TRANSPORT AND THE ENVIRONMENT COMMITTEE

AGENDA

22nd Meeting, 2001 (Session 1)

Wednesday 19 September 2001

The Committee will meet at 10.00 am in the Hub, Castlehill, Edinburgh, to consider the following agenda items:

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

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

   The Town and Country Planning (General Development Procedure) (Scotland) Amendment Order 2001, (SSI 2001/245)

   The Town and Country Planning (General Permitted Development) (Scotland) Amendment (No.2) Order 2001, (SSI 2001/266)

3. **Petition PE96 on Sea Cage Fish Farming**: The Committee will consider a paper setting out options for the Committee’s further consideration of the petition.

4. **2002-03 Budget Process**: The Committee will consider its approach to Stage 2 of the 2002-03 Budget Process.

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

<table>
<thead>
<tr>
<th>Title</th>
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<tbody>
<tr>
<td>Covering note on SSI 2001/245 and SSI 2001/266</td>
<td>TE/01/22/1</td>
</tr>
<tr>
<td>The Town and Country Planning (General Development Procedure) (Scotland) Amendment Order 2001, (SSI 2001/245) (Previously circulated)</td>
<td>TE/01/22/2</td>
</tr>
<tr>
<td>The Town and Country Planning (General Permitted Development) (Scotland) Amendment (No.2) Order 2001, (SSI 2001/266) (Previously circulated)</td>
<td>TE/01/22/3</td>
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<tr>
<td>Paper by the Clerk on Petition PE 96 on Sea Cage Fish Farming (To follow)</td>
<td>TE/01/22/4</td>
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</tbody>
</table>

Please note that the following documents are also relevant to this meeting, and have been previously circulated to members:

- Letter from the Convener to the Minister for Environment in response to the Scottish Executive’s consultation on planning and telecommunications – February 2001
- Scottish Parliament Information Centre Research Note 01/74 on Legislative Proposals for Telecommunications Developments
- Planning Advice Note 62 on Radio Telecommunications from the Scottish Executive
- National Planning Policy Guideline on Radio Telecommunications
- Scottish Executive Development Department Circular 5/2001
Subject: The Town and Country Planning (General Development Procedure) (Scotland) Amendment Order 2001, (SSI 2001/245); The Town and Country Planning (General Permitted Development) (Scotland) Amendment (No.2) Order 2001, (SSI 2001/266)

Meeting No: 22nd Meeting, 2001

Meeting Date: 19 September 2001

Author: Note by the Assistant Clerk

Introduction – SSI 2001/245


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 3 October 2001.

3. Any MSP may lodge a motion to propose to the lead committee that the order be annulled. The Committee is required to report on the instrument by 24 September 2001. This means that the Committee meeting of 19 September 2001 is the last scheduled opportunity for a motion for annulment to be considered by the Committee. Should a motion for annulment be lodged, under Rule 10.4, the Transport and the Environment Committee must debate the issue and then report to the Parliament with its decision.

4. Further details about the procedure during a Committee meeting for handling a motion for annulment is set out at Paragraphs 13 to 22 of this note.

5. The instrument is accompanied by an Executive note, a Regulatory Impact Assessment, and a letter to the Presiding Officer explaining the reasons for the breach of the “21 day” rule in the laying of the instrument.

Introduction – SSI 2001/266

6. The Town and Country Planning (General Permitted Development) (Scotland) Amendment (No.2) Order 2001, (SSI 2001/266) was laid on 20 July 2001.

7. This instrument was also laid under a negative procedure, and the time limit for Parliamentary action expires on 22 October 2001. The Committee is required to report on the instrument by 1 October 2001.
8. The instrument is accompanied by an Executive note, a Regulatory Impact Assessment, and a letter to the Presiding Officer explaining the reasons for the breach of the “21 day” rule in the laying of the instrument.

**Details of the instruments**

9. **SSI 2001/245** amends the Town and Country Planning (General Development Procedure) (Scotland) Order 1992, (SI 1992/224) by requiring that applications for planning permission, involving employment of an antenna in a telecommunications system, are accompanied by a declaration that the development complies with public exposure guidelines.

10. **SSI 2001/266** effectively replaces SSI 2001/244 which has been revoked. The provisions of the previous Order are reintroduced in SSI 2001/266 other than one correction within Article 2(2) and there is the introduction at Article 3(2) of transitional arrangements to ensure consistent application of the Order. The original order SSI 2001/244 restricts the range of development permitted under classes 67 and 68 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (SI 1992/223) without express planning permission being granted. The Order provides for circumstances where development is not permitted and specifies restrictions on structures on buildings. The Order also specifies the circumstances in which radio equipment housing is permitted.

11. SPICe Research Note RN 01/74 contains further information on the Executive’s proposals as set out in the two instruments. It was circulated for the last meeting of the Committee.

**Subordinate Legislation Committee’s role**

12. The Subordinate Legislation Committee considered the instruments on 4 September 2001, and agreed to seek further information from the Executive on the instruments. The Committee subsequently considered the Executive’s response on 11 September. In relation to SSI 2001/245, the Subordinate Legislation Committee drew the instrument to the attention of the Parliament and lead committee on the grounds that it required further explanation on various points, for which the Department has supplied explanation. In relation to SSI 2001/266, the Subordinate Legislation Committee on one point drew the instrument to the attention of the Parliament and the lead committee on the grounds that the powers of the Executive to make the instrument required further explanation, supplied by the Executive. On two other points, the Subordinate Legislation Committee considered that the Order was defectively drafted. The relevant extract from the Subordinate Legislation Committee Report is attached as an Annex to this note.

**Motions for Annulment - Procedure**

13. The procedure in the event of a motion for annulment being lodged is set out in Standing Orders Rule 10.4. *This procedure is described in Paragraphs 14 to 22 below and will only apply if in the event that such a motion is lodged.*
14. The motion for annulment is likely to take the following form of words: “That the Transport and the Environment Committee recommends that nothing further be done under the Town and Country Planning (General Development Procedure) (Scotland) Amendment Order 2001, (SSI 2001/245)”. A member need not be a member of the Transport and the Environment Committee in order to lodge a motion for annulment.

15. In the event of a motion for annulment being lodged, the member lodging the motion would be invited to speak to the motion and then formally move it. A debate of up to 90 minutes is permitted on the motion (Rule 10.4.2). The member of the Scottish Executive or junior Scottish Minister in charge of the instrument, plus the member lodging the motion for annulment, are entitled to attend the Committee meeting and participate in the meeting for the purpose of debating the motion. However, only members of the Committee can vote on the motion.

16. It is good practice for members intending to lodge a motion for annulment to do so as soon as possible, in order to make other members and the relevant Minister aware of the forthcoming debate at the Committee meeting.

17. The Transport and the Environment Committee has adopted the practice of holding an informal session before the formal debate on affirmative instruments to raise technical points of clarification or other questions. This practice was also adopted on the previous occasion that the Committee considered a motion for annulment. It allows the Minister’s officials to participate in the informal discussion before the formal debate, which they cannot participate in.

18. During the formal debate, after the member who has lodged the motion for annulment has spoken and formally moved the motion, the Minister is invited to respond, followed by other members of the Committee. Members may address questions directly to the Minister, but should do so on a member to member basis, not as members questioning a witness. The debate can last a maximum of 90 minutes.

19. After other speakers have contributed, the Minister will be given an opportunity to respond to points raised in the debate, and then the mover of the motion can make any concluding remarks.

20. The mover of the motion will then be asked whether he or she wishes to withdraw the motion, or press it to a decision. If the member wishes to withdraw the motion, the Committee will be asked if any member objects. If any member of the Committee objects, the question on the motion must be put.

21. If the question is put to the Committee (either by the mover of the motion or another member), and the motion is agreed to, the Committee has recommended annulment and the Bureau must then lodge a motion for the whole Parliament to consider under Rule 10.4.4. The Committee is still required to report on the instrument.
22. If the question on the motion is put to the Committee and is *disagreed to*, the Committee has decided not to recommend annulment. Although this means there will be no debate in the Chamber, the Committee must still report to the Parliament on the instrument.

23. The Committee’s report on the instrument to the Parliament might usually involve recording the results of the Committee’s debate on the motion.

**Recommendation**

24. The Committee is invited to report to the Parliament on both instruments. If a motion for annulment has been lodged, the procedure set out at Paragraphs 13 to 22 will apply.

Alastair Macfie  
Assistant Clerk to the Transport and the Environment Committee  
September 2001
ANNEX:
Extract from 31th Report 2001 of the Subordinate Legislation Committee

The Town and Country Planning (General Development Procedure) (Scotland) Amendment Order 2001, (SSI 2001/245)

The Committee referred three points to the Executive for comment.

On the first point, the Committee noted that the instrument makes provision for the application of planning controls to mobile telephone masts. With respect to section C10 of Schedule 5 to the Scotland Act 1998, the Executive was asked for explanation as to how the instrument is within the devolved competence of the Scottish Ministers.

The Scottish Executive Development Department’s reply, reproduced at Appendix F, referred to its response on SSI 2001/266. The question of whether or not this instrument is within the devolved competence of the Scottish Ministers will depend on what is considered to be the purpose of that instrument having regard to the test set out in section 29(3) of the Scotland Act 1998, as read with section 54 of that Act. The reservation in Section C10 reserves amongst other things, “telecommunications”.

The Executive considers that the purpose of the provision made by this instrument, having regard, amongst other things, to its effect in all the circumstances, is the purpose of land use planning. It is therefore considered that the power exercised in making this instrument is one that is within devolved competence.

In this instance the Committee accepts the Executive’s explanation of the legal position. Although the legal position is not entirely beyond doubt in this instance that the balance does seem to tilt towards planning, which is devolved, rather than telecommunications, which is not. The Committee therefore considers that the Department's arguments are therefore tenable.

Secondly, the Committee asked for further explanation of the Executive’s breach of the 21-day rule in this instance. The Department takes the view that it is important that legislative requirements relating to declarations of compliance with ICNIRP public exposures guidelines are introduced as soon as possible and at the same time for both planning applications and permitted development involving antennas. SSI 245/2001, dealing with declarations for planning applications, was therefore laid as soon as SSI 244/2001 (subsequently replaced by SSI 266/2001), that covered permitted development was ready.

The Committee considers that the response supplies sufficient additional reasons for the breach of the 21-day rule.

Thirdly, given that this is the fifth amendment of the principal Order, the Committee wished to know if the Executive has any proposals for consolidation.

The Department responded that it will consolidate the Town and Country Planning (General Development Procedure)(Scotland) Order at the earliest opportunity.
However, its priority is to consolidate the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, which has had at least twice as many amendments.

The response from the Department is helpful. The Committee fully appreciates the reason given.

The Committee therefore draws the instrument to the attention of the Parliament and lead committee on the grounds that it required further explanation on the points above, for which the Department has supplied explanation.


On 4 September 2001 the Committee asked:

The Committee notes that this instrument makes provision for the application of planning controls to mobile telephone masts. With respect to section C10 of Schedule 5 to the Scotland Act 1998, the Executive is asked for explanation as to how the instrument is within the devolved competence of the Scottish Ministers.

The Committees asks for further explanation of the Executive’s breach of the 21-day rule in this instance.

Given that this is the fifth amendment of the principal Order, the Committee asks if the Executive has any proposals for consolidation.

The Development Department responds as follows:

A similar question was raised regarding S.S.I. 2001/266 to which the department responded as follows:

As the Committee will be aware, the question of whether or not this instrument is within the devolved competence of the Scottish Ministers will depend on what is considered to be the purpose of that instrument having regard to the test set out in section 29(3) of the Scotland Act 1998 (as read with section 54 of that Act). The Committee makes reference to the reservation in Section C10. It reserves, amongst other things, “telecommunications”. It is assumed that the Committee are questioning whether this instrument relates to that reserved matter.

However it is considered by the Executive that the purpose of the provision made by this instrument, having regard (among other things) to its effect in all the circumstances, is the purpose of land use planning. It is therefore considered that the power exercised in making this instrument is one, which is within devolved competence.

The Executive took the view that it was important that legislative requirements relating to declarations of compliance with ICNIRP public exposures guidelines were
introduced as soon as possible and at the same time for both planning applications and permitted development involving antennas. Scottish Statutory Instrument 245/2001, dealing with declarations for planning applications, was therefore laid as soon as SSI 244/2001 (subsequently replaced by SSI 266/2001) which covered permitted development, was ready.

The Executive will consolidate the Town and Country Planning (General Development Procedure) (Scotland) Order at the earliest opportunity. However, its priority is to consolidate the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, which has had at least twice as many amendments.

John Gunstone
Date 6 September
for Scottish Executive Development Department

The Town and Country Planning (General Permitted Development) (Scotland) Amendment (No 2) Order 2001, (SSI 2001/266)

The Committee raised three points on the instrument, which replaced SSI 2001/244 that had been found to contain serious defects.

Firstly, the Committee noted that the instrument made provision for the application of planning controls to mobile telephone masts. The Committee asked with respect to the reservation of “telecommunications” in section C10 of Schedule 5 to the Scotland Act 1998, for explanation as to how the instrument is within the devolved competence of the Scottish Ministers.

In its reply, reproduced at Appendix L, the Development Department reiterated its response to the similar question asked by the Committee in relation to SSI 2001/245. The Department considers that the purpose of the provision made by this instrument, having regard, amongst other things, to its effect in all the circumstances, is the purpose of land use planning. It is therefore considered that the power exercised in making this instrument is within devolved competence.

The Committee accepts the Department's statement of the legal position for the reasons given above. The Committee therefore draws the instrument to the attention of the Parliament and the lead committee on the grounds that the powers of the Executive to make the instrument required further explanation, supplied by the Executive.

Secondly, the new definition of “category A listed building” inserted in the 1992 Order by article 2(1)(c)(i) of this instrument defined the relevant building as being category A listed “as at the date of the coming into force of this Order”, which in this context is the 1992 Order. The Committee asked the Executive for clarification of the intended date of that provision coming into force, given that, as drafted, the relevant date appeared to be the date of coming into force of the 1992 Order not the present Order.
In its reply, the Department accepts that, in the definition of “category A listed building” inserted by amendment to the 1992 Order, as contained in article 2(1)(c)(i) of the Order, reference is made to the relevant building as being category A listed “as at the date of the coming into force of this Order”. It is intended that the date of coming into force of this amendment should be 23 July 2001. This interpretation would not appear, to the Department, to be in doubt in the context of both the enabling provisions and also article 1(2) of the above Order. Nevertheless, the Department notes it and, at the first opportunity, an amendment will be made to clarify the position.

The Committee considers that the Department's confidence is misplaced. As it stands, the date specified in the Order is the date of the coming into force of the 1992 Order. The result of such an interpretation would not necessarily lead to absurdity as listing of buildings appears to pre-date 1997 and it is therefore possible that there is a list of buildings that would meet the description in the instrument. Nor, in the Committee's view, would such an interpretation be liable to criticism on the grounds of retrospection as there is no attempt to apply the new controls to such buildings prior to the date of coming into force of the current Order. The reference to the date of the Order simply describes the affected buildings.

As it stands, therefore, it would appear that the intention of the Department has not been achieved and the instrument is therefore defectively drafted in this respect. The Committee therefore draws the attention of the Parliament and lead committee on the grounds that the Order is defectively drafted in this respect.

Thirdly, the new definition of “historic garden or designed landscape”, inserted into the principal Order by article 2(1)(c)(iii) refers to “a garden or landscape identified in the Inventory of Gardens and Designed Landscapes in Scotland”. The Committee asked the Executive why no reference for this publication is provided either in a footnote or in the Explanatory Note nor any indication of where a copy may be obtained.

The Department noted that, with reference to the new definition of “historic garden or designed landscape”, inserted into the 1992 Order by article 2(1)(c)(iii) no mention has been included either in a footnote or the Explanatory Note of details of the publication or where a copy of the publication can be obtained. The Department accepts that this is an omission. A copy of the publication can be obtained from Scottish Natural Heritage, Battleby, Redgorton, Perth PH1 3EW. The Department undertakes to contact HMSO to have an appropriate reference included when the instrument appears in the annual volume.

The Committee notes that the Department has supplied the necessary information but, as the Executive has tacitly acknowledged, failure to include an appropriate reference in the instrument itself either by way of a footnote or in the Explanatory Note constitutes defective drafting. Nevertheless, the proposal to include an appropriate reference in the Annual Volume is welcomed. The Committee therefore draws the attention of the Parliament and Executive to the instrument on the grounds that the Order is defectively drafted in the above respect.
THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (SCOTLAND) AMENDMENT (No 2) ORDER 2001, SSI 2001/266

On 4 September the Committee-

(1) noted that this instrument made provision for the application of planning controls to mobile telephone masts. They asked with respect to section C10 of Schedule 5 to the Scotland Act 1998, for explanation as to how the instrument is within the devolved competence of the Scottish Ministers.

(2) noted that the new definition of “category A listed building” inserted in the 1992 Order by article 2(1)(c)(i) of this instrument defined the relevant building as being category A listed “as at the date of the coming into force of this Order”, which in this context is the 1992 Order. and asked the Executive for clarification of the intended date of that provision coming into force.

(3) noted that the new definition of “historic garden or designed landscape”, inserted into the principal Order by article 2(1)(c)(iii) referred to “a garden or landscape identified in the Inventory of Gardens and Designed Landscapes in Scotland”. And asked the Executive why no reference for this publication is provided either in a footnote or in the Explanatory Note nor any indication of where a copy may be obtained.

The Development Department responds as follows:

(1) As the Committee will be aware, the question of whether or not this instrument is within the devolved competence of the Scottish Ministers will depend on what is considered to be the purpose of that instrument having regard to the test set out in section 29(3) of the Scotland Act 1998 (as read with section 54 of that Act). The Committee makes reference to the reservation in Section C10. It reserves, amongst other things, “telecommunications”. It is assumed that the Committee are questioning whether this instrument relates to that reserved matter.

However it is considered by the Executive that the purpose of the provision made by this instrument, having regard (among other things) to its effect in all the circumstances, is the purpose of land use planning. It is therefore considered that the power exercised in making this instrument is one which is within devolved competence.

(2) In response to question 2 it is accepted that in the definition of “category A listed building” inserted by amendment to the 1992 Order as contained in Article 2(1)(c)(i) of the Order reference is made to the relevant building as being category A listed “as at the date of the coming into force of this Order”. It is intended that the date of coming into force of this amendment should be 23 July 2001. This interpretation would not appear to be in doubt in the context of both the enabling provisions and also article 1(2) of the above Order. Nevertheless it is noted and at the first opportunity an appropriate amendment will be made to clarify the position.
(3) In answer to question 3 it is noted that with reference to the new definition of “historic garden or designed landscape” which has been inserted into the 1992 Order by article 2(1)(c)(iii) no mention has been included either in a footnote or the Explanatory Note to details of the publication or where a copy of the publication can be obtained. It is accepted that this is an omission. A copy of the publication can be obtained at Scottish Natural Heritage, Battleby, Redgorton, Perth PH1 3EW. HMSO will be contacted to have an appropriate reference included when the instrument appears in the annual volume.

John Gunstone
for Scottish Executive Development Department
Date 6 September 2001
Subject: Petition 96 – Petition by Mr Allan Berry calling for an independent investigation into the environmental impacts of sea cage fish farming.

Meeting No: 22nd Meeting

Meeting Date: 19 September 2001

Author: Note by the Senior Assistant Clerk

BACKGROUND

The Committee last considered this matter at its meeting of 5 September. At this meeting the Committee considered a paper from the reporters along with a paper outlining options for further consideration of this issue.

The Committee agreed to give further consideration to the petition and further agreed that there would be merit in an approach which involved:

(a) instituting a ‘rolling’ or ‘staged’ inquiry where issues would be examined on an ongoing basis in order to link in with work being taken forward by other bodies such as the Aquaculture Forum and the Executive;

(b) the appointment of a research co-ordinator with a scientific background to take an overview of the Executive’s research and other work, including identifying any gaps in the research programme;

(c) synchronising the timing of the Committee’s work with the introduction of the Executive’s proposed Water Environment Bill; and

(d) continuing the appointment of Committee reporters on the petition.

The Committee agreed to consider, at an early opportunity, a paper setting out in more detail how such an approach would be achieved in practice. The purpose of this paper is to set out options for achieving the aims of the Committee as outlined above.

CONTINUED APPOINTMENT OF REPORTERS

Reporters have met with a number of interested groups over the summer months, and have built up a degree of expertise in this subject matter. The Committee has indicated an interest in continuing the appointment of reporters on this issue. Reporters could undertake liaison with Executive agencies who have responsibility for these issues and external groups with an interest in the matter.
Reporters, together with clerking support staff and/or advisers, could then act in a co-ordinating manner, keeping track of progress and bringing together the information gathered from Executive and external groups, which would assist in bringing more focus to the work of the Committee. Using reporters to assist in the preparatory work of the Committee would also allow the formal meeting slots of the Committee to be used for other work such as legislative commitments. This would ensure that time devoted to any inquiry was carefully focussed on the central issues.

Reporters could also work with the clerks and SPICE to further the appointment of a research co-ordinator. In the short term, reporters have expressed an interest in meeting with officials at SEPA, the Organic Salmon farming unit in Orkney, staff of the FRS Marine Laboratory at Dunstaffnage and representatives of the Scottish Shellfish Growers Association.

The Committee is asked to approve these visits in order for CLG permission to be sought for necessary travel costs.

**A ‘ROLLING’ INQUIRY**

The Executive is currently undertaking consultation on the implementation of the water framework directive and it is expected that there will be further consultation on more detailed legislative proposals towards the end of this year, with the Water Environment and Water Services Bill eventually being introduced in the first half of 2002. The Executive has also recently conducted a review of regulatory measures in fish farming and the results of this consultation should be available in October. Proposed legislative changes arising from this review are likely to be contained within the Water Environment and Water Services Bill.

The scrutiny of the Water Industry Bill (with the T&E Committee as lead committee) will impose significant timing and resource constraints. Accordingly, the Committee agreed that there would be merit in conducting a rolling inquiry on issues raised by PE 96. In effect, this would mean that evidence taking would take place on a periodic basis (as time allows) in the period prior to the introduction of the Water Environment and Water Services Bill.

In light of this phased approach, it is suggested that a thematic approach to the inquiry would be the best course of action. This approach would allow the Committee to scrutinise broad ‘stand alone’ areas and report on them (with recommendations to the Executive) following each period of evidence taking.

**Remit**

The aim of a ‘rolling’ inquiry would be to ensure that work by the Executive and other relevant bodies in developing a sustainable aquaculture industry is subject to public scrutiny and that the process of policy development and review is open, transparent and responsive to the views of relevant stakeholders.

The following draft remit for the inquiry is therefore proposed:
“The Committee will monitor and review on an ongoing basis the work of the Scottish Executive and other relevant bodies in relation to aquaculture, by scrutinising the review of the current regulatory framework and reviewing the development of a strategy for aquaculture. In doing so, the Committee intends to review:

• locational guidelines for sea cage fish farming
• voluntary codes of practice and area management agreements
• The proposed transfer of planning controls for fish farming to local authorities
• The extent to which current regulatory systems can be harmonised and made more effective
• The extent to which the current research programme recognises and addresses the needs of both industry and environment groups
• The extent to which the proposed strategy for aquaculture addresses the concerns of both industry and environmental groups and the extent to which it provides incentives to encourage best environmental practices”.

Once a remit is agreed it is proposed that a call for written evidence be published.

**Phased approach**

The remit above appears to fall into two broad themes – (1) regulatory aspects covering the first four bullet points and (2) strategic environmental aspects covering the last two issues. It is suggested that the inquiry would fall into three sections:

• the first phase (examining regulatory aspects) would take place at the end of Stage 1 of the Water Industry Bill on the back of the Executive’s consultation on regulatory measures in the industry;
• the second phase would occur following the conclusion of Stage 2 of the Water Industry Bill and would build upon the Executive’s consultation exercise on the implementation of the water framework directive and the draft strategy for aquaculture being developed by the Executive;
• the third phase would be incorporated as part of Stage 1 of the Water Environment and Water Services Bill and would allow the Committee to follow up on issues which had been raised in the first two phases of the inquiry.

It may be helpful to set out how a timetable for this type of inquiry might work in practice:

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<td>Late Sept</td>
<td>Introduction</td>
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<td></td>
<td>Agree Remit</td>
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<td>Call for written evidence</td>
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<td>Early Oct</td>
<td>SPICe Briefing on Bill</td>
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<td></td>
<td>Reporters Work</td>
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<td>Appoint adviser</td>
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<td>Late Oct</td>
<td>Stage 1</td>
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<td>Review written evidence</td>
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<td>Receive SPICe briefings</td>
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<tr>
<td>Late Nov</td>
<td>Stage 1 Report</td>
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<td>Early Dec</td>
<td>Stage 1 Debate</td>
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<td>Oral Evidence – regulatory aspects</td>
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Late December  | Stage 2  |
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<td>Early Jan</td>
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| Late Jan       | Stage 2 | SPICe Briefings
|                |         | Review written evidence |
| Early Feb      |         | Oral Evidence – Water Framework and Strategy |
| Late Feb       | Stage 3 | Draft Report on Water Framework and Strategy |
| Early Mar      |         | Likely Introduction of Water Environment Bill |
| Late Mar       |         | |
| April          |         | |
| May/June       |         | Stage 1 WEB |

Members may wish to note that this proposed timetable takes maximum advantage of any gaps in the Committee legislative programme. However, it is inevitable that some degree of overlap will occur will between inquiry and legislative work, meaning that the resources of clerking staff will be fully occupied. If this programme is adopted, it is unlikely that the Committee can undertake any significant work on other issues of interest to it.

THE APPOINTMENT OF A RESEARCH CO-ORDINATOR

The Committee has indicated an interest in the appointment of a research co-ordinator. It has been suggested that the role of any co-ordinator would be to

- Draw together the available science, both governmental and industry sponsored, and national and international;
- Identify any gaps in the SEERAD research programme;
- Ensure sufficient emphasis is placed on environmentally based research; and
- Work with the Committee and the Executive to ensure that the Water Environment Bill proposals and development of an aquaculture strategy are based on the best available scientific information

It should be emphasised that this individual’s role would not be to undertake additional specific research projects, but to take a strategic view of the Executive’s research programme as a whole and to make recommendations regarding current research projects and future research commissions.

Members expressed the view that any appointee should come from a scientific background and should take on an independent role. At the meeting on 5 September members suggested a number of options for such a post including the appointment of a co-ordinator by the Executive or the appointment of an adviser by the Committee.

In considering the way forward it will be necessary to identify the timeframe for this individual’s work. For example, it is perhaps unlikely that the appointment of a co-ordinator by the Executive (if they concur with this suggestion) could be achieved quickly enough to contribute to the Committee’s inquiry prior to the first evidence
taking sessions. Equally, if it is envisaged that the individual will have a relatively long term role (a year or more) in co-ordinating a national research effort, then the appointment of an adviser by the Committee may not be the best route.

Possible methods of appointment for such a person are explored in more detail below:

**Research Co-ordinator Appointed by the Executive**

It has been proposed that the Committee approach the Executive suggesting that they appoint a research co-ordinator. Such a role could provide a useful link between the Executive, scientists, external agencies and the Committee. There are advantages in accessing the Executive’s considerable resources to take the appointment forward.

However, members may wish to consider whether a co-ordinator appointed by the Executive would be sufficiently independent to gain the confidence of external stakeholders and whether such an appointment would create a potential conflict in using Executive resources to scrutinise Executive policy.

Members’ views on the duration of such a post would be welcome. It could be that the individual would be appointed on a relatively short-term contract to conduct a quick review – alternatively there might be benefits in having the person in place for a longer period. This would enable the postholder to contribute to both the development and the implementation of the aquaculture strategy over the longer term.

In any event, it would appear likely that some form of competition would be required in making the appointment and it could therefore, particularly if an external candidate with other commitments was identified, be some months before the appointee takes up post.

**Use of the External Research Budget**

Another option is for the Committee to commission external research via SPICE. Again this research would be with a view to taking a strategic overview of existing and ongoing research – not conducting scientific research on a specific topic.

The purpose of externally commissioned research is to cover committee requirements that cannot be provided directly by the Research Specialists, for example in cases where appropriate research does not exist or lacks the necessary focus or detail. The budget for externally commissioned research is £300,000 for 2001-2002. The mechanism allows proposals for external research to be submitted to the Senior Research Assessor at four points each parliamentary year. The next cut off points for research proposals are 5 October and 28 January.

As a first step the Committee must consider and agree a research proposal. All Committee bids for external research must then be considered by the CLG who will then decide which bids are to proceed. Successful research projects are then put out
to competitive tenders which are assessed by an evaluation panel who decide on the successful tender.

Even assuming that a research bid could be in place for the 5 October deadline, it is unlikely that any tender could be awarded before the Christmas recess given the procedures outlined above. Once the tender is awarded, some lead in time would be needed before any interim results of desk-top research could be reported to the Committee. As a very rough estimate, it is unlikely that results would be available before April next year and it may well be longer before final results are obtainable. Given that the Water Environment and Water Services Bill will be introduced in spring, Members should note that it may prove difficult to obtain any definitive research results prior to the introduction of the Bill.

Committee Adviser

Advisers can be appointed to inquire into and advise the committee upon any competent matter. An Adviser could be used in conjunction with, or separate from, SPICe's research services or the services of a researcher co-ordinator as outlined above. In the case of an advisor, the committee, in consultation with the appropriate SPICe researcher, will draw up the Adviser specification. This will assist in ensuring that the most appropriate individuals are identified and that there is ongoing communication to prevent duplication of work.

The speed with which an adviser may be appointed may be dependent upon the speed with which suitable candidates can be identified, the number of candidates who are interested, and the fees that candidates are prepared to accept. It is likely that even on a fast-track approach it would take at least a month to appoint an advisor, and indeed it may take considerably longer than this, given the technically complex and contentious nature of the subject matter. It is hoped than an advisor could be in place in time for any evidence sessions in November/December, however this cannot be guaranteed.

It may be unlikely that an advisor could undertake as much in the way of dedicated desk-top research in the manner of a co-ordinator or external researcher. Advisers by their nature are often appointed on a 'per day' basis and may have less time dedicated to the issues than a researcher or co-ordinator. An advisor could however play an important role in relation to providing briefings to members that summarise the scientific and policy information provided to the Committee by witnesses, and suggesting lines of questioning. An adviser may be able to point to gaps in the current research programme and assess whether there is a sufficient focus on environmental issues, however this would depend on the Committee being in a position to appoint someone with suitable expertise in what is a specialist area.

In summary, if the person undertaking the appointment is to be capable of undertaking a substantial and far reaching review of the existing research programme, this may best be pursued through one of the first two options. However, if Committee members feel that they wish early advice to inform their rolling inquiry, the last option may be preferable. It should be noted that the options are not mutually exclusive.
SUMMARY

The Committee is invited to:

a) agree to continue the appointment of reporters and approve the programme of visits referred to above. If this option is agreed, a further paper will be submitted to the Committee on remit and timeframe issues;

b) agree in principle to hold a rolling inquiry;

c) agree to undertake the inquiry using the phased approach to evidence taking and committee reporting outlined above;

d) agree the remit of the inquiry;

e) agree to issue a call for written evidence based upon this remit;

f) agree whether they wish to pursue creation of post of research co-ordinator either by the Executive or through utilisation of Committee external research budget;

g) agree whether they wish to appoint a Committee adviser.

Tracey Hawe
Senior Assistant Clerk
September 2001