Local Government Committee
31st Meeting, 2002
Tuesday 3 December 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 6 and 7 in private.

2. **Declaration of Interests:** The new member of the Committee will be invited to declare any relevant interests.

3. **Subordinate Legislation:** The Committee will consider the following affirmative instrument—

   The Scottish Local Government Elections Regulations 2002 (draft).

4. **Public Appointments and Public Bodies etc. (Scotland) Bill:** The Committee will consider the Bill at Stage 2 (day 1).

5. **Allotments Inquiry:** The Committee will take evidence from—

   Peter Peacock, MSP, Deputy Minister for Finance and Public Services;
   Sarah Morrell, Head of Branch, Local Government Constitution and Governance Division, Scottish Executive;
   Heather Aitken, Policy Officer, Local Government Constitution and Governance Division, Scottish Executive.

6. **Dog Fouling (Scotland) Bill:** The Committee will consider a draft Stage 1 report.

7. **Proportional Representation (Local Government Elections) (Scotland) Bill:** The Committee will consider a draft Stage 1 report.

Eugene Windsor
Clerk to the Committee
Room 2.05, Committee Chambers
85217
e mail: eugene.windsor@scottish.parliament.uk
The following papers are attached for this meeting:

**Agenda item 3**

The Scottish Local Government Elections Regulations 2002 (draft)  
Extract from the 43rd Report of the Subordinate Legislation Committee

**Agenda item 5**

Interim summary of evidence received on Allotments Inquiry

**Agenda item 6**

Dog Fouling (Scotland) Bill: Draft Stage 1 report [PRIVATE]  
Dog Fouling (Scotland) Bill: Report of the Subordinate Legislation Committee [PRIVATE]

**Agenda item 7**

Proportional Representation (Local Government Elections) (Scotland) Bill: Draft Stage 1 report [PRIVATE]
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 of the Scottish Parliament Rule 6.11)

Membership:

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

Committee Clerks:

Alasdair Rankin
Steve Farrell
Alistair Fleming
Joanne Clinton
Subordinate Legislation Committee

43rd Report 2002

Subordinate Legislation

The Committee reports to the Parliament as follows—

1. At its meeting on 26th November the Committee determined that the attention of the Parliament need not be drawn to the instruments listed in the Annexe to this report.

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

   Health and Community Care   SSI 2002/498
   SSI 2002/511

   Rural Development       The Cairngorms National Park Elections (Scotland) Order 2003, (draft)

   Local Government    The Scottish Local Government Elections Regulations 2002, (draft)
                       SSI 2002/500
Draft instruments subject to approval

The Scottish Local Government Elections Regulations 2002, (draft)

Background
1. The Committee raised four points with the Executive on these Regulations. The Executive considers that the errors are relatively minor but has signalled its intention to bring forward an amending instrument at the next available opportunity.

Question 1
2. The Committee asked why regulation 2(1) defines the Representation of the People (Scotland) Regulations 2001 when those regulations do not appear to be referred to in the draft Regulations.

Response 1
3. The Executive's reply, reproduced at Appendix 1, confirms that the reference to the Representation of the People (Scotland) Regulations 2001 is an oversight.

Report
4. The Committee therefore draws the attention of the lead committee and the Parliament to the instrument on the ground that it is defectively drafted in the above respect, acknowledged by the Executive.

Question 2
5. The Committee asked for clarification as to whether the reference in regulation 15(7) to a “registration officer” should be to a “returning officer”, as this appears to be the only reference to a registration officer contained in the Regulations.

Response 2
6. The Executive confirms that the reference in regulation 15(7) to “the registration officer” should have been a reference to “the returning officer”. In context, it does not think that this incorrect reference would cause any mischief as it is suggested that the reference to regulation 15(3) in regulation 15(7) makes the intention clear. However, the Executive is grateful to the Committee for drawing this to its attention.

Report
7. The Committee observes that, as registration officers are persons with functions under the parent Act and are defined under that Act, the interpretation of the Regulations may not be quite as certain as the Executive hopes. The Committee reports the instrument to the lead committee and the Parliament on the ground that it is defectively drafted in the above respect acknowledged by the Executive.

Question 3
8. The Executive was asked to confirm whether it is intended in regulation 22(7)(c) that the words “and in such cases, shall mark the declarations to indicate which ballot paper is missing” should apply to both paragraphs (i) and (ii), rather than, as drafted, to paragraph (ii) alone.
Response 3
9. The Executive confirms that the words “and in such cases, shall mark the declarations to indicate which ballot paper is missing” should apply only to paragraph (ii). There need only be a mark on the declaration where there is more than one ballot paper. This situation arises only in relation to paragraph (ii).

Report
10. The Committee reports the instrument to the lead committee and the Parliament on the ground that it is defectively drafted in the above respect.

Question 4
11. The Committee asked why regulation 26(1) refers to regulation 24(3) and (4) when regulation 24 does not contain a fourth paragraph, nor does that regulation appear to be of particular relevance.

Response 4
12. The Executive confirms that the reference in regulation 26(1) to regulation 24(3) and (4) is incorrect. It should have referred to regulation 25(3) and (4). In context, it does not think that this incorrect cross-reference would create any practical difficulties but is grateful to the Committee for drawing this to its attention.

Report
13. This appears to the Committee to be a further instance of defective drafting on which ground it again reports the instrument to the lead committee and the Parliament.
Appendix 1

THE SCOTTISH LOCAL GOVERNMENT ELECTIONS REGULATIONS 2002 (DRAFT)

1. On 19 November 2002 the Committee asked the Executive for an explanation of the following matters:

- “why regulation 2(1) defines the Representation of the People (Scotland) Regulations 2001 when those regulations do not appear to be referred to in the draft Regulations.

- The Committee seeks clarification as to whether the reference in regulation 15(7) to a “registration officer” should be to a “returning officer”, as this appears to be the only reference to a registration officer contained in the Regulations.

- The Executive is asked to confirm whether it is intended in regulation 22(7)(c) that the words “and in such cases, shall mark the declarations to indicate which ballot paper is missing” should apply to both paragraphs (i) and (ii), rather than (as drafted) to paragraph (ii) alone.

- The Committee requests an explanation as to why regulation 26(1) refers to regulation 24(3) and (4) when regulation 24 does not contain a fourth paragraph, nor does that regulation appear to be of particular relevance.”

The Scottish Executive responds as follows:

First Question
The Executive confirms that the reference to the Representation of the People (Scotland) Regulations 2001 is an oversight.

Second Question
The Executive can confirm that the reference in regulation 15(7) to “the registration officer” should have been a reference to “the returning officer”. In context we do not think that this incorrect reference would cause any mischief as we think with the reference to regulation 15(3) in regulation 15(7) makes the intention clear. However, we are grateful to the Committee for drawing this to our attention.

Third Question
The Executive can confirm that the words “and in such cases, shall mark the declarations to indicate which ballot paper is missing” should only apply to paragraph (ii). There need only be a mark on the declaration where there is more than one ballot paper, a situation which arises only in relation to paragraph (ii).

Fourth Question
The Executive can confirm that the reference in regulation 26(1) to regulation 24(3) and (4) is incorrect. It should have referred to regulation 25(3) and (4). In context we do not think that this incorrect cross-reference would create any practical difficulties but we are grateful to the Committee for drawing this to our attention.
The Executive considers that the errors are minor in nature but intends to bring forward correcting amendments at the next suitable opportunity.

**Scottish Executive**

21 November 2002
LOCAL GOVERNMENT COMMITTEE

BRIEFING PAPER

ALLOTMENTS INQUIRY – INTERIM SUMMARY OF EVIDENCE

1. PURPOSE

The purpose of this paper is to provide a summary of evidence received during the Committee’s inquiry into allotments to date.

2. Background

The Committee took oral evidence on allotments on the 13th February and 18th September 2001. The organisations that presented oral evidence in February 2001 were Food Trust Scotland (FTS), Kelvinside Allotments Association (KAA), Federation of Edinburgh and District Allotments and Gardens Associations (FEDAGA), and, Scottish Allotments and Gardens Society (SAGA). At the second oral evidence session the organisations presenting evidence were: Glasgow City Council (GCC), City of Edinburgh Council (ECC) and Dundee City Council (DCC). Written submissions were received from all of the organisations that presented oral evidence. In addition, written submissions were also provided by COSLA and the Scottish Executive. The summary table (overleaf) considers both the oral and written evidence presented to the Committee.

The Committee’s Inquiry into allotments was initiated by a petition (PE 280) submitted to the Public Petitions Committee by the Scottish Allotments and Gardens Society. The Petition “calls for Parliament to recognise the importance and popularity of allotments and to establish an Allotments Working Group that would actively protect and promote allotment provision in Scotland”. The Petition suggests that the proposed working group would consider the protection, provision and promotion of allotment sites as well issues surrounding participation.

The Committee agreed the following terms of reference for the Allotments Inquiry on the 12th December 2000:

- To examine the current legislative framework governing allotments and its effectiveness.
- To investigate current local authority practice in providing and maintaining allotments.
- To examine the extent of interest in allotment cultivation.

1 Petition PE 280 – Scottish Allotments and Gardens Society.
To determine the need for reviewing legislative, or other arrangements, for the protection, provision and promotion of allotments\textsuperscript{2}.

Stephen Herbert
Research Specialist
Research Services (SPICe)

# ALLOTMENTS INQUIRY

<table>
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<tr>
<th>Issue</th>
<th>Summary of Evidence</th>
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<td>Does current legislation need to consolidated / revised</td>
<td>FEDAGA would support legislation stipulating a minimum land requirement for allotments within urban areas. SAGS support consolidating legislation noting that a lack of judicial pronouncements on allotments mean that planning decisions vary considerably between local authorities. ECC state there is no ‘strong mood for change’ in terms of legislation although closures of sites are an issue. ECC consider that allotments should be thought of in policy terms. The Scottish Executive stated that they had no plans to introduce legislation on allotments.</td>
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| Should guidance / best practice guidelines be issued                 | FTS, KAA, SAGS support the introduction of best practice standards / guidelines.  
ECC was in the process of developing best practice guidelines. COSLA intended to use this as a basis for consulting with COSLA councils across Scotland. Scottish Executive is “considering the role of best practice on allotments” and the Executive was expected to have discussions with COSLA regarding the issues surrounding allotments. |
<p>| Should Scottish Executive Ministers be responsible for closure of sites | In order to close a site in England, a decision has to be made by the relevant DTLR minister. The Scottish Executive’s and COSLA’s position is that local authorities are best placed to make decisions with regard to allotments (with the exception of sites held on the Housing Revenue Account which currently require the decision of a Minister). FTS do not support giving Ministers the final decision on whether to close sites. KAA suggest that allotments can be protected through making them a category in the national planning guidelines. SAGS support Ministers having the final decision on the closure of sites. |
| Provision of allotments | Two thirds of allotments are in Edinburgh, Glasgow, Aberdeen and Dundee. It is estimated that there are 4,000 to 4,500 allotment sites in Scotland (bulk of which are in local authority control) compared to 250,000 in England. Provision of, and demand for, allotments is greatest in urban areas. Provision of allotments fell significantly post-1945 but has remained largely static since the mid-1970's. General agreement that less allotments have been closed / less threatened than sites in England. Nevertheless, there is significant pressure to develop allotment sites in urban areas of Scotland (such as the West End of Glasgow) for other purposes (e.g. housing, business). |
| Demand for allotments | General agreement that demand for allotments has increased although this does vary between areas particularly in Edinburgh and Glasgow. However, demand in areas such as Dundee is low, in part this may be attributable to less pressure on open space in such cities but also to issues such as lack of site security and vandalism. |
| Expenditure on Allotments | FEDAGA, FTS, KAA highlighted a lack of investment in / underfunding of allotments. Suggested that if allotments were better maintained then demand for plots would increase substantially. ECC stated that it had spent £100K - £150K on allotments in last 7-8 years and planned to increase spending on allotments to £250K over two years although the bulk of this may be to purchase a new site. DCC recognised that there had been little or no investment in allotments over a long period of time. |
| Funding for allotments | Allotment groups generally agreed that increased funding was necessary to secure the future of allotments. Areas of expenditure suggested included: provision of community hut / meeting room space; provision of toilets; good quality roof and footpaths surfacing; improved water supplies; provision of secure storage areas; improved maintenance of sites. Councils stated they were committed to improving allotments and did indicate that budgets for allotments would increase. Rents for allotments were seen as being low (despite a significant increase recently in GCC). KAA highlighted that councils should be transparent in demonstrating how allotment rents are spent by local authorities. ECC highlighted that allotments were eligible for ‘New Opportunities Fund’ (NOF) monies in England under the ‘Green spaces and sustainable communities’ strand but were not mentioned under this area of funding in Scotland. If additional allotments are to be purchased or investment made then ECC indicated that councils would need additional funds. |
| <strong>Marketing</strong> | Councils generally indicated that they did not market allotments and that to some extent this made it difficult to assess the extent to which there is latent or unidentified demand for allotments. Marketing of allotments highlighted as a priority by allotment groups. |
| <strong>Maintenance of allotments</strong> | General agreement that quality of maintenance varied considerably from site to site largely as a consequence of the degree of commitment to the site by plot holders. Problems of vandalism, sites being used as ‘drinking dens’ and, lack of security of sites were raised as significant problems. |
| <strong>Should each local authority have an allotments officer?</strong> | No local authority had an officer solely dedicated to allotments. ECC indicated that their officer who currently spent 80% of time on allotments would become a dedicated allotments officer. GCC and DCC stated that they had no plans to appoint an allotments officer. Allotments groups supported the appointment of dedicated allotments officers with benefits including improved liaison between sites, spreading of best practice etc. |
| <strong>Management of existing sites</strong> | FTS suggested the establishment of a national allotment trust to take sites into ownership nationally. KAA supported devolved management arrangements. FEDAGA broadly supported devolved management of sites but highlighted that sites required greater support from councils in managing sites. SAGA suggested a need for councils and sites to work more closely together to achieve common aims. Allotment organisations indicated that all local authorities could improve their management of allotments. Councils utilise a range of management structures. GCC trying to update the constitutions of allotments and standardise them across sites. ECC was conducting trials in devolved management but suggested that plot holders considered that this structure gave committees too much power and that they would prefer that sites were administered by the council. DCC tended to have devolved site management based on 10 year lease agreements between the site and the council. |
| <strong>Policy linkages</strong> | General agreement that allotments contributed to a wide range of policy areas and objectives including: improving diet, health and nutrition; social inclusion; recycling and waste management; promotion of green spaces; quality of life; sustainable development; biodiversity and, education. |</p>
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<th>Development of allotment strategies / action plan for allotment</th>
<th>FTS supported a national action plan being developed. SAGS suggested that allotments provision should be incorporated in all local plans. DCC and ECC were in the process of developing an allotments strategy. ECC stated that it would welcome a national allotments strategy. GCC and DCC stated that allotments were dealt with via the ‘Open Space’ strategies of these councils. Reference was drawn by a number of witnesses to the DETR strategy document ‘Growing in the Community: a good practice guide for the management of allotments’.</th>
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<td>General policy position of local authorities</td>
<td>DCC stated that it aimed to ‘develop and promote the role and use of allotment gardens’. GCC was committed to ‘continue to support allotment provision where there is identified local demand’. ECC recognised that allotments make a ‘major contribution to healthy lifestyles, social inclusion, education and the opportunity to produce food organically’. COSLA stated that it ‘recognises the value of allotments and the benefits they bring to those who cultivate them’.</td>
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| Suggested ways forward / improving on existing practice | A wide range of possible approaches to enhance and expand allotments in Scotland were suggested by witnesses. Some of the main suggested routes were:  
  - Develop a National Allotment Forum and Trust  
  - Protect allotments via planning guidelines  
  - Increased council investment in allotments  
  - Update and consolidate the legislation on allotments  
  - Protect allotment sites from development through bringing them within the terms of planning legislation in local plans and leaving the final decision for closures with Scottish Ministers  
  - Conduct an audit of allotment sites  
  - Suggest the Scottish Executive conduct a cost-benefit analysis of how allotments benefit society  
  - Suggest a working party be established to look at the issue of allotments  
  - Closer working between allotment sites and local authorities  
  - Recommend each council appoints an allotment officer  
  - Improved marketing of allotments / advertising of vacant sites |