The Committee will meet at 10 am in Committee Room 1, to consider the following agenda items:

1. **Items in Private:** The Committee will consider whether to take items 5 and 6 in private.

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

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

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

   Petition 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.

   Petition PE227 by Alistair MacDonald calling for the Scottish Parliament to approve an investigation into the actions of the public agencies and National Trust for Scotland as architects of the current proposals and policies of Glencoe, in particular looking at public consultation and the future role of the National Trust of Scotland as a landowner.

   Petition PE238 by Mr James Mackie on behalf of Forth Fishery Conservation Trust calling for the Scottish Parliament to investigate a range of environmental issues relating to salmon and sea trout fishing stocks.

3. **Inquiry into the Management and Maintenance of Trunk Roads:** The Committee will consider a paper by the reporters on the next steps in the inquiry.
4. **Subordinate Legislation**: The Committee will consider the following negative instrument—

   The Smoke Control Areas (Exempt Fireplaces) Scotland Order 2001 (SSI 2001/16)

5. **Water Inquiry**: The Committee will consider evidence taken as part of the Committee’s inquiry into water and the water industry.

6. **Budget Process 2001-2002**: The Committee will consider the appointment of an adviser on the budget process.

7. **Future Work Programme (in private)**: The Committee will consider its future work programme.

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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 public papers are relevant for this meeting:

<table>
<thead>
<tr>
<th>Description</th>
<th>Agenda Item</th>
<th>Code</th>
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<tr>
<td>Covering note on Petition PE8 and PE187</td>
<td>Agenda item 2</td>
<td>TE/01/7/1</td>
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<tr>
<td>Covering note on Petition PE68</td>
<td>Agenda item 2</td>
<td>TE/01/7/2</td>
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<tr>
<td>Covering note on Petition PE227</td>
<td>Agenda item 2</td>
<td>TE/01/7/3</td>
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<tr>
<td>Covering note on Petition PE238</td>
<td>Agenda item 2</td>
<td>TE/01/7/4</td>
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<tr>
<td>Note from the Committee’s reporters on the next steps in the inquiry into</td>
<td>Agenda item 3</td>
<td>TE/01/7/5 Paper to follow</td>
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<td>the management and maintenance of trunk roads</td>
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<tr>
<td>Covering note on the Smoke Control Areas (Exempt Fireplaces) Scotland</td>
<td>Agenda item 4</td>
<td>TE/01/7/6</td>
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<td>Order 2001 (SSI 2001/16)</td>
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<td>The Smoke Control Areas (Exempt Fireplaces) Scotland Order 2001 (SSI</td>
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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:—
TRANSPORT AND THE ENVIRONMENT COMMITTEE

“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 Committee previously appointed former member of the Committee Helen Eadie as reporter on the petition. The Reporter tabled a report on the petition to the Committee’s meeting on 6 December 2000. At that meeting it was agreed that the Committee would postpone consideration of the petition until a future meeting to enable members to give proper consideration to the report. Since that meeting further correspondence on the petition has been received from the RSPB, namely a letter to the Convener and a response to the reporters findings. This correspondence is attached.

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;”
TRANSPORT AND THE ENVIRONMENT COMMITTEE

Progress of the Petitions

PE08
11. A table of action is shown below, (in reverse chronological order.)

<table>
<thead>
<tr>
<th>RURAL AFFAIRS COMMITTEE</th>
<th>TRANSPORT &amp; ENVIRONMENT COMMITTEE</th>
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<tbody>
<tr>
<td>14 September 2000</td>
<td>SHU issue response into A Study into the Raptor Predation of Domestic Pigeons</td>
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<tr>
<td>13 June 2000</td>
<td>Reporter circulates progress report.</td>
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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.
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<th>RURAL AFFAIRS COMMITTEE</th>
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<tr>
<td><strong>3 December 1999</strong></td>
<td>The Committee considered</td>
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<td>The Committee</td>
<td>SPICE Research Note RN 99/50</td>
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<td>considered</td>
<td>note the Petition and refer the</td>
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<td>SPICE Research Note</td>
<td>matter to the Scottish Executive</td>
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<tr>
<td>RN 99/50</td>
<td>for further consideration</td>
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<tr>
<td><strong>7 September 1999</strong></td>
<td>The Committee discussed PE08</td>
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<td>The Committee</td>
<td>and resolved to defer further</td>
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<td>discussed</td>
<td>consideration of this matter,</td>
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**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.
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 Committee’s current and likely future workload.

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:
TRANSPORT AND THE ENVIRONMENT COMMITTEE

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.

Option D

23. Given the length of time which the petition has been under consideration and the complexity of the issues raised, the Committee could agree to appoint a reporter to conduct a final overview and assessment of the evidence received to date with a brief to report back to the Committee by the end of May.

Recommendation

24. 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
February 2001
TRANSPORT AND THE ENVIRONMENT COMMITTEE

AGENDA ITEM
TE/01/7/2

Petition PE68: National Farmers’ Union of Scotland

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 the most recent response from the Department of the Environment, Transport and the Regions (DETR).

Rermit 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.

Background

Petition PE68 requests “that the Scottish Parliament should not apply the proposed Climate Change Levy (CCL) to the Scottish agricultural sector.” The Committee previously received information from the Executive and the DETR which set out the ways in which the CCL will apply to the agricultural sector, including where rebates were to be made available.

In particular, the DETR highlighted the fact that an 80 per cent rebate is to be offered to particular energy intensive sectors, in return for agreeing and meeting energy or emissions targets. For the purposes of the rebate scheme energy intensive sectors are being defined with reference to the Integrated Pollution and Prevention Control Directive. In relation to agriculture “intensive livestock units”, (essentially the pig and poultry sectors) come under the IPPC and will therefore be eligible for the rebate, if they negotiate an agreement.

The Petition was last considered by the Committee at its meeting on 6 December 2000 when members agreed to write to DETR seeking further clarification of the basis on which a decision was taken to limit eligibility for a rebate in relation to those sectors covered by the Integrated Pollution Prevention and Control Directive.

A response has now been received and is attached.

Next Steps

The Committee may wish to conclude consideration of the petition by drawing the attention of the petitioner to the relevant Official Reports and sending them a copy of the latest response from the DETR. Alternatively the Committee may 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
February 2001
Introduction

1. This paper relates to the following public petition:
   - Petition 227 by Alistair MacDonald calling for the Scottish Parliament to approve an investigation into the actions of the public agencies and National Trust for Scotland as architects of the current proposals and policies of Glencoe, in particular looking at public consultation and the future role of the National Trust of Scotland as a landowner.

Additional Information

2. The following material relating to Petition PE227 is attached with this covering note:
   - A copy of Petition PE227
   - Extracts from the Official Reports of meetings of the Public Petitions Committee (PPC) on 4 July 2000 and 24 October 2000
   - A note summarising points which were raised by MSPs on a site visit to Glencoe on 2 October 2000
   - A copy of the National Trust for Scotland’s response to the petition.
   - A copy of the petitioner’s response to the National Trust for Scotland’s response to the petition.
   - A copy of the Executive Summary of an Economic Impact Study on the proposed new National Trust for Scotland (NTS) Visitor Centre
   - A copy of a summary of NTS community consultation and decisions relating to the Visitor Centre proposals
   - A copy of a letter from the Forestry Commission regarding the consultation arrangements on the Woodland Grant Scheme applications
   - A copy of the chronology of Highland Council Planning Service’s involvement with the NTS Visitor Centre proposal

3. We have received a number of other miscellaneous pieces of information relating to this petition, which are available on request from the Clerk.

Background – Petition PE295

4. Petition PE227, which is signed by 230 people, calls for the Parliament “to approve a thorough investigation into—
TRANSPORT AND THE ENVIRONMENT COMMITTEE

(a) the actions of the public agencies and the National Trust for Scotland as architects of the current proposals and policies in Glencoe;
(b) the lack of meaningful public consultation throughout this case;
(c) the future role of the National Trust for Scotland as a major landowner in the Highlands and Islands.”

5. The petition raises concerns about the impact of two NTS developments in Glencoe: a Woodland Grant Scheme and a new Visitor Centre.

6. The petition was considered by the Public Petitions Committee (PPC) at its meeting on 4 July 2000, when the Committee agreed to visit Glencoe before reaching a view on the action to be taken on this petition. On 12 September, the Committee agreed to discuss the action to be taken in respect of the petition after the visit had taken place. The visit took place on 2 October 2000. John McAllion MSP and John Scott MSP attended from the PPC, and Fergus Ewing MSP and Jamie McGrigor MSP also participated in the visit. A note outlining the discussions during the visit is attached to this covering note.

7. On 24 October 2000, the minute of the PPC records that the Committee agreed “to pass the petition to the Transport and Environment Committee to seek its views (and those of other interested Committees) on whether it would conduct an inquiry into certain of the issues raised in the petition. The Committee also agreed to pass the petition to relevant Scottish Executive Ministers and departments for comment.”

8. At this stage the petition has not been formally referred to the Transport and the Environment Committee. The Committee is only being asked for its views on whether it wishes to conduct an inquiry into certain issues raised by the petition. Once the Committee’s views have been conveyed to the PPC, it will be for that Committee to decide what further action is taken on the petition. Should the Transport and the Environment Committee express an interest in inquiring into the issues raised by the petition, it is likely that the PPC will then formally refer the petition to the Committee.

Possible Scope Of An Inquiry By The Committee

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

10. Members may wish to be aware that a briefing note provided to members of the PPC after consultation with the Parliament’s Legal Team stated that “the NTS is a body corporate established under the National Trust for Scotland Order Confirmation Act 1938. The advice from the Legal Team is that the Parliament therefore has no remit to examine the operation of the NTS or its internal policies”.
11. Members may recall that the Committee has previously agreed not to take a view or recommend further action in respect of individual cases which have been subject to legal or court proceedings, industrial tribunals, or planning or other similar statutory procedures.

12. It would not, therefore, be appropriate for the Committee to comment on the specific planning decisions raised by the petitioner, or to investigate the specific matters set out in parts (a) and (b) of the petition. However, it would be open to the Committee to inquire into any broader issues relating to planning raised by the petition.

13. The third issue raised by the petition, the future role of the National Trust for Scotland as a major landowner in the Highlands and Islands, does not fall directly within the remit of the Transport and the Environment Committee, and might instead fall more directly within the remit of the Rural Development Committee. It would be possible for the Transport and the Environment Committee to inquire into issues such as the environmental policies of the NTS or the environmental impact of the activities of the NTS, but this might meet only a limited part of the petitioner’s request.

14. It would be open to the Committee to write to the Rural Development Committee to ask if that Committee wishes to inquire into the issues raised by the petition, and then pass on its response to the PPC, along with the response of the Transport and the Environment Committee. Indeed, the minute of the PPC meeting of 24 October 2000 makes reference to the Transport and the Environment Committee seeking the views of other interested Committees.

15. At the meeting of the PPC on 24 October 2000, the Convener, John McAllion MSP, stated that “it would be possible for the Parliament to conduct an inquiry into the economic and environmental impact of the particular developments referred to in the petition on Glencoe”. It would be open to the Transport and the Environment Committee to conduct an inquiry into the environmental effects of the Glencoe development, however, this might go beyond the particular requests and interests of the petitioner.

Response to the Public Petitions Committee

16. The Committee has been asked by the PPC whether it wishes to conduct an inquiry into issues raised by Petition PE227. The Committee is invited to agree a response to the PPC, and to consider whether to seek the views of the Rural Development Committee on whether it wants to conduct an inquiry, before responding to the PPC. If the Committee does wish to consult the Rural Development Committee it is suggested that the Clerk arranges for its response to be passed directly to the Clerk to the PPC rather than the petition coming back to the Transport and the Environment Committee.

Alastair Macfie
Assistant Clerk to the Transport and the Environment Committee
March 2001
Petition PE238: Mr James Mackie, Forth Fishery Conservation Trust

Note by the Clerk

Introduction

This paper asks the Committee to consider for the first time PE238 from Mr James Mackie, on behalf of the Forth Fishery Conservation Trust which asks the Scottish Parliament to investigate a range of environmental concerns regarding salmon and sea trout stocks.

Background

The petition was considered by the Public Petitions Committee at its meeting on 4 July 2000 when the petition was referred to the Transport and the Environment Committee. This referral was linked to the fact that the Committee was also considering PE 96, which related to the environmental impacts of sea cage fish farming activities. Members will recall that the Committee (together with the Rural Development Committee) has strongly recommended to the Executive that they establish an independent inquiry into the issues raised by PE 96.

The Petitioners request a number of specific actions including

- a ban on all net fishing other than for salmon and eels in the Upper Forth Estuary to protect juvenile, undersized fish and sea birds
- an investigation of unlicensed non-commercial netting of sea fish
- an investigation of the effects of shellfish fishing methods on migratory and marine fish stocks
- that the Committee ask the Rural Development Committee to set up a Seal Commission to investigate populations, and their impacts on fish stocks and set up mechanisms to keep stocks at an environmentally sustainable level
- an investigation into the effects of re-stocking programmes on migratory fish stocks and the powers of District Salmon Fishery Boards in this respect
- an investigation of the effect of land use and management practices on salmon stocks
- an investigation of the effects that discards and fish offal have on fish stocks in the Atlantic
- an investigation into the effect of marine organisms on fish stocks
- an investigation into the impacts of chemical releases and discharges on fish stocks.

The petitioner’s requests cover a wide range of issues. The Petitioner requests that these issues be linked with PE 96, however that petition related primarily to the practice of sea cage fish farming, and it’s effects on wild fish and the environment. The current Petitioner’s requests relate to a range of matters, including inshore shellfish fisheries, sea fisheries in general, freshwater fisheries, migratory species and other environmental and land use issues.
Some of these issues are the subject of the Common Fisheries Policy, which is currently being reviewed by the European Union. The Committee may wish to note that the Scottish Executive are currently conducting a review of freshwater fisheries.

Next Steps

The Committee should consider whether it has sufficient information on which to take a view on the petitioner’s request. Given the range of issues raised by the Petitioner, and the technical scientific information needed to make a judgement on the issues, the Committee may wish to ask the Executive to provide a briefing note.

Recommendation

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

Tracey Hawe
Senior Assistant Clerk to the Transport and the Environment Committee
February 2001
REPORTERS PAPER ON INQUIRY INTO THE MANAGEMENT AND MAINTENANCE OF TRUNK ROADS IN SCOTLAND

Introduction

At its meeting on 24 January the Committee agreed to hold an inquiry into the arrangements for the future management and maintenance of trunk roads in Scotland. The Committee also agreed to appoint Bruce Crawford, Andy Kerr, Bristow Muldoon and Murray Tosh as reporters to undertake preparatory work on the inquiry. The reporters have now met and agreed the proposals set out in this paper to take the inquiry forward.

Terms of Reference

The proposed terms of reference for the Committee’s inquiry is set out below:

The Committee will examine the arrangements for the provision of the management and maintenance of trunk roads in Scotland including:

- the provision of the current service by local authorities;
- the way in which the consultation on changes to the current system was managed (from publication of “The Road Ahead” to the present);
- the management of the tendering and assessment process; and
- whether the proposed new arrangements to take effect from April will deliver Best Value for the wider Scottish community.

Members are asked to comment on the proposed terms of reference.

Arrangements for the Inquiry

The reporters have also discussed and agreed a proposed structure for the inquiry including, the timing of the inquiry (which has been discussed taking into account the Committee’s other work commitments) and the stakeholder groups from which witnesses are to be drawn.

These proposals are set out at Annex A.

Adviser to the Inquiry

Members are asked to consider whether it would be beneficial to appoint an adviser or advisers to the inquiry.
Examination by the Auditor General for Scotland

Members will be aware that following this Committee’s decision to hold an inquiry, the Auditor General for Scotland has confirmed that Audit Scotland are to conduct an examination, or “value for money” study into the issue.

Next steps

It is proposed that a further paper on the arrangements for the inquiry be brought to the next meeting of the Committee to be held on Wednesday 21 March. At this meeting members will be asked to agree the witnesses to be invited to give evidence and to decide what written evidence will be sought. If the appointment of an adviser is to be pursued members may also be asked to consider a specification for the post.

It is proposed that this session be held in private in line with previous practice for dealing with the identification of specific witnesses and adviser specifications. However, the formal decisions of the Committee taken in this session will be made public.

Reporters

It is envisaged that the reporters may be required to undertake further tasks in relation to the inquiry, perhaps investigation of certain issues in conjunction with the adviser or in relation to liaison with key stakeholders. Reporters will ensure that the Committee is kept advised of their intentions in this regard.

Recommendations

Members are asked to:

- consider and agree terms of reference for the inquiry;
- consider and agree the proposed arrangements for the inquiry as set out at Annex A;
- submit to the clerks by Wednesday 14 March proposals for specific witnesses to be invited to give evidence in order that they can be discussed at the Committee’s meeting on 21 March;
- agree in principle whether to appoint an adviser, or advisers;
- note that the AGS and Audit Scotland are to conduct a “value for money” study into the issue;
- note the proposed continuing role for the reporters in relation to the inquiry; and
- agree to consider a further paper on arrangements for the inquiry in private at the meeting on 21 March.

Shelagh McKinlay Clerk to the Committee
March 2001

ANNEX A

Proposed structure and arrangements for the inquiry
The Committee may wish to consider the appointment of a special technical adviser to and an independent lawyer specialising in the procurement field.

It is proposed that up to 6 witness sessions be held. The Committee may wish to take evidence if possible from the Auditor General for Scotland following the publication of his report.

The Parliamentary summer recess will be used to prepare the Report of the findings ready for presentation to Parliament in September/October.

Oral evidence sessions:

| Session 1 | Representatives of the Scottish Executive to give evidence on the background to the inquiry; from “The Road Ahead” to the award of the contracts. 
|           | The successful tenderers to give evidence on their understanding and experience of the process and their bids |
| Session 2 | Local Authority Consortia and unsuccessful private tenderers to give evidence on their understanding of the process and their bids. |
| Session 3 | Professional Experts: both independent and those who have been involved in the process |
| Session 4 | Trade Union Representatives and Representatives of Other Interested Groups: local organisations/individuals to give evidence on the possible effects on service delivery, safety, employment issues etc. |
| Session 5 | The Scottish Executive and/or AGS (dependent on the timing of the publication of the Audit Scotland report) |
| Session 6 | The Scottish Executive and/or AGS (dependent on the timing of the publication of the Audit Scotland report) |
1. The Smoke Control Areas (Exempt Fireplaces) Scotland Order 2001 (SSI 2001/16) was laid on 4 January 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 Order.

2. The order was laid under a "negative procedure" which means that the Parliament has power to annul the order by resolution within 40 days, excluding recess. The time limit for Parliamentary action expires on 10 February 2001.

3. Members have previously been informed of an administrative error which has delayed the Committee’s consideration of the instrument. This means that by the date of the Committee meeting it will be too late for an MSP to lodge a motion to propose to the lead committee that the order be annulled.

4. The Order exempts the classes of fireplace listed in the Schedule to the Order from the provisions of section 20 of the Clean Air Act 1993. The Order will allow manufacturers to place these particular fireplaces on the market for use in smoke control areas.

5. The Subordinate Legislation Committee considered this instrument at its 4th meeting on 30 January 2001. The Committee agreed that no points arose on the instrument. The Committee’s 6th Report (SL/01/6R) indicated that the attention of the Parliament need not be drawn to the instrument.

Alastair Macfie
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Transport and Environment Committee
March 2001