The Committee will meet at 10.00 am in Committee Room 5 to consider the following agenda items:

1. **Legal Profession and Legal Aid (Scotland) Bill**: The Committee will consider its approach to the Financial Memorandum for the Legal Profession and Legal Aid (Scotland) Bill.

2. **Crofting Reform etc. Bill**: The Committee will consider its approach to the Financial Memorandum for the Crofting Reform etc. Bill.

3. **Item in private**: The Committee will decide whether to consider its draft report on the Financial Memorandum of the Planning etc. (Scotland) Bill in private at its next meeting.

4. **Deprivation Inquiry (in private)**: The Committee will consider its draft report on its inquiry into deprivation.

5. **Inquiry into the Cost of the Local Authority Single Status Agreement (in private)**: The Committee will consider its draft report on its inquiry into the cost of the Local Authority Single Status Agreement.

Susan Duffy
Clerk to the Committee
Room T3.60
Extn 85215
The papers for this meeting are:

**Agenda Item 1**

Paper from the Clerk

*Legal Profession and Legal Aid (Scotland) Bill* (circulated to Members in hardcopy only, copies available from the Scottish Parliament website)

**Agenda Item 2**

Paper from the Clerk

*Crofting Reform etc. Bill* (circulated to Members in hardcopy only, copies available from the Scottish Parliament website)

**Agenda Item 4**

PRIVATE PAPER

**Agenda Item 5**

PRIVATE PAPER
Finance Committee

8th Meeting 2006, Tuesday 14 March 2006

Scrutiny of Financial Memorandum – Legal Profession and Legal Aid (Scotland) Bill

Background

1. The Legal Profession and Legal Aid (Scotland) Bill (“the Bill”) was introduced to Parliament on 1 March 2006. The Justice 2 Committee has been designated the lead committee for the Bill at Stage 1.

2. This paper has been prepared to assist the Committee to determine its approach to considering the Financial Memorandum for the Bill.

The Bill

3. The Bill has two main functions. Firstly, it seeks to abolish the post of the Legal Services Ombudsman, and establish a Legal Services Complaints Commission in its place, which will be independent of the legal profession, and will handle complaints made in respect of the profession. Secondly, the Bill seeks to reform legal aid provision, enabling the Scottish Legal Aid Board (SLAB) to oversee all applications for legal aid provision, including those for solemn cases which are currently decided by the court. The Bill will also enable SLAB to provide non-lawyer advice service.

Costs

4. The Financial Memorandum sets out the costs for these provisions. In terms of the Legal Services Complaints Commission, the initial set up costs including recruitment, training, I.T. equipment, and accommodation will be met by the Scottish Executive. These start up costs for the Scottish Executive are estimated in the Financial Memorandum to be £451,000.

5. After the Commission has been set up, the Financial Memorandum states that costs will be met by the legal profession. The Scottish Executive intends for the Commission to consult with professional bodies and professionals before setting levies each year, to be paid by the professionals. This will form the budget for the Commission. In addition, the Financial Memorandum states that those professionals who have had non-frivolous complaints made against them will be expected to pay an additional levy to the Commission. The Financial Memorandum provides an example that if the Commission’s budget is £2.4m and 50% of the Commission’s budget is met by levies on all legal professionals, then this would come to an annual general levy of £120. The Financial Memorandum also suggests that if the remaining 50% of the Commissions budget were to be met by the complain levy, that this would be £300.
6. The Financial Memorandum estimates that the first year of the Commission’s budget which will be paid for via levies on the legal profession will be £2,265,000. The Financial Memorandum estimates that the budget for the Commission in subsequent years will be £2,399,000.

7. The Financial Memorandum does not expect an increased take up of legal aid, and it states that it does not anticipate an increase in costs as a result. In addition, the Financial Memorandum says that it does not anticipate any additional administrative burden on the legal aid board for this provision.

8. With regards to the funding of non-lawyer advisers, the Financial Memorandum states that this will be met by current funding from the Legal Aid Fund of Advice and Assistance. The Financial Memorandum states that it does not anticipate an increase in the cost of advice and assistance as a result. In addition, the Financial Memorandum does not anticipate additional administrative costs for this.

9. The Bill also features miscellaneous provisions. The Scottish Executive does not anticipate any costs arising from most of these provisions. However one of these provisions is to increase the non-lawyer membership of the Scottish Solicitors Discipline Tribunal, from a maximum of 8 members to 14. The Scottish Executive states that it will pay for the travel and subsistence of non-lawyer members. While the Scottish Executive anticipates that this will be a modest increase, they do not state what this increase will be.

10. In summary, the costs are outlined as follows:

   - Costs on the Scottish Executive for start up costs relating to the Legal Complaints Commission - £451,000
   - Costs on Legal Profession and Professional bodies in levies for the Commission in 2008-09 - £2,265,000
   - Costs on Legal Profession and Professional bodies in levies for the Commission in subsequent years - £2,399,000

Conclusion

11. Members may wish to consider the assumptions made in relation to the administrative costs of legal aid funding for solemn cases, and the legal aid funding for non-lawyer advisers. In addition, the Committee may wish to consider savings which have not been included as a result of the proposed abolition of the Scottish Legal Services Ombudsman within the Bill. The Committee may also wish to consider the issue of the increase of membership to the Scottish Solicitors Discipline Tribunal, and the costs relating to this.

12. Members are asked to agree that the Committee should adopt level two scrutiny for the Bill on the basis of the information contained in the Financial Memorandum, i.e. that it should take oral evidence on the Financial Memorandum from Scottish Executive officials and seek
written comments from relevant organisations (listed below) through its agreed questionnaire.

13. Relevant organisations:
- Scottish Legal Aid Board;
- Law Society for Scotland;
- Faculty of Advocates; and
- Scottish Solicitors Discipline Tribunal.

Kristin Mitchell
Assistant Clerk to the Finance Committee
Finance Committee

8th Meeting 2006, Tuesday 14 March 2006

Scrutiny of Financial Memorandum – Approach to the Crofting Reform Etc. Bill

Background
1. The Crofting Reform etc. Bill (“the Bill”) was introduced to Parliament on 2 March 2006. The Environment and Rural Development Committee has been designated the lead committee for the Bill at Stage 1.

2. This paper has been prepared to assist the Committee to determine its approach to considering the Financial Memorandum for the Bill.

The Bill
3. The main objectives of the Bill are to:

- protect existing crofts, encourage the creation of new crofts and encourage new entrants to crofting in order to ensure crofting communities are more sustainable;
- simplify crofting administration and encourage more local involvement in this administration; and
- encourage crofters to undertake a range of land-based and other economic activity in addition to agriculture.

Costs
4. The Financial Memorandum does not set out anticipated costs arising from the Bill for each financial year as the anticipated costs are not deemed to be ‘substantial’ and only occur in relation to a small number of the Bill’s provisions. The details of the main costs in the FM of implementing the Bill for organisations within the Scottish Administration are summarised below:

Crofters Commission
5. The Bill proposes to turn the Crofters Commission into a non-departmental public body. The Bill proposes to make this NDPB responsible for providing financial support to promote the sustainable development of crofts including the development of new grant schemes. The Crofters Commission currently costs around £3.2m. The FM does not anticipate a change in resources required to fund the Commission but under the provisions of the Bill these funds will be available by means of a grant. The total budget for resources devoted to grant schemes currently run by the Executive (£7m for 2005-06) will be redeployed to the Crofters Commission for allocation with no anticipated increase in the level of resources.

6. The Bill also proposes to allow the Commission to increase or decrease the size of the Commission board. The FM notes the salary cost of a board member at present is approximately £7000 but that there are no plans at present to change the number of Board members. The FM anticipates that this cost, costs to the Commission associated with the right of appeal for crofters and landowners against regulatory decisions by the Commission (between £50,000 and £100,000 p.a), and...
costs of displaying maps to the public (£20,000 p.a) will all be met from existing resources.

Scottish Land Court
7. The Bill creates a right of appeal to the Land Court for crofters and landowners against regulatory decisions made by the Crofters Commission. The FM anticipates an additional 25-30 cases per annum for the Land Court as a result of this provision and that the Court has the administrative capacity to handle such work. In terms of other organisations, the FM estimates costs of between £1,000 and £5,000 for legal representation for crofters and landowners in making appeals, and costs of around £7,545 per annum from the Scottish Legal Aid Board for those requiring legal aid to make such appeals.

8. The Bill also provides crofting community bodies with the right to buy a lease for common grazing land. The FM notes that no liability has been incurred from valuation costs, or compensation to owners or third parties from the Land Reform Bill which introduced wider provisions on right to buy. The FM therefore anticipates that the provision within this Bill will be used very infrequently, and that administrative costs are unlikely to rise above £5000 per application.

Conclusion
9. In conclusion, the estimated financial implications of the Bill would appear to be minimal. Members are therefore invited to agree to adopt level one scrutiny for the Bill i.e. not take oral evidence but instead seek written comments from relevant organisations (listed below) and pass these comments to the lead committee. This will allow the lead committee to be made aware of any concerns expressed by these organisations within its Stage 1 consideration.

10. It is proposed that the Committee seeks written evidence in the form of the standard questionnaire from:

- Crofters Commission;
- Scottish Land Court;
- Scottish Crofters Foundation;
- National Farmers Union of Scotland;
- Scottish Legal Aid Board; and
- Scottish Rural Property and Business Association.

11. In addition, given the questions which the Committee raised on the Scottish Civil Enforcement Commission under the Bankruptcy and Diligence etc. (Scotland) Bill, Members may wish to write to the Scottish Executive seeking further information on the basis for the decision to make the Crofters Commission into an NDPB. The Committee could specifically request details of any alternative approaches considered and the cost of these alternatives. The Committee could then pass this response to the lead committee.

Roz Wheeler
Senior Assistant Clerk to the Finance Committee