The Committee will meet at 2.00 pm in Committee Room 2

1. **Scottish Borders Inquiry (in private):** The Committee will consider lines of questioning for witnesses.

2. **Deputy Convener:** The Committee will choose a Deputy Convener.

3. **Scottish Borders Inquiry:** The Committee will take evidence from—

   Councillor David Suckling, Scottish Borders Council

4. **Scottish Affairs Committee:** The Committee will consider an invitation from the Scottish Affairs Committee to contribute to its inquiry into the effects of devolution on the structure of news and current affairs broadcasting in Scotland.

5. **Subordinate Legislation:** The Committee will consider the following Orders which are subject to annulment—

   The Protection of Wrecks (Designation) (No.2) (Scotland) Order 2001 (SSI 2001/384)

   The Scottish Social Services Council (Consultation on Codes of Practice) Order 2001 (SSI 2001/424)

6. **Public Petitions:** The Committee will consider PE402 on the Scottish Borders Council Education Budget.

Martin Verity
Clerk to the Committee
Room 2.7 Committee Chambers
Ext. 85204
Email: martin.verity@scottish.parliament.uk
The following papers are attached for the meeting—

**Agenda Item 4**
Letter of invitation from Scottish Affairs Committee  
ED/01/33/1

**Agenda Item 5**
Clerks note on SSI 2001/384  
ED/01/33/2
Clerk’s note on SSI 2001/424  
ED/01/33/3

**Agenda Item 6**
Clerk’s note on PE 402  
ED/01/33/4

The following papers are attached for information—

Clerk’s note on evidence in Scottish Borders Inquiry

Clerk’s note on lines of questioning for above inquiry
Mr Martin Verity
Clerk of Committee
Education, Culture and Sport Committee
Room 2.7, Committee Chambers
Scottish Parliament
George IV Bridge
Edinburgh EH99 1SP

Dee
Martin

As you will know the Scottish Affairs Committee is about to undertake a broadcasting inquiry, the terms of reference for which are *The effects of devolution on the structure of news and current affairs broadcasting in Scotland*.

The Committee has asked for written evidence from the relevant broadcasters. A press notice has been issued inviting comments from all interested parties.

The work of the Committee would not be complete without an input of views from a cross-section of MSPs. I have therefore been asked by the Committee to write to you with a request that the Education, Culture and Sport Committee of the Scottish Parliament might consider, collectively or, indeed, individually, contributing to the inquiry, initially in the form of written evidence.

Early in the New Year the Scottish Affairs Committee will embark on a programme of formal oral evidence, which will be decided following receipt of memoranda.

Perhaps you could let me have a response as soon as possible.

Regards and best wishes.

John Whatley
Clerk of the Committee
1. The Protection of Wrecks (Designation) (Scotland) Order 2001 (SSI 2001/384), was laid on 9 November 2001, and is subject to annulment (negative procedure). It came into force on 1 December 2001, and will remain in force, unless it is annulled by the Parliament within 40 days, excluding the recess period, of being laid before the Parliament i.e. by 18 December 2001.

2. The purpose of the instrument is to designate an area around a wreck of a vessel and its cargo, which is considered to be of historical and archaeological importance, as a restricted area to protect it from unauthorised interference. Full details are contained in the Explanatory Note and Executive Note attached to the Instrument.

3. The Education, Culture and Sport Committee is the lead committee for this Order, and should report to the Parliament by 17 December 2001. There are no other committees to report to this Committee.

4. The Subordinate Legislation Committee reported on this Instrument in its 42nd Report, 2001, and determined that the attention of the Parliament need not be drawn to this instrument.

5. A copy of the SSI, an Explanatory Note which is not part of the Order and the Executive Note are also attached.

6. The Committee is invited to consider whether it wishes to make any recommendation in relation to the instrument. The Order is not subject to amendment.

7. A procedural note is attached for information.

Ian Cowan
Assistant Clerk

Martin Verity
Clerk to the Committee
Standing Orders

1. The procedures for dealing with Scottish Statutory Instruments (SSIs) are covered by Chapter 10 of Standing Orders. SSIs are laid by being lodged with the chamber clerks, and are published in the Business Bulletin. They are referred to the Subordinate Legislation Committee, the appropriate subject committee (the ‘lead committee’), and, where relevant, any other committee.

SSIs subject to annulment: ‘negative instruments’

2. Where an SSI is subject to annulment, it comes into force on a specified date and then remains in force unless it annulled by the Parliament. Any MSP may by motion propose to the lead committee that the committee recommend that nothing further is to be done under the instrument. Such motions are lodged with the chamber clerks.

3. The lead committee debates such a motion for no more than 90 minutes.

4. The lead committee reports to the Parliament, setting out its recommendations. If it recommends annulment, the Bureau will propose to the Parliament a motion that nothing further is to be done under the instrument.

5. All the above must take place within 40 days of the instrument being laid, excluding recesses of more than 4 days.

6. To date, no motion to annul SSI 2001/384 has been lodged with the chamber clerks.

Proceedings in the committee

7. This committee is invited to discuss the SSI. Members will then be asked whether the committee wishes to make any recommendation in its report to the Parliament.
EDUcation, Culture and Sport Committee

11 December 2001

Scottish Statutory Instruments – SSI 2001/424

1. The Scottish Social Services Council (Consultation on Codes of Practice) Order 2001 (SSI 2001/424), was laid on 16 November 2001, and is subject to annulment (negative procedure). It came into force on 10 December 2001, and will remain in force, unless it is annulled by the Parliament within 40 days, excluding the recess period, of being laid before the Parliament i.e. by 6 January 2002.

2. The purpose of the Order is to prescribe, for the purpose of section 58(2)(b) of the Regulation of Care (Scotland) Act 2001, those persons or groups of persons whom the Scottish Social Services Council must consult before publishing codes of practice. Full details are contained in the Explanatory Note and Executive Note attached to the Instrument.

3. The Education, Culture and Sport Committee is the lead committee for this Order, and should report to the Parliament by 17 December 2001. There are no other committees to report to this Committee.

4. The Subordinate Legislation Committee reported on this Instrument in its 43rd Report, 2001, and determined that the attention of the lead committee and the Parliament should be drawn to this instrument. The relevant section of Annexe B to the 43rd report of the Subordinate Legislation Committee is attached.

5. A copy of the SSI, an Explanatory Note which is not part of the Order and the Executive Note are also attached.

6. The Committee is invited to consider whether it wishes to make any recommendation in relation to the instrument. The Order is not subject to amendment.

7. A procedural note is attached for information.

Ian Cowan
Assistant Clerk

Martin Verity
Clerk to the Committee
Procedural Note

Standing Orders

1. The procedures for dealing with Scottish Statutory Instruments (SSIs) are covered by Chapter 10 of Standing Orders. SSIs are laid by being lodged with the chamber clerks, and are published in the Business Bulletin. They are referred to the Subordinate Legislation Committee, the appropriate subject committee (the ‘lead committee’), and, where relevant, any other committee.

SSIs subject to annulment: ‘negative instruments’

2. Where an SSI is subject to annulment, it comes into force on a specified date and then remains in force unless it annulled by the Parliament. Any MSP may by motion propose to the lead committee that the committee recommend that nothing further is to be done under the instrument. Such motions are lodged with the chamber clerks.

3. The lead committee debates such a motion for no more than 90 minutes.

4. The lead committee reports to the Parliament, setting out its recommendations. If it recommends annulment, the Bureau will propose to the Parliament a motion that nothing further is to be done under the instrument.

5. All the above must take place within 40 days of the instrument being laid, excluding recesses of more than 4 days.

6. To date, no motion to annul SSI 2001/424 has been lodged with the chamber clerks.

Proceedings in the committee

7. This committee is invited to discuss the SSI. Members will then be asked whether the committee wishes to make any recommendation in its report to the Parliament.
Instruments subject to annulment

**The Scottish Social Services Council (Consultation on Codes of Practice) Order 2001 (SSI 2001/424)**

8. The Committee raised 2 related questions with the Executive. Article 1(2) defines “SQA qualification” as having the meaning given to it by section 21 of the Education (Scotland) Act 1996. The term is defined in that section, however, as meaning simply “any qualification devised or awarded by the SQA”. The Executive was asked to clarify why, in these circumstances, the term is defined with reference to the 1996 Act rather than by way of a free-standing definition.

9. In its reply, reproduced at Appendix B, the Health Department states that the expression in question is used in article 2(g). The purpose of the paragraph is to identify establishments that require to be consulted in relation to codes of practice under the Regulation of Care (Scotland) Act. Part of the definition of such establishments is that they offered certain qualifications. It was necessary for the purposes of definition to ensure that the qualifications identified were those which were devised or awarded by the Authority.

10. In the Committee's view, the purpose of the definition is not in doubt. The question is, rather, why the definition in the instrument did not simply repeat the wording of the definition in the 1996 Act instead of sending the reader on a paper chase around the statute book. The Committee considers that it is better to avoid definition by reference to other legislation. Such definition makes difficulties for the reader and is also dangerous since changes can be made to the legislation referred to that might not be reflected in the referring instrument. On occasion there may be no alternative but that is not the case here.

11. **The Committee therefore draws the attention of the lead committee and the Parliament to the instrument on the grounds of unnecessarily referential drafting.**

12. The Committee asked what purpose is served, in any event, by the definition and that of the “Scottish Qualifications Authority” given that the terms only appear once in the Order, in Article 2(g), and that provision, as drafted, seems to do all that is necessary.

13. The Department responded that the text of the paragraph was already long and complicated and it was considered appropriate to remove some text by means of definition.
14. The Definition was chosen as a means of reducing the textual length of article 2(g). It was considered appropriate for completeness to define both the Authority and the precise nature of the qualifications concerned. It was not considered that the provision, in the absence either of definition or an elaboration of the text, was sufficient to meet the objectives of the paragraph.

15. The Committee considers that the point is arguable but gives the Department the benefit of the doubt in this instance. The Committee therefore draws the instrument to the attention of the lead committee and the Parliament on the grounds that the drafting approach required explanation supplied by the Department.
EDUCATION CULTURE AND SPORT COMMITTEE

11 December 2001

Petition PE 402: Augusta Greenlees (Scottish Borders Inquiry)

The Petition

1. The principal petitioner, Ms Augusta Greenlees, has submitted a petition calling on the Scottish Parliament to recommend (a) an inquiry establish the reasons for the overspend (b) the calling to account of those responsible for the overspend (c) an assessment of the impact on educational provision in the Borders, particularly on those children with special needs.

Action to date

2. The petition was considered by the Public Petitions Committee 23 October 2001. The Public Petitions Committee agreed to refer the petition to the Education, Culture and Sport Committee with the request that the petition be taken into account as part of the Committee’s Scottish Borders Inquiry.

Information

3. A copy of the petition, briefing for members of the Public Petitions Committee and covering memorandum from the Clerk of that Committee are attached.

Ian Cowan
Assistant Clerk

Martin Verity
Clerk to the Committee