The Committee will meet at 10.00 am in Committee Room 2 to consider the following agenda items:

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

   The Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations (SSI 2000/draft)

2. **Petitions:** The Committee will consider the following public petitions—

   PE8 from Scottish Homing Union on the impact of the number of birds of prey on the sport of pigeon racing

   PE65 by the National Farmers’ Union of Scotland calling for the Scottish Parliament to seek action on the Taxation on Road Haulage

   PE68 by the National Farmers’ Union of Scotland calling for the agriculture sector to be exempted from the proposed Climate Change Levy

   PE123 by The Scottish Warm Homes Campaign calling for the Scottish Parliament to identify, discuss and seek to implement measures which would eradicate fuel poverty as a matter of urgency

   PE178 by the British Aggregates Association calling for the Scottish Parliament to investigate the implications for the Scottish economy of the aggregates tax and to make representations as appropriate to the Westminster Parliament

   PE187 by the Scottish Gamekeepers Association calling for the Scottish Parliament to allow limited licensed culling of raptors under the terms of the
1981 Wildlife and Countryside Act in areas where local populations have increased beyond normal levels

PE196 by Dundee and Tayside Chamber of Commerce and Industry calling for the Scottish Parliament to review Section 46 of the Town and Country Planning (Scotland) Act 1997 which deals with the power of the First Minister to call in a planning applications which have a significant social and/ or economic impact on the neighbouring local authority area

PE204 by Dundee Anti Poverty Forum calling for the Scottish Parliament to investigate alternative ways in which the necessary investment needed to upgrade the water service is met and also to reduce the burden on low income households by extending Council Tax benefit to cover water and sewage charges

PE225 by Mr William Ackland calling for the Scottish Parliament to take steps, including legislation if necessary, to protect the human rights of residents of homes adjacent to quarrying from vibration, noise and environmental threats

PE249 by Mr Leon P G Cadman-Goodwin calling for the Scottish Parliament to seek resolve with the UK Parliament to a) call an immediate stop on excise duty or tax increases on road diesel derv; b) legislate to prevent illegal use of rebated diesel by all types of tractors; and c) legislate to ensure all tractors used on the public highway are the subject of yearly MOT testing

3. Genetically Modified Organisms (in private): The Committee will consider a draft report on the issue of genetically modified organisms.

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

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LIST OF PETITIONS CONCLUDED BY THE TRANSPORT AND ENVIRONMENT COMMITTEE

PE2 from **Ayrshire Chamber of Commerce** on upgrade of A77

PE7 from **Mr R H Guild** on Edinburgh’s transport and traffic

PE16 from **Jimmy Oswald** calling for urgent action to reverse the decline of the Capercaillie in Scotland.

PE17 from **Western Isles Council** on Skye Bridge discounting options for Western Isles residents.

PE27 from **Skye and Kyle Against Tolls** on Float Concessions for Skye Bridge.

PE21 from **Penicuik and District Community Council** calling for a concessionary bus fare scheme to be operated nationally by the Scottish Executive

PE22 from the **Island of Cumbrae Tourist Association** outlining concerns in relation to the fare structure of Caledonian MacBrayne for the ferry to Cumbrae Island and calling for more detailed financial information to be made available.

PE23 by **Save Wemyss Ancient Caves Society** calling for action to be taken to repair storm damage to the access of the caves.

PE28 by the **999 Clear Road Campaign** calling for the introduction of a law requiring drivers to give way to the Emergency Services.

PE33 from **Mr Stuart Crawford** calling for the clearance of litter and rubbish from roadsides and other public areas.

PE39 by **Mr George B Anderson** calling for calling for a debate on the Environmental Protection Act on fixed penalty fines for litter offenders.

PE 60 by the **Scottish Green Party** calling for the Scottish Parliament to hold a debate on Genetically modified crops and food

PE63 by the **National Farmers’ Union of Scotland** calling for the Scottish Parliament to increase resources for agri-environment measures in Scotland.

PE91 by **Frank Harvey** calling for the Scottish Parliament to restore Scottish Water Authorities to local authority control

PE111 by **Mr Frank Harvey** calling for the Scottish Parliament to order a public inquiry into road accidents involving police responding to 999 calls.

PE112 by **Frank Harvey** calling for the Scottish Parliament to study the report of the Environment, Transport and Regional Affairs Committee of the UK Parliament regarding Government proposals to sell off Britain’s Air Traffic Control system
PE115 by Julia Clarke calling for the Scottish Parliament to request Scottish Airports to re-route aircraft taking off and landing at Edinburgh Airport away from residential areas to reduce pollution and to consult with residents

PE117 by Mr Alexander Donald calling for the Scottish Parliament to
a) produce a new film on ice cream van safety;
b) allow ice cream vans to use their hazard warning lights when stopped; and
c) ensure the safe speed limit when passing an ice cream van is 5-10 miles per hour.

PE128 by World Wildlife Fund Scotland calling for the Scottish Parliament to ensure that Marine National Parks are included in the National Parks for Scotland Bill

PE132 by D. W. R Whittet calling for the Scottish Parliament to introduce legislation streamlining the planning system and change other aspects of the planning system and associated procedures within Scotland.

PE135 by Marion Scott calling for the Scottish Parliament to address a range of issues relating to the siting of mobile phone masts.

PE154 by Dr Joanne Beaumont on behalf of Hillhead Primary School Board and School calling for the Scottish Parliament to intervene to overturn the decisions of Glasgow City Council concerning 7 and 8 Alfred Terrace, Glasgow G12.

PE156 by Mrs Jean Charsley on behalf of Hillhead Community Council calling for the Scottish Parliament to intervene to overturn the decisions of Glasgow City Council concerning 7 and 8 Alfred Terrace, Glasgow G12.

PE167 by the Kings Park/Croftfoot Community Council calling for the Scottish Parliament to legislate to ensure that telecommunication masts will be subject to full planning controls with this legislation being effective retrospectively.

PE 194 by D Keith on behalf of Scottish Campaign for Public Angling calling for the Scottish Parliament to revoke SI 1996 No. 58 (S.3) River Tay Catchment Area Protection (Renewal) Order 1993 Variation Order 1996 with immediate effect

PE 207 by Gordon Clyde Ford on behalf of the Mearns Community Council calling for the Scottish Parliament to introduce a more public friendly planning system by granting objectors to a development exactly the same rights as the developers.
1. The Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations (SSI 2000/draft) was laid on 17 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 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-1402 “That the Transport and the Environment Committee recommends that the draft Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations 2000 be approved". The motion is supported by Allan Wilson, Deputy Minister for Culture and Sport.

3. The time limit for Parliamentary action on the instrument expires on 20 December 2000 and the Committee is required to report formally by 18 December.

4. The regulations amend the Producer Responsibility Obligations (Packaging Waste) Regulations 1997 which implemented Directive 94/62/EC on Packaging and Packaging Waste. The new regulations (a) replace the existing scale registration fee for compliance schemes with a flat-rate fee and (b) increases the recycling and recovery targets for 2001 to ensure that the UK meets its obligations under the Directive.

5. The Subordinate Legislation Committee considered this instrument at its 34th meeting on 28 November 2000. In its 43rd report (2000) the Committee reported that the attention of the Parliament need not be drawn to the instrument.

Alastair Macfie
Assistant Clerk
Transport and Environment Committee
November 2000
TRANSPORT AND THE ENVIRONMENT COMMITTEE

AGENDA ITEM
TE/00/30/00

Petition PE08: Scottish Homing Union
Petition 187: Scottish Gamekeepers Association

Introduction

1. This paper updates the Committee on the progress of petition PE08 and introduces PE187 (both attached), invites Members to consider the current position in relation to PE08 in the light of action by the Reporter and responses from other Committees and suggests options for conclusion or further consideration. The petitions raise similar issues and are therefore grouped for discussion.

Background

PE08: Scottish Homing Union
2. On 31 August 1999 the Public Petitions Committee agreed to pass PE08, submitted by the Scottish Homing Union (SHU), to both the Transport and Environment and Rural Affairs Committees for further consideration. No lead Committee was at that time identified. PE08 was first referred to the Committee in September 1999. The SHU is the representative body for all Scottish pigeon enthusiasts, with over 5,000 members. The SHU is concerned at what it sees as the increasing number of attacks on racing pigeons by birds of prey (“raptors”). It attributes the increase in the numbers of attacks to a growth in the overall population of raptors, predominantly peregrine falcons and sparrowhawks, which they attribute to the protection afforded by the Wildlife and Countryside Act 1981.

3. PE08 calls for the Government to review the operation of the Wildlife and Countryside Act and, in particular, obtain two outcomes:
   (i) alter legislation, granting a status to racing pigeons to enable owners to legitimately protect their birds; and
   (ii) obtain agreement on population level of birds of prey designed to achieve an acceptable ecological balance with other species.

4. Section 1 of the Act currently states:—
   “Subject to the provisions of this part, if any person intentionally—
   (a) kills, injures or takes any wild bird;
   (b) takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
   (c) takes or destroys an egg of any wild bird,
   he shall be guilty of an offence.”

5. The SHU suggest that this Act, which implements Council Directive 79/409/EEC on the Conservation of Wild Birds could be amended to provide a derogation enabling pigeon owners to protect their birds. The SHU states that this is in line with Article 2 of the Directive which states:—
“Member States shall take the requisite measures to maintain the population of the species referred to in Article 1 [i.e. wild birds] at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level.”

6. The Reporter has conducted a series of meetings with colleagues appointed from Rural Affairs, other MSPs and outside organisations. A report of findings to date will be circulated to Members as a late paper. The Reporter will also give an oral report on progress to date at the meeting.

**PE187: Scottish Gamekeepers Association**

7. PE187 was submitted by the Scottish Gamekeepers Association (SGA) and, on 9 May 2000, the Public Petitions Committee agreed to pass the petition to the Rural Affairs Committee and the Transport and Environment Committee to take into consideration with PE08.

8. The SGA contend that there is mounting predation on wild birds and reared gamebirds within Scotland, due to a burgeoning population of certain raptor species. The SGA stance is that the raptor population in certain areas is artificially high and sustained at these levels solely through the availability of gamebirds as prey.

9. The petition therefore calls for the Scottish Parliament to allow limited licensed culling of raptors, under the existing provisions of the 1981 Wildlife and Countryside Act in areas where local populations have increased beyond normal levels. Whilst the SGA are not specifically citing it, section 16 of the Act (as amended by the Wildlife and Countryside Act 1981 (Amendment) Regulations 1995) does theoretically allow for licences to be issued for killing otherwise protected species (such as peregrine falcons) to prevent serious damage to, inter alia, livestock but only if there is no satisfactory alternative solution. SPICe could find no evidence of such licenses having been issued and there are no examples of persons having been able to prove that they legally killed protected birds to safeguard livestock.

10. Section 27 of the Act interprets as follows:—

   "**livestock** includes any animal which is kept-
   
   (a) for the provision of food, wool, skins or fur;
   
   (b) for the purpose of its use in the carrying on of any agricultural activity; or
   
   (c) for the provision or improvement of shooting or fishing:’’
Progress of the Petitions

PE08

11. A table of action to date is shown below, with most recent first.

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<tr>
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27 March 2000, DETR publish their report “A Study into the Raptor Predation of Domestic Pigeons”, based on research by Members of the Hawk and Owl Trust

1 March 2000
The Committee noted that the Rural Affairs Committee had agreed to take evidence on this petition at a future meeting of the Rural Affairs Committee. It was agreed that Helen Eadie should act as a reporter to the Transport and the Environment Committee at this meeting of the Rural Affairs Committee. The Committee agreed to defer further consideration of the petition until the outcome of Hawk and Owl Trust Report was known (and the petitioners had had an opportunity to comment on the report), and until the Transport and the Environment Committee had received a report on the petition from the Rural Affairs Committee.

15 February 2000
The Committee agreed, on division, that the Committee continue consideration of PE08 to hear further evidence on the report of the UK Raptor Working Group, and the SHU, and to approach the Transport and the Environment Committee with a view to taking evidence jointly. Cathy Peattie and Alex Fergusson were appointed Reporters on these issues.

10 January 2000, SPICE Research Note RN 99/50 “Racing Pigeons and Birds of Prey” revised and re-issued

2 February 2000
The committee agreed that no further action was required at this stage and consideration would be deferred until the final DETR report on raptor predation has been published.
### Responses

**SPICE**

12. The very useful Scottish Parliament Information Centre (SPICE) Research Note "Racing Pigeons and Birds of Prey", RN 99-50, revised 10 January 2000 sets out details on some of the issues raised by PE08 and on legal protection for key bird species in the UK. It has not been further revised as a result of PE187. The SPICE note, which was circulated to Members in February 2000, is attached as Annex A.

**A Study into the Raptor Predation of Domestic Pigeons**

13. This report (previously circulated to Members) summarises research commissioned by DETR which was carried out by the Hawk and Owl Trust (HOT). Nowhere in its’ recommendations does it advocate lethal, or potentially lethal, measures against raptors. It has 8 main recommendations:

i. research into why racing pigeons stray;

ii. alter racing seasons to prevent their coinciding with peregrines breeding season;

iii. maximise racing times over East England minimising exposure of pigeons to raptors;

iv. establish race “flight corridors” to prevent airborne clashes and subsequent diversions;

v. research the potential of reward systems to encourage pigeons to return to the correct loft;

vi. research deterrent systems;

vii. examine and disseminate best practices by researching why some lofts have lower rates of attacks than others; and

viii. optimise locations, timing and numbers of pigeons liberated on training flights to minimise raptor predation.

| 3 December 1999 | The Committee considered SPICE Research Note RN 99/50 “Racing Pigeons and Birds of Prey”. The Committee decided to note the Petition and refer the matter to the Scottish Executive for further consideration |
| 7 September 1999 | The Committee discussed PE08 and resolved to defer further consideration of this matter, pending further research from SPICE, and the outcome of the expected DETR Raptor Predation Research. |
| 8 September 1999 | The Committee noted the decision of the Rural Affairs Committee to defer a decision on this petition pending further research from SPICE and the outcome of the expected DETR Raptor Predation Research and concurred with this decision. |
TRANSPORT AND THE ENVIRONMENT COMMITTEE

Issues

14. The following attempts to analyse the major issues raised by each of the Petitioners requests.

(i) alter legislation, allowing pigeon and gamebird owners to protect their birds
The Wildlife and Countryside Act 1981 as it currently stands does not allow raptors to be killed to protect racing pigeons. Theoretically, a license to kill raptors may be obtained to protect gamebirds, as a last resort. Two crucial questions are (i) whether the law should allow protected birds to be killed to protect racing pigeons and (ii) whether licenses to protect gamebirds from raptor predation should be more easily obtained than at present. These issues are discussed in more detail in SPICe Research Note 99-50.

In addition, there has been no independent estimate made of the economic impact of gamebird and pigeon predation and the unquantifiable cultural impact, asserted by the SHU, that this creates. There has also been no resource impact assessment of the costs associated with licensing, enforcement and judgements as to whether killing without a license was justified (as is a defence under the current provisions of the Wildlife and Countryside Act 1981). The availability of such assessments may allow comparisons to be made which would inform decision making.

(ii) obtain agreement on population level of birds of prey designed to achieve an acceptable ecological balance with other species
There is no suggestion as to what body, or bodies, would be able to set a definitive level and no indication of what monitoring systems are used and with what frequency the population levels would be checked. This issue is also discussed in more detail in SPICe Research Note 99-50.

Options

15. The Committee has not, to date, asked the Executive, or the DETR for views on the issues raised in these petitions and what action is proposed, if any.

16. There are a number of options available to the Committee in considering how to either conclude or take forward consideration of this petition. It should be noted that the possible options set out below are not exhaustive. They are also proposed taking into account the fact that the Committee has an agreed work programme that will take it into 2001.

17. Whatever option is chosen, it is recommended that the Clerk write to the petitioners to inform them of the outcome.

18. Options open to the Committee include:
Option A

19. The Committee could agree to conclude the petitions by writing to the petitioners, noting their petitions and taking no further action.

Option B

20. The Committee could write to the Scottish Executive to ask for their views on the current provisions in light of the DETR and HOT reports and the SHU’s response.

21. The Committee could also ask for an update on Scottish Executive proposals, first launched in February 2000, for the introduction of custodial sentences for certain categories of wildlife crime.

Option C

22. The Committee can of course take any other competent action it deems appropriate.

Recommendation

23. The Committee is asked to:

- agree that the clerk write to the petitioners to inform them of the progress to date; and

- decide the next steps in relation to its consideration of each petition.

Shelagh McKinlay  
Clerk to the Transport and the Environment Committee  
November 2000
Introduction

1. This paper updates the Committee on the progress of Petition PE65, invites Members to consider the current position in the light of external developments and responses from other Committees and suggests options for conclusion or further consideration.

Background

2. This petition was submitted, as one of a group of nine, by the National Farmers' Union of Scotland in January 2000. The National Farmers' Union of Scotland express concerns that "... the whole rural economy is being adversely affected by taxation measures primarily aimed, it is alleged, at dealing with environmental problems in urban areas. Above inflation rises in fuel duty and a relatively high level of Vehicle Excise Duty compared to other countries, make rural businesses less internationally competitive."

3. The petition calls for the Scottish Parliament to take action on a number of measures with respect to vehicle excise duties, fiscal and related measures, specifically to:—

   i. review vehicle excise duties for heavy goods vehicles, in comparison with other EU states;
   ii. establish new rates comparable to the EU norm;
   iii. negotiate with other member states to achieve harmonisation of fuel taxes within the EU;
   iv. ask that levels of fuel tax be set with reference to their effect on the international competitiveness of EU businesses, such as agriculture;
   v. ensure that urban transport environmental issues are dealt with through direct measures such as road pricing and public transport;
   vi. ensure that special regard should be paid to the sustainability of rural petrol stations, and that fuel differentials should be reduced by aiding fuel distribution, possibly via Rural Development Regulations.

Progress of the Petition

4. The Public Petitions Committee referred this petition to the Transport and the Environment Committee and requested that the views of the Rural Affairs Committee be sought. The Committee agreed this at their initial consideration of the petition on 2 February 2000, when the Committee also agreed to seek further information from SPICe as well as obtaining the views of the Enterprise and Lifelong Learning Committee, in relation to their inquiry on the rural petrol price differential.

5. Following discussion on 22 June 2000, Parliament has already resolved—

   “That the Parliament recognises concern about the impact of fuel prices especially in rural, highland and islands areas where public transport
alternatives are more difficult to provide; recognises that fuel duty is a reserved matter; welcomes the investigation by the Enterprise and Lifelong Learning Committee into the bulk purchase of fuel for remote areas; welcomes the progress made by the Scottish Executive in implementing a comprehensive integrated transport strategy and investing in public transport projects across Scotland; in particular notes support for rural public transport services and the network for petrol stations in rural Scotland, as well as measures to sustain lifeline air and ferry links, including the Highlands and Islands; and further notes that the current budget for the fuel duty rebate would have no impact on Treasury receipts but would be a cost to the current budget for Scottish public services.”

Remit and role of the Committee

6. Some of the matters involved in the petition and the relevant legislation are reserved matters and outwith the competence of the Parliament. However, this does not debar the Committee from discussing the issues raised.

Responses

SPICe

7. The Scottish Parliament Information Centre (SPICe) Research Note "Rural Petrol Prices", RN 99-52, 29/11/99 set out details on some of the original issues raised by the Petitioner and further information has been added by SPICe Research Note “European Petrol Retailing”, RN 00/38, 25/05/00.

Enterprise and Lifelong Learning Committee

8. The Enterprise and Lifelong Learning Committee inquiry on fuel prices is still in progress. However, at their meeting on 28 June 2000 the Enterprise and Lifelong Learning Committee considered progress on its investigations, and agreed—

• that the Convener would write to the Scottish Executive, seeking details of work it has undertaken in relation to these issues, and contacts it has made;
• that the sub-group, previously set up to meet with the oil companies, should meet with the remaining oil companies and the Petrol Retailers Association and report back to the Committee;
• that the Clerk should provide a note for consideration on the Office of Fair Trading’s Report due to be published soon; and
• to consider the issue further in the Autumn.

9. A letter, dated 18 September, from the Clerk to the Enterprise and Lifelong Learning Committee, giving details of the current work, plus a copy of a letter from the Minister for Enterprise and Lifelong Learning, is attached as Annex A. In brief this discusses the obstacles involved in applying for a derogation on fuel duties within Scotland and restates the commitment of the Scottish Executive to assist in sustaining rural petrol stations.
Rural Affairs Committee discussed the petition on 29 February 2000. At that meeting the Rural Affairs Committee:

- welcomed the fact that the NFUS has recognised the importance of the issue and has also accepted that the question of rural transport costs must be tackled in combination with the wider issues of transport policy;
- expressed support in principle for the idea of a level playing field in vehicle and fuel taxation;
- recommended that transport policy should not focus exclusively on the issues that concern urban areas, but should take into account the particular issues that concern rural areas across the whole range of transport policy;
- supported the call that special regard be paid to sustainability of petrol stations in rural areas;
- recognised the tremendous disadvantage that higher rates of vehicle excise duty and fuel taxation place on rural parts of Scotland;
- urged the Transport and the Environment Committee to pay close heed to the recommendations that come out of the Enterprise and LifeLong Learning inquiry.

Issues
11. The following attempts to analyse the major issues raised by each of the Petitioners requests. The Committee has already noted, in initial consideration of the petition, that the issues of Vehicle Excise Duty and Fuel Tax are both reserved.

i. review vehicle excise duties for heavy goods vehicles, in comparison with other EU states;

Research by the House of Commons Library\(^1\) already cites, with some caveats, research from the International Road Federation on “Examples of average taxation for 5 common types of vehicles”. Relevant extracts are reproduced as Annex B. If required further research could be requested via SPICe. However, the Chancellor has announced that the Government “will introduce a reformed system of lorry VED in Budget 2001, subject to consultation on the details of the reform, to reflect better the environmental and track costs of different lorries. The reform is intended to reduce by approximately £300 million a year (equivalent to over 50 per cent) the cost of VED on lorries for British industry.”\(^2\) In addition, “The [UK] Government intends to implement transitional arrangements as a first stage of this reform. Up to £265 million will be available to rebate VED fees for this financial year, in keeping with legal constraints. This will mean cuts of fifty per cent for many of the largest vehicles, worth up to £4,000 each.”\(^3\)

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1 “Road fuel prices and taxation”, 00/69, 12 July 2000)
2 Pre-Budget Report: November 2000, HMT, paragraph 6.67
3 Pre-Budget Report: November 2000, HMT, paragraph 6.68
ii. establish new rates comparable to the EU norm;
Vehicle Excise Duty is a reserved matter, under the Scotland Act 1998: therefore the Scottish Parliament cannot establish rates, or vary them; direct action on this issue is accordingly outwith the competence of the Parliament, however the Committee could (if it chose) call for new rates to be established; in addition the Chancellor recently announced, “The Government intends to introduce …a scheme in the UK, to ensure that foreign hauliers start to contribute towards the costs of maintaining the UK road network and the environmental costs that they impose.”

iii. negotiate with other member states to achieve harmonisation of fuel taxes within the EU;
Schedule 5, Section 7(1) of the Scotland Act states “international relations, including relations with….the European Communities (and their institutions)…are reserved matters.” Direct negotiations are therefore outwith the competence of the Parliament however, the Committee could (if it chose) use a range of methods to call for harmonisation;

iv. ask that levels of fuel tax be set with reference to their effect on the international competitiveness of EU businesses, such as agriculture;
The Committee could issue a call of this nature. In addition, the Chancellor has recently announced that, “the Government has decided to freeze duties on petrol, diesel, other road fuels, and non-road fuel oils (such as red diesel) in cash terms in Budget 2001. This will lower taxes on petrol and diesel in real terms by around 1½ pence per litre”

v. ensure that urban transport environmental issues are dealt with through direct measures such as road pricing and public transport;
Members will recall the Transport (Scotland) Bill Policy Memorandum states, “The policy objectives of the Bill are to deliver a sustainable, effective and integrated transport system for Scotland. ……The Scottish Executive wishes in particular to give local authorities the powers they require to manage increasing congestion in our cities;”

vi. ensure that special regard should be paid to the sustainability of rural petrol stations, and that fuel differentials should be reduced by aiding fuel distribution, possibly via Rural Development Regulations.
Whilst the implementation and subsequent operation of EC schemes such as Rural Development Regulations are generally devolved, there are complex strictures on what can be covered. The recently published “Rural Development Plan for Scotland”, does not include any “Modulation” proposal (i.e. to siphon off, with matching funds from the UK Government, a proportion of the money which currently comes to farmers) to cover funding of fuel differentials.

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4 Pre-Budget Report: November 2000, HMT, paragraph 6.69
5 Pre-Budget Report: November 2000, HMT, paragraph 6.46
6 SP Bill 18-PM, para 2
SPICE RN 99/52 mentions the recent derogation from the EU Petrol Vapour Recovery Directive for small petrol stations in rural areas north of the central belt, worth an estimated £3,000 per station. The letter from the Minister gives more details of increased expenditure under the Rural Petrol Station Grant Scheme. To qualify for a grant a petrol station must:

- be at least 30 minutes drive from the edge of an area with a population of over 30,000;
- have a throughput of less than 1m litres per annum;
- be at least 8 miles by road from its nearest neighbouring petrol station;
- sell diesel and lead-free petrol.

In addition, the recent Commons Scottish Affairs Select Committee Report, mentions transport costs in rural areas and the associated issue of distribution costs, “Calum MacDonald MP, has come up with an innovative scheme which we believe should be looked at closely. He wants the proposed new Highlands and Islands Transport Board to be enabled to sell petrol it has bought in bulk on the open market directly to retailers. He believes that this would save up to 10p per litre. The Highland Council currently does something similar with marine fuel, passing on cost savings to local fishermen.”

Options

12. The Committee has not, to date, asked the Executive, or any other Government Departments for views on the issues raised in this petition.

13. There are a number of options available to the Committee in considering how to either conclude or take forward consideration of this petition. It should be noted that the possible options set out below are not exhaustive. They are also proposed taking into account the fact that the Committee has an agreed work programme that will take it into 2001.

14. Whatever option is chosen, it is recommended that the Clerk write to the petitioners to inform them of those suggestions which were not, in the view of the Committee, within the vires of the Scottish Parliament.

12. Options open to the Committee include:

Option A

13. The Committee could agree to conclude the petition by writing to the petitioners and sending them copies of the information received since the petition was submitted.

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Option B

14. The Committee could write to the Scottish Executive to ask for their views on the current provisions assisting rural petrol stations, and details of intended future spend on the Rural Petrol Stations Grant Scheme.

Option C

15. The Committee could seek further information from the relevant Whitehall Departments’ on the issues raised by the petitioner.

16. The Committee can of course take any other competent action it deems appropriate.

Recommendation

17. The Committee is asked to:

• agree that the clerk write to the petitioner to inform them of those matters involved in the petition which the Committee consider to be outwith the competence of the Parliament; and

• decide the next steps in relation to its consideration of this petition.

Shelagh McKinlay
Clerk to the Transport and the Environment Committee
November 2000
Note by the Clerk

Introduction

This paper updates the Committee on the progress of Petition PE68, invites members to consider the current position and suggests options for further consideration or conclusion of the petition. A copy of the original petition is attached, together with responses from the Executive and the Department of the Environment, Transport and the Regions (DETR).

Background

Petition PE68 requests “that the Scottish Parliament should not apply the proposed Climate Change Levy (CCL) to the Scottish agricultural sector.” The Petition was last considered by the Committee at its meeting on 15 March 2000 when members agreed to write to the Scottish Executive and to DETR setting out the concerns of the petitioner and seeking information on the options that may be available.”

These responses have now been received and are attached.

Remit and Role of the Committee

As a taxation matter, the design and implementation of the CCL is a reserved issue and consequently the Committee does not have the power to undertake the direct action requested by the petitioners. It can however express a view on the petitioners’ request and on the responses from both the Executive and the DETR if it wishes.

Responses

The key points made in the responses from the Executive and the DETR might be summarised as follows:

Exemptions and Rebates

The responses make it clear that the Government do not envisage any sector of the economy being exempt from the levy. However, an 80 per cent rebate is to be offered to particular energy intensive sectors, in return for agreeing and meeting energy or emissions targets. DETR is negotiating agreements with each eligible sector (eligibility being defined with reference to the Integrated Pollution and Prevention Control Directive) and “intensive livestock units”, essentially pig and poultry sectors, will be able to be part of such an agreement. Therefore, the pig and poultry sectors could be eligible for an 80 per cent rebate if they meet agreed energy and emissions targets.
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Various measures are to be offered to the horticultural sector;

- special allocation from £50m energy efficiency fund;
- inclusion of thermal screens in glasshouses in the list of technologies qualifying for enhanced capital allowances; and
- temporary 50 percent discount on the levy for a period of up to five years.

Other measures

There are a range of other measures which will apply to all sectors and which are available to agricultural industry. These include:

- 0.3 percentage reduction in employer’s National Insurance Contributions (NB the NFUS petition sees this as being of limited benefit to the agricultural community.)
- exemption for any business which contracts with its electricity supplier to buy power from qualifying renewable energy sources or from combined heat and power plants
- programme of advice on energy efficiency.

Next Steps: Options

There are a number of options available to the Committee in considering how to either conclude or take forward consideration of this petition. It should be noted that the possible options set out below are not exhaustive. They are also proposed taking into account the fact that the Committee has an agreed work programme that will take it into 2001.

Options open to the Committee include:

Option A
The Committee could agree to conclude the petition by writing to the petitioners enclosing copies of the information received from the Executive and DETR and drawing the petitioners attention to the Official Report of the meeting.

Option B
The Committee could conclude consideration of the petition by undertaking option A and writing to DETR and to the Executive to highlight any outstanding concerns which they feel are worthy of further review, requesting that they make public the outcome of their consideration of these issues.

The Committee can of course take any other competent action it deems appropriate.

Recommendation

The Committee is asked to consider and agree how it wishes to deal with the petition.

Shelagh McKinlay
Clerk to the Transport and the Environment Committee
November 2000
TRANSPORT AND THE ENVIRONMENT COMMITTEE

AGENDA ITEM
TE/00/30/10

Petition PE123: Scottish Warm Homes Campaign

Note by the Clerk

Introduction

This paper updates the Committee on the progress of Petition PE123, invites members to consider the current position and suggests options for conclusion of the petition. A copy of the original petition is attached, together with a response from the Executive.

Background

Petition PE123 asks the Scottish Executive to:

- ensure that the domestic sector conforms to (the Executive’s) sustainable development policy and commitment to reduce CO2 emissions; and
- that it introduces practical measures in the Housing Bill to eradicate fuel poverty, through improvements in energy efficiency, within 2 terms of the Scottish Parliament.

It further asks the Executive, the Parliament and the relevant Committees to discuss identify and seek to implement measures to achieve the objectives above as a matter of extreme urgency.

The Social Inclusion, Housing and the Voluntary Sector (SIHV) Committee is the “lead” Committee in relation to this petition. At its meeting on 26 April the SIHV Committee agreed to ask for the views of the Health and Community Care and the Transport and the Environment Committees on the petition.

This Committee considered the petition on 13 June when it agreed to write to the Executive to inquire whether it proposed to address the issues raised by the petitioner in the forthcoming housing bill, and in any forthcoming review of building regulations. The Committee also agreed to write to the SIHV Committee to ask how they envisaged dealing with the petition. A response from the Executive is attached. No response has been received from the SIHV Committee, but given the length of time since the petition was submitted members may wish to consider the petition on the basis of the Executive’s response.

Response

In their response the Executive point to a number of initiatives relevant to the issue of fuel poverty. These include;

- The Warm Deal which provides low-income households with a package of insulation measures up to the value of £500
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- The commitment to invest a total of £350m to provide pensioners, local authority and housing association tenants with central heating and home insulation within a five year period beginning in April 2001,

Recommendation

The Committee is asked to:
- pass a copy of the Executive response to the Social Inclusion, Housing and the Voluntary Sector Committee and to the petitioners and, if appropriate, draw their attention to the Official Report of the meeting; and
- take any other competent action it deems appropriate.

Shelagh McKinlay
Clerk to the Transport and the Environment Committee
November 2000
Introduction

This paper asks the Committee to consider for the first time PE178 from the British Aggregates Association. A copy of the original petition and a subsequent relevant submission from the Association are attached along with a copy of the Official Report of the meeting of the Public Petitions Committee of 9 May when representatives of the Association gave evidence.

Background

Petition PE178 requests “that the Scottish Parliament investigates the implications for the Scottish economy of the aggregates tax and to make representations to the Westminster Parliament as appropriate.”

The Enterprise and Lifelong Learning (ELL) Committee is the lead Committee on this petition. The ELL Committee considered the petition at its meeting on 31 May when it agreed to pass the petition to the Transport and the Environment, Rural Affairs and European Committees for their views.

The ELL Committee subsequently considered the petition at its meeting on 28 June when it agreed in principle to take evidence on this issue, but recognised that there were timetabling issues which would require to be resolved in relation to its wider work programme.

The Petition

In their submissions the British Aggregates Association (BAA) express concern about the impact of the tax on the quarrying industry. They contend that since aggregate prices in Scotland are lower than in England, the percentage of revenue they are required to pay in tax is higher and that consequently the industry in Scotland will disadvantaged by the tax. They also suggest that the tax will impact most heavily on smaller operators, which make up a larger proportion of the industry in Scotland.

Remit and Role of the Committee

As a taxation issue, the introduction of an aggregates tax is a reserved matter. However, it is open to the Committee to consider and express a view on the petition if it wishes to do so. Members may wish to note that the petitioners' specific request (i.e that the Parliament investigate the issue) is being taken forward by the ELL Committee which has indicated its desire to take evidence in relation to the petition.

The tax on aggregate extraction was announced in the Chancellor's budget statement in March 2000. The tax is described by the BAA as an environmental tax.
The purpose is to encourage a more sustainable use of aggregates (through for example, increased use of recycled aggregates.)

The ELL Committee might be expected to address the economic impacts of the Tax in its consideration of the petition. Bearing in mind this Committee’s remit, it might be most appropriate for any substantive comment from this Committee to focus on the possible environmental impacts of the introduction of the tax.

Next Steps

There are a number of options available to the Committee in considering how to either conclude or take forward consideration of this petition. It should be noted that the possible options set out below are not exhaustive. They are also proposed taking into account the fact that the Committee has an agreed work programme that will take it into 2001.

Option A

The Committee could decide simply to note the petition and convey this information to the Enterprise and Lifelong Learning Committee.

Option B

The Committee could write to HM Treasury and/or the Scottish Executive and/ or Scottish Environment Link asking for their views on the petition and for further information on the anticipated environmental benefits of the tax and what evidence is available that the introduction of such a tax will lead to more sustainable use of aggregates.

The Committee can of course take any other competent action it deems appropriate.

Recommendation

The Committee is asked to consider and agree how it wishes to deal with the petition.

Shelagh McKinlay
Clerk to the Transport and the Environment Committee
November 2000
TRANSPORT AND THE ENVIRONMENT COMMITTEE

AGENDA ITEM
TE/00/30/14

Petition PE196: Dundee and Tayside Chamber of Commerce and Industry

Note by the Clerk

Introduction

This paper asks the Committee to consider for the first time PE196 from Dundee and Tayside Chamber of Commerce and Industry. A copy of the original petition is attached along with an extract from the Official Report of the meeting of the Public Petitions Committee (PPC) on 23 May, an Executive response to a request for comments on the petition from the PPC, and a copy of section 46 of the Town and Country Planning (Scotland) Act 1999. A letter from the Executive in response to a request from this Committee for information on third party appeals is also attached, since the relationship between this petition and earlier petitions on the subject of third party appeals was raised by the PPC. (This request was made in connection with consideration of petition 207. The Committee agreed at its meeting on Wednesday 27 September to conclude consideration of the petition by writing to the Executive on the subject of third party appeals, noting that it was open to the Committee to revisit the issue at a future date.)

Background

The petition was considered by the Public Petitions Committee at its meeting on 23 May when the petition was referred to the Transport and the Environment Committee. (The petition was also sent to the Rural Affairs and Local Government Committees for information only.) Mr Sandy Meiklejohn gave evidence to the PPC at this meeting. At this meeting the PPC also decided to write to the Executive seeking comments on the petition.

The Petition

Petition PE196 seeks a review of section 46 of the Town and Country Planning (Scotland) Act 1997 and the circumstances in which the First Minister can call in applications for planning permission; with particular reference to circumstances where there has been an application for a development within one local authority area which may have a significant social and/or economic impact on businesses and residents in the neighbouring local authority area.

The petition is concerned with a situation where a planning application is received by a planning authority for a development in close proximity to their boundary with a neighbouring authority. In these circumstances the neighbouring authority is entitled to make representations but the decision remains with the authority which has received the application. Under section 46 of the Act the decision on whether to call in the application is entirely at the discretion of the First Minister. In essence the petition would like to see clearer and stronger guidelines and/or legislation governing when the First Minister should call in an application in these circumstances.
Remit and Role of the Committee

Planning is a devolved matter and is within the Committee’s remit.

Issues

In his evidence to the PPC Mr Sandy Meiklejohn, (representing the Dundee and Tayside Chamber of Commerce and Industry) expanded on the concerns which had prompted the submission of the petition and suggested possible remedies. In giving evidence Mr Meiklejohn stated that the petitioners recognised that it might be unworkable if every planning application in the proximity of local authority boundaries were to be called in. He emphasised the need for criteria for “call-ins” to be laid down and also suggested as an “intermediate step” that Ministers might issue directions to authorities requiring them to carry out a regional impact assessment. It was his understanding that such an assessment could be done within existing legislation.

Response

In their response to the PPC the Executive point out that under section 46, Scottish Ministers can call in any planning application. They also highlight the fact that a 1997 direction requires authorities to notify Ministers in the case of an application for a retail development selling goods which are likely to be purchased to a significant extent by people living in a local authority area other than the one in which the development would be situated. There is no such requirement to notify for residential or business developments.

The Executive also point out that any development which could be regarded as a significant departure from the structure plan for the area must also be notified to Ministers.

In summary the Executive indicate that they believe that current arrangements are satisfactory and that the powers in section 46 enable Ministers to intervene in the determination of any planning application where they see fit.

Next Steps

There are a number of options available to the Committee in considering how to either conclude or take forward consideration of this petition. It should be noted that the possible options set out below are not exhaustive. They are also proposed taking into account the fact that the Committee has an agreed work programme that will take it into 2001.

Option A

The Committee could conclude consideration of the petition and draw the petitioners’ attention to the Official Report of the meeting if appropriate. A copy of the Executive’s response has already been issued to the petitioner by the PPC.
TRANSPORT AND THE ENVIRONMENT COMMITTEE

Option B

The Committee could write to the Scottish Executive and/or the Scottish Society of Directors of Planning and/or the Royal Town Planning Institute asking for their views on the specific suggestion that authorities be required to undertake a regional impact assessment, including whether they agree with the petitioners’ assessment that this could be done within existing legislation.

Option C

The Committee could send the petition and the Executive’s response for comment to the Scottish Society of Directors of Planning and/or the Royal Town Planning Institute.

The Committee can of course take any other competent action it deems appropriate.

Recommendation

The Committee is asked to consider and agree how it wishes to deal with the petition.

Shelagh McKinlay
Clerk to the Transport and the Environment Committee
November 2000
Introduction

This paper asks the Committee to consider for the first time PE204 from Dundee Anti Poverty Forum which asks the Scottish Parliament to consider alternative ways in which the necessary investment to upgrade the (water) service is met and also, that to reduce the burden on low income households, that Council Tax benefit should be extended to cover water an sewerage charges.

Background

The petition was considered by the Public Petitions Committee at its meeting on 23 May when the petition was referred to the Transport and the Environment Committee.

Next Steps

It is proposed that the Committee conclude consideration of the petition by writing to the petitioners to confirm that the Committee will shortly undertake an inquiry into water and water services and that this inquiry will address issues of investment and affordability of water charges.

Recommendation

The Committee is asked to consider and agree how it wishes to deal with the petition.

Shelagh McKinlay
Clerk to the Transport and the Environment Committee
November 2000
Petition PE249: Road transport anomalies with rebated fuel usage included

Introduction

1. This paper introduces the Committee to Petition PE249, invites Members to consider the current position and suggests options for conclusion or further consideration. The petition raises similar issues and is therefore grouped for discussion with PE65 from the National Farmers’ Union of Scotland. An earlier letter from the Petitioner (attached with petition) sets out in more detail what he considers the main issues that his petition seeks to address.

Background

2. At their meeting on 12 September 2000, the Public Petitions Committee agreed to pass the petition formally to the Transport and Environment Committee to be considered with PE65, from the National Farmers’ Union of Scotland on Road Haulage Taxation.

3. Whilst his original letter raises several issues, the Petitioner specifically calls for the Scottish Parliament “to seek resolve with the UK Parliament:—
   i. to call an immediate stop on any further increases by way of excise duty or tax on road diesel DERV (Diesel Engined Road Vehicles);

   ii. to legislate fully to prevent the illegal use of rebated (red) diesel by all types of tractors – agricultural, forestry or fast track type tractors;

   iii. to put in place legislation to ensure all tractors used on the public highway should be the subject of MOT testing on a yearly basis – as is the case with the vast majority of vehicles used on the public highway.”

Relevant Terms

4. “Red diesel” is gas oil, primarily used as a fuel for commercial heating systems and use off the public highway. It has been chemically marked and dyed red to show that it has borne a reduced (or rebated) rate of excise duty. It is not wholly exempt from duty. The current UK excise duty on red diesel is 3.13 pence per litre against 48.82 pence per litre for DERV.

5. Only those vehicles, which are specifically excluded from the legal definition of road vehicles (known as “excepted vehicles”), may use red diesel as fuel. An excepted vehicle is excepted if it is used only for purposes relating to agriculture, horticulture or forestry; is used on public roads only in passing between different areas of land occupied by the same person and; the distance it travels in passing between any two such areas does not exceed 1½ kilometres.

6. “Tractors” are classed as excepted vehicles if it is an agricultural tractor or an off-road tractor. “Agricultural tractor” is classed as a tractor used on public roads solely for purposes relating to agriculture, horticulture, forestry or cutting verges,
hedges or trees which border on a public road. An “off-road tractor” is classed as
designed, constructed primarily for use other than on roads, and incapable
because of its construction of exceeding a speed of twenty-five miles per hour on
the level under its own power.

**Remit and role of the Committee**

7. All of the matters involved in the petition and the relevant legislation are reserved
matters and outwith the competence of the Parliament. However, some of the
issues raised by the Petitioner in his accompanying letter are devolved. This mix
of reserved and devolved does not debar the Committee from discussing all the
issues raised.

**Issues**

8. The following attempts to analyse the major issues raised by each of the
Petitioners requests. The Committee has already noted, in initial consideration of
a similar petition (PE65) that the issues of Vehicle Excise Duty and Fuel Tax are
both reserved.

i. **to call an immediate stop on any further increases by way of excise duty
   or tax on road diesel DERV**;
   The UK Government has recently announced the intention to freeze duty
   in the next Budget:
   “the Government has decided to freeze duties on petrol, diesel,
   other road fuels, and non-road fuel oils (such as red diesel) in
cash terms in Budget 2001. This will lower taxes on petrol and
diesel in real terms by around 1 1/2 pence per litre”\(^1\). The covering
legislation is all reserved.

ii. **to legislate fully to prevent the illegal use of rebated (red) diesel by all
   types of tractors – agricultural, forestry or fast track tractors**;
   Under the current legislation\(^2\) (which is all reserved), it is not illegal to use
   red diesel in tractors. As shown by paragraphs 5 and 6 there are however
   limitations on the circumstances when it may be used. Annex A lists the
   offences relating to illegal use of red diesel together with the current
   powers of Customs and Excise Officers in enforcing this legislation.

iii. **to put in place legislation to ensure all tractors used on the public highway
   should be the subject of MOT testing on a yearly basis – as is the case
   with the vast majority of vehicles used on the public highway**
   The Vehicle Inspectorate Agency state that the purpose of the MOT test is
to ensure that cars, light goods vehicles, private buses and motorcycles
over a prescribed age are checked at least once a year to see they
comply with key roadworthiness and environmental standards. The MOT
test and work of the Vehicle Inspection Agency is reserved.

\(^1\) Pre-Budget Report: November 2000, HMT, paragraph 6.46
\(^2\) Hydrocarbon Oil Duties Act 1979, the Hydrocarbon Oil (payment of Rebates) Regulations 1996, the Customs and
Excise Management Act 1979 and Article 8.3(c) of EC Directive 92/81
TRANSPORT AND THE ENVIRONMENT COMMITTEE

9. The Petitioners earlier letter to the Public Petitions Committee, which resulted in petition PE249, highlights the concerns his petition seeks to address. They include:

- the current levels of Vehicle Excise Duty and Fuel Duty and the effect it is having on the road haulage industry;
- the manner in which enforcement work is allegedly carried out by Customs and Excise due, he asserts, to under-resourcing within Scotland;
- the alleged use of red diesel-fuelled tractors, operated without appropriate tax and safety measures, to illegally transport goods on public roads;
- the road worthiness and safety of any such illegally-operated tractors; and
- the alleged under-resourcing of police forces preventing suitable road side checks etc.

Options

10. To date, the Committee has not asked the Executive, or any other Government Departments for views on the issues raised in this petition.

11. There are a number of options available to the Committee in considering how to either conclude or take forward consideration of this petition. It should be noted that the possible options set out below are not exhaustive. They are also proposed taking into account the fact that the Committee has an agreed work programme that will take it into 2001.

12. Whatever option is chosen, it is recommended that the Clerk write to the Petitioner to inform them of those suggestions, which were not, in the view of the Committee, within the vires of the Scottish Parliament.

13. Options open to the Committee include:

Option A

14. The Committee could agree to conclude the petition by noting his comments and writing to the Petitioner.

Option B

15. The Committee could write to the Scottish Executive to ask for their views on the current provisions on enforcing proper use of red diesel, roadside checks by police and the suggested extension to the MOT.

Option C

16. The Committee could seek further information from the relevant Whitehall Departments on the issues raised by the Petitioner.

17. The Committee can of course take any other competent action it deems appropriate.
Recommendation

18. The Committee is asked to:

• agree that the clerk write to the Petitioner to inform them of those matters involved in the petition which the Committee consider to be outwith the competence of the Parliament; and

• decide the next steps in relation to its consideration of this petition.

Shelagh McKinlay
Clerk to the Transport and the Environment Committee
November 2000
Under the relevant legislation,\(^3\) it is an offence to:

- use oil other than DERV to fuel "road vehicles" (this includes using any oil on which the DERV rate of duty has not been paid);
- supply re diesel when you have reason to believe that they will be used to fuel "road vehicles";
- remove any designated chemical marker or dye from any oil;
- add any substance to oil to prevent the chemical marker from being identified;
- obstruct a Customs Officer from obtaining a sample of oil;
- mix any rebated or duty free oil with any oil on which no rebate has been allowed;

without a license from Customs and Excise.

Under the same legislation, Customs and Excise Officers may:

- examine any vehicle and any oil in or on it and to inspect, test or sample any oil in the fuel supply;
- require vehicle owners or anyone in charge of a vehicle to open or cause to be opened the fuel tank or other source of the fuel supply so that the fuel can be located and inspected, tested or sampled. If there is anything in the supply which might hinder this, it must be removed;
- require anyone in charge of a vehicle to produce any books or documents relating to the vehicle or to oil carried on it and which are carried by that person or on the vehicle;
- enter and inspect any premises (except private dwelling houses) and inspect, test and sample any oil on the premises, whether in a vehicle or elsewhere. In entering the premises, an officer may bring with him any vehicle used for carrying out official duties;
- require the occupier of premises or the person in charge of them to give facilities to inspect, test or sample oil on the premises or oil in the fuel supply of vehicles on the premises, irrespective of whether the oil or the vehicle belongs to that person or someone else;
- require anyone concerned with the sale, purchase or disposal of any oil to produce on demand any relevant books or documents.

\(^3\) ibid.