Local Government Committee
9th Meeting, 2002 (Session 1)

Tuesday 26 March 2002

The Committee will meet at 2.00 pm in Committee Room 4

1. **Items in private:** The Committee will consider whether to take items 3 and 4 in private.

2. **Subordinate Legislation:** The Committee will consider the following negative instruments—

   - The Non-Domestic Rate (Scotland) Order 2002 (SSI 2002/89)
   - The Non-Domestic Rates (Levying) (Scotland) Regulations 2002, (SSI/2002/91)
   - The Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2002, (SSI 2002/101)

3. **Budget Process 2003-04:** The Committee will consider proposals for scrutinising the 2003-04 Budget process.

4. **Proposed Local Government Bill:** The Committee will consider proposals for consideration of the Bill at Stage 1.

Eugene Windsor
Clerk to the Committee
Room 2.05, Committee Chambers
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The following papers are attached for this meeting:

**Agenda item 2**

The Non-Domestic Rate (Scotland) Order 2002, *(SSI 2002/89)*  
LG/02/9/1

The Non-Domestic Rates (Levying) (Scotland) Regulations 2002, *(SSI 2002/91)*  
LG/02/9/2

The Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2002, *(SSI 2002/101)*  
LG/02/9/3

The Council Tax (Dwellings and Part Residential Subjects) (Scotland) Amendment Regulations 2002, *(SSI 2002/102)*  
LG/02/9/4

Extract from the 15th Report of the Subordinate Legislation Committee  
SL/02/15R

Extract from the 16th Report of the Subordinate Legislation Committee  
SL/02/16R

**Agenda item 3**

Paper from the Adviser on the Budget process 2003-04 [PRIVATE]  
LG/02/9/5

Paper from the Finance Committee Adviser on the Budget process 2003-04 [PRIVATE]  
LG/02/9/6

**Agenda item 4**

Paper from the Adviser outlining proposals for consideration of the Bill at Stage 1 [PRIVATE] **to follow**

The following papers are attached for information:

Minutes of the 8th Meeting 2002  
LG/02/8/M
Subordinate Legislation Committee

Remit and Membership

Remit:

The remit of the Committee is to consider and report on—

(a) (i) subordinate legislation which is laid before the Parliament;

(ii) any Scottish Statutory Instrument not laid before the Parliament but classified as general according to its subject matter;

and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation; and

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation.

(Standing Orders Rule 6.11)

Membership:

Bill Butler
Colin Campbell
Murdo Fraser
Gordon Jackson QC
Ian Jenkins (Deputy Convener)
Margo MacDonald (Convener)
Bristow Muldoon

Committee Clerks:

Alasdair Rankin
Steve Farrell
Alistair Fleming
Joanne Clinton
Subordinate Legislation Committee

15th Report, 2002

Subordinate Legislation

The Committee reports to the Parliament as follows—

1. The Committee met on 12th March 2002 and determined that the attention of the Parliament need not be drawn to the instruments listed at Annexe A. The Committee draws the attention of the Parliament to the instruments listed at Annexe B and to the Scottish Executive's response to a point from the Committee on the instrument listed at Annexe C.

2. The report is also addressed to the following committees as the lead committees for the instruments specified:

   - Audit SSI 2002/77
     SSI 2002/78
   - Health and Community Care SSI 2002/80
     SSI 2002/85
     SSI 2002/86
     SSI 2002/87
   - Rural Development The Loch Lomond and The Trossachs National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2002 (Draft)
     The Loch Lomond and The Trossachs National Park Elections (Scotland) Order 2002 (Draft)
     SSI 2002/81
   - Transport and the Environment The Bus Users Complaints Tribunal Regulations 2002 (Draft)
     SSI 2002/83
   - Justice 1 SSI 2002/88
     SSI 2002/96
     SSI 2002/97
     SSI 2002/98
   - Local Government SSI 2002/89
   - Enterprise and Lifelong Learning SSI 2002/93
     SSI 2002/94
Instruments subject to approval

The Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.3) (Scotland) Order 2002, (SSI 2002/80)

Instruments subject to annulment

The Public Finance and Accountability (Scotland) Act 2000 (Economy, efficiency and effectiveness examinations) (Specified bodies etc.) Order 2002, (SSI 2002/77)


The Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Amendment Order 2002, (SSI 2002/81)

The Financial Assistance for Environmental Purposes (Scotland) Order 2002, (SSI 2002/83)

The National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2002, (SSI 2002/85)

The National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Scotland) Amendment Regulations 2002, (SSI 2002/86)

The Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Amendment (Scotland) Regulations 2002, (SSI 2002/87)

The Civil Legal Aid (Scotland) Amendment Regulations 2002, (SSI 2002/88)

The Non-Domestic Rate (Scotland) Order 2002, (SSI 2002/89)

The Electricity from Non-Fossil Fuel Sources (Scotland) Saving Arrangements (Modification) Order 2002, (SSI 2002/93)

The Fossil Fuel Levy (Scotland) Amendment Regulations 2002, (SSI 2002/94)

The Adults with Incapacity (Reports in Relation to Guardianship and Intervention Orders) (Scotland) Regulations 2002, (SSI 2002/96)

The Adults with Incapacity (Recall of Guardians’ Powers) (Scotland) Regulations 2002, (SSI 2002/97)

Subordinate Legislation Committee

Remit and Membership

Remit:

The remit of the Committee is to consider and report on—

(a) (i) subordinate legislation which is laid before the Parliament;

(ii) any Scottish Statutory Instrument not laid before the Parliament but classified as general according to its subject matter;

and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation; and

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation.

(Standing Orders Rule 6.11)

Membership:

Bill Butler
Colin Campbell
Murdo Fraser
Gordon Jackson QC
Ian Jenkins (Deputy Convener)
Margo MacDonald (Convener)
Bristow Muldoon

Committee Clerks:

Alasdair Rankin
Steve Farrell
Alistair Fleming
Joanne Clinton
The Committee reports to the Parliament as follows—

1. The Committee met on 19th March 2002 and determined that the attention of the Parliament need not be drawn to the instruments listed at Annexe A. The Committee draws the attention of the Parliament to the instruments listed at Annexe B and to the Scottish Executive's responses to points from the Committee on the instruments listed at Annexe C.

2. The report is also addressed to the following committees as the lead committees for the instruments specified:

   Health and Community Care
   - SSI 2002/76
   - SSI 2002/100
   - SSI 2002/103
   - SSI 2002/105
   - SSI 2002/106
   - SSI 2002/112
   - SSI 2002/113
   - SSI 2002/114
   - SSI 2002/115
   - SSI 2002/120

   Education, Culture and Sport
   - SSI 2002/90

   Local Government
   - SSI 2002/91
   - SSI 2002/101
   - SSI 2002/102

   Enterprise and Lifelong Learning
   - SSI 2002/92

   Justice 1
   - SSI 2002/95

   Transport and the Environment
   - SSI 2002/104

   Justice 2
   - The Police Act 1997 (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) (Scotland) Regulations 2002, (draft)
   - SSI 2002/107
   - SSI 2002/116

   Rural Development
   - SSI 2002/109
   - SSI 2002/125
Draft instruments subject to approval

The Police Act 1997 (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) (Scotland) Regulations 2002, (draft)

Instruments subject to annulment

The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 2002, (SSI 2002/100)

The Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2002, (SSI 2002/101)

The Council Tax (Dwellings and Part Residential Subjects) (Scotland) Amendment Regulations 2002, (SSI 2002/102)

The NHS Education for Scotland Order 2002, (SSI 2002/103)

The Control of Noise (Codes of Practice for Construction and Open Sites) (Scotland) Order 2002, (SSI 2002/104)

The Scottish Council for Postgraduate Medical and Dental Education and NHS Education for Scotland (Transfer of Staff) Regulations 2002, (SSI 2002/105)


The Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2002, (SSI 2002/107)

The Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No.3) Revocation Regulations 2002, (SSI 2002/109)

The Regulation of Care (Fees) (Scotland) Order 2002, (SSI 2002/112)

The Regulation of Care (Applications and Provision of Advice) (Scotland) Order 2002, (SSI 2002/113)

The Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002, (SSI 2002/114)

The Regulation of Care (Registration and Registers) (Scotland) Regulations 2002, (SSI 2002/115)

The Police Grant (Scotland) Order 2002 (SSI 2002/116)

The Regulation of Care (Excepted Services) (Scotland) Regulations 2002, (SSI 2002/120)
Question
19. The Committee noted that regulation 2 contains a definition of “the 2000 Regulations” but is unaware of any reference in the Regulations to the 2000 Regulations. As it may be that there has been an omission from or a mistake in the instrument, the Executive was asked the purpose of the definition

Answer
20. In its reply, reproduced at Appendix C, the Executive confirms that the reference to the 2000 Regulations in regulation 2 is a mistake and serves no purpose. Regulation 7 of the instrument as originally drafted referred to the 2000 Regulations but this reference was removed in a later draft as it was concluded that it was unnecessary. In updating that draft the Executive omitted to remove the corresponding definition of “the 2000 Regulations” from regulation 2.

21. The reference is unnecessary but, in the Executive's view, it should not prejudice the practical operation of the Regulations. Accordingly, the Executive does not propose to take any steps at this stage to amend the Regulations to remove the reference. However, the Executive will bear the point in mind in the event of any other proposals to amend the Regulations in future.

Comment
22. The Committee is grateful for the Executive's frank response acknowledging that the definition of the 2000 Regulations is an error.

23. The Committee draws the instrument to the attention of the lead committee and the Parliament on the ground of defective drafting by reason of an unnecessary reference to “the 2000 Regulations”, acknowledged by the Executive.
THE NON-DOMESTIC RATES (LEVYING) (SCOTLAND) REGULATIONS 2002, (S.S.I 2002/91)

On 12th March the Committee asked the Executive for an explanation of the following matters—

“The Committee notes that regulation 2 contains a definition of “the 2000 Regulations” but is unaware of any reference in the Regulations to the 2000 Regulations. As it may be that there has been an omission from or a mistake in the instrument, the Executive is asked the purpose of the definition.”

The Scottish Executive responds as follows:

The Executive is grateful to the Committee for raising this point with us. We can confirm that the reference to the 2000 Regulations in regulation 2 is a mistake and serves no purpose. Regulation 7 of the instrument as originally drafted referred to the 2000 Regulations but this reference was removed in a later draft as it was concluded that it was unnecessary. In updating that draft we omitted to remove the corresponding definition of “the 2000 Regulations” from regulation 2. That reference is unnecessary but it should not prejudice the practical operation of the Regulations. Accordingly, the Executive does not propose to take any steps at this stage to amend so as to remove the reference. However, the Executive will bear this point in mind in the event of any other proposals to amend the Regulations in future.

C Sibbald
for the Scottish Executive