TRANSFORM AND THE ENVIRONMENT COMMITTEE

AGENDA

29th Meeting, 2000 (Session 1)

Wednesday 29 November 2000

The Committee will meet at 10.30 am in the Chamber, Assembly Hall, The Mound, Edinburgh, to consider the following agenda items:

1. **Item in Private:** The Committee will decide whether to take item 4 in private.

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

   The Scotland Act 1998 (Modifications of Schedule 5) Order 2000 (SI 2000/draft)

   *Not before 11.00 am*

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

   The Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) (No.2) Order 2000 (SI 2000/draft)

4. **Inquiry into Water and the Water Industry:** The Committee will consider further arrangements for the inquiry.

Shelagh McKinlay
Clerk to the Transport and Environment Committee
Room 2.02, Committee Chambers
0131 348 (8)5208
e-mail Shelagh.McKinlay@scottish.parliament.uk
The following papers are relevant for this meeting:

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TRANSPORT AND THE ENVIRONMENT COMMITTEE

Draft Statutory Instrument

The Scotland Act 1998 (Modifications of Schedule 5) Order 2000 (SI 2000/draft)

1. The Scotland Act 1998 (Modifications of Schedule 5) Order 2000 (SI 2000/draft) was laid on 9 November 2000. The Parliament has designated the Transport and the Environment Committee as the lead committee for the consideration of this instrument. An Executive note accompanies the draft order.

2. The Enterprise and Lifelong Learning Committee, the secondary Committee on this instrument, considered this instrument at their meeting on 22 November. The Committee was content with the draft order in principle but agreed to draw attention to the fact that some post offices in Scotland (on the Border) are administered from England, which may create difficulties in the future in relation to the financial assistance possible under section 2 of the draft order.

3. The draft order was laid under "affirmative procedure" which means that the Parliament must approve the order before it may come into force. The sponsoring Minister (Sarah Boyack, Minister for Transport) has therefore lodged a motion, S1M-1346 "that the Transport and the Environment Committee recommends that the draft The Scotland Act 1998 (Modifications of Schedule 5) Order 2000 be approved." The time limit for Parliamentary action expires on 18 December 2000 and the Committee is required to report formally by 11 December.

4. Schedule 5 of the Scotland Act 1998 sets out Reserved Matters and Part II deals with “Specific Reservations”. The Scotland Act (in section 30(2)) does allow for changes to be made by an Order in Council, so that an issue previously outwith the legislative competence of the Scottish Parliament (i.e. ultra vires) can be modified to be within the legislative competence of the Scottish Parliament (i.e. intra vires). However, before such an Order in Council can be signed both Houses of Parliament and the Scottish Parliament must approve the draft order.

5. The draft order makes amendments to Schedule 5 in relation to five issues:—
   i. The Postal Services Act 2000;
   ii. Transport Strategies;
   iii. Functions of Scottish public authorities relating to rail services;
   iv. Pesticides;
   v. Product standards.

   The intended effect of each modification is dealt with in the Executive Note accompanying the draft order.

Richard Walsh
Senior Assistant Clerk
Transport and Environment Committee
November 2000
1. The Scotland Act 1998 (Cross-Border Public Authorities)(Adaptation of Functions etc.)(No. 2) Order 2000 (SI 2000/draft) was laid on 2 November 2000. The Parliament has designated the Transport and the Environment Committee as the lead committee for the consideration of this instrument. An Executive note accompanies the draft order.

2. Justice and Home Affairs Committee and the Rural Affairs Committee, the two secondary Committees on this instrument, have not made any comment.

3. The draft order was laid under "affirmative procedure" which means that the Parliament must approve the order before it may come into force. The sponsoring Minister (Sam Galbraith, Minister for the Environment) has therefore lodged a motion, S1M-1338, supported by Allan Wilson, "that the Transport and the Environment Committee recommends that the draft The Scotland Act 1998 (Cross-Border Public Authorities)(Adaptation of Functions etc.)(No. 2) Order 2000 be approved." The time limit for Parliamentary action expires on 11 December 2000 and the Committee is required to report formally by 4 December.

4. Section 89 of the Scotland Act 1998 allows conferring or modifying functions relating to Cross Border Public Authorities. These changes are made by an Order in Council. However, before such an Order in Council can be signed both Houses of Parliament and the Scottish Parliament must approve the draft order. In addition all of the Cross Border Public Authorities affected by the draft order require to be consulted, and this has been done.

5. The draft order amends the functions of seven Cross Border Public Authorities:—
   i. British Waterways Board;
   ii. Inland Waterways Amenity Advisory Council;
   iii. Royal Commission on Environmental Pollution;
   iv. The Fire Services Examinations Board;
   v. Controller of Plant Variety Rights;
   vi. Plant Varieties and Seeds Tribunal;
   The intended effect of each modification is dealt with in the Executive Note accompanying the draft order.

Richard Walsh
Senior Assistant Clerk
Transport and Environment Committee
November 2000