run up to the Scottish referendum on independence, the Smith Commission Report has now been followed by draft legislation setting out new powers to be devolved to Scotland in a UK Government report, Scotland in the United Kingdom: An enduring settlement, published on 22 January 2015.

The powers set out in the report are still subject to change through the legislative process and no changes will be implemented until after the UK General Election in May 2015 at the earliest.

CIH Scotland submitted a response to the Smith Commission consultation outlining the powers we thought would be necessary to create a housing and welfare system that works for Scotland and the rest of the UK and also published a briefing, What you Need to Know About the Smith Commission, outlining the content of the Commission's Report.

What new powers are proposed for housing?

The draft legislation includes additional powers over some elements of welfare provision, taxation and energy, which are detailed below.

Welfare Provision

As per the Smith Commission, Universal Credit will remain reserved but the Scottish Government would have the power to:

- Vary the amount of housing cost paid to claimants;
- Vary the frequency of payments;
- Make payments to more than one household member; and
- Change the plans for direct payments.

However, the issue of whether the Scottish Government will actually be able to make use of the powers described above has been hotly debated. The legislative clauses refer to a duty for the Scottish Government to consult with the Secretary of State before implementing any changes which some have interpreted as power for the UK Government to 'veto' proposed changes to Universal Credit.

The draft legislation would give the Scottish Government powers over Discretionary Housing Payments (DHPs) and allow discretionary payments to any other area of welfare. The proposals include powers to make changes to disability benefits including Disability Living Allowance and Personal Independence Payment and Attendance Allowance and control over the Regulated Social Fund.

As the primary interface between benefit claimants and the DWP, Jobcentres would remain reserved along with sanctions and conditionality but the Scottish Government would deal with employment programmes to help the long term unemployed gat back into work.

The Smith Commission Recommendations also stated that the Scottish Government should have the power to create new benefits or replace existing benefits in certain areas. While the UK Government report suggests that this power is contained within the draft legislation, some have questioned whether the wording of the legislation, as it stands, would actually allow for this to happen in practice.

<u>Taxation</u>

The draft legislation gives the Scottish Government the power to vary income tax rates and set the thresholds for non-savings and non-dividend income. In addition, the first 10% of VAT raised in Scotland will be retained in Scotland and the first 2.5% of the 5% reduced rate of VAT attributable to Scotland will also be assigned to the Scottish Government.

While this means that the Scottish Government will have more say over how some of the tax that is raised in Scotland is spent, the additional funds raised will be offset by a reduction in the block grant received through the Barnett formula. It is not clear yet how the reduction will be calculated or how this will impact on Scotland's overall budget.

<u>Energy and Renewables</u>

The Scottish Government will be given the power to determine how supplier obligations such as the Warm Homes Discount and Energy Company Obligation (ECO) are implemented in Scotland. This will allow funding to be targeted towards meeting specific Scottish Government objectives.

The way in which the funding is raised and which companies are subject to the obligations will remain reserved meaning that the Scottish Government will have no power over the amount raised or how this is raised.

What has been the reaction and how will the new powers work in practice?

As mentioned above, the current wording of clauses regarding powers to change Universal Credit is ambiguous. The current draft would require the Scottish Government to consult the UK Secretary of State on the practicability of any proposed changes to the current system. It is unclear whether the UK Government would be able to 'veto' changes or whether the 'duty to consult' merely requires the two Governments to work together to ensure that, as far as possible, the two welfare systems are complementary but that the Scottish Government could ultimately make changes without the outright approval of the UK Government. This is an important distinction.

The draft legislation also states that there must be agreement on the timing of any changes and that the Secretary of State may not unreasonably withhold consent – but a key question remains here about who decides what is 'reasonable'?

Throughout the Smith Commission process, leading up to the draft legislation, it has been made clear that if the Scottish Government wishes to make changes to the welfare system, it will need to be able to cover the costs of its proposals. This is where devolved taxes come into play. The proposals around devolution of certain elements of taxation with other areas remaining reserved could lead to a system that is overly complex and bordering on impossible to administer. It is unclear how the transfer of taxation powers will affect the Barnett formula and until this has been clarified, we cannot be certain how the proposed system would work in practice or what the true cost of making changes to the welfare system in Scotland would be.

Questions have also been raised over the political and economic consequences of increasing income tax in Scotland. There has been some speculation that raising tax in Scotland could actually result in some of the top contributors leaving Scotland, along with their businesses. The ageing population in Scotland also means that our tax base is likely to shrink in future without concentrated efforts to attract more working age people – an outcome which will become more difficult to achieve if tax rates north of the border are higher than those of our neighbours.

CIH Scotland will repeat the concerns raised during the process of the Smith Commission and following the Commission's recommendations that there is a risk that by devolving some elements of welfare and taxation, we will be left with a situation similar to that of Northern Ireland whereby the Scottish Government is given power to make some changes to the welfare system but lacks the financial capacity to do so.

With regards to powers over energy and renewables, allowing the Scottish Government to design the system for supplier obligations is a positive outcome in that the use of funding can be tailored to local needs and circumstances. However, the lack of influence over more fundamental changes to the energy market is disappointing.