The Committee will meet at 2.00 pm in Committee Room 3.

1. **Items in private**: The Committee will consider whether to take items 4 and 5 in private.

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

   - The Police (Scotland) Regulations 2004, (SSI 2004/257);
   - The Advice and Assistance (Scotland) Amendment (No.2) Regulations 2004, (SSI 2004/262);
   - The Criminal Legal Aid (Fixed Payments) (Scotland) Amendment (No.3) Regulations 2004, (SSI 2004/263);
   - The Criminal Legal Aid (Fees) (Scotland) Amendment Regulations 2004, (SSI 2004/264);
   - The Civil Legal Aid (Scotland) (Fees) Amendment Regulations 2004, (SSI 2004/281);
   - The Criminal Legal Aid (Scotland) Amendment Regulations 2004, (SSI 2004/282); and
   - The Advice and Assistance (Scotland) Amendment (No.2) Regulations 2004 Amendment Regulations 2004.

3. **Convener’s Correspondence**: The Committee will consider correspondence from Mrs Gina Riva.

4. **Fire (Scotland) Bill**: The Committee will consider its approach to the Bill.

5. **Youth Justice Inquiry**: The Committee will consider the appointment of an adviser.
Agenda item 2 – Subordinate Legislation

Note by the Clerk – SSI 2004/257 attached J2/S2/04/23/1
Note by the Clerk – SSI 2004/262 attached J2/S2/04/23/2
Note by the Clerk – SSI 2004/263 attached J2/S2/04/23/3
Note by the Clerk – SSI 2004/264 attached J2/S2/04/23/4
Note by the Clerk – SSI 2004/281 attached J2/S2/04/23/5
Note by the Clerk – SSI 2004/282 attached J2/S2/04/23/6
Letter from Ian Allen J2/S2/04/23/9

Agenda item 3 – Convener’s Correspondence

Correspondence from Mrs Gina Riva J2/S2/04/23/7

Agenda item 4 – Fire (Scotland) Bill

Note by the Clerk (the Scottish Fire Service of the Future and the Scottish Fire and Rescue Service: Proposals for Legislation, enclosed) J2/S2/04/23/8

The following papers are enclosed for information only

- Letter from the Scottish Prison Service in relation to Prisoner Escort and Court Custody Services Contract;
- Letter from Scottish Executive Justice Department in relation to Youth Court Pilots: Airdrie Youth Court;
- North Lanarkshire Justices of the Peace Committee response to the Scottish Executive Review of Summary Justice;
- Post Council Report on the Justice & Home Affairs Council of EU Ministers, 8 June 2004; and
- Sift of JHA European documents received by the European & External Relations Committee

Gillian Baxendine / Lynn Tullis
Clerks to the Committee
Tel 0131 348 5054
Background

1. This instrument consolidates and amends the Regulations setting out the pay and conditions of service for serving police officers in Scotland. The Annex to the Regulations sets out the purpose of each regulation.

2. A working group comprising representatives of the Scottish police staff associations, Scottish Executive legal advisers and Scottish Executive Police Division met over a 6 month period and produced a set of consolidated regulations on which interested bodies were consulted. ACPOS and the Scottish Police Federation have advised that they do not have any matters they would wish to bring to the Committee’s attention in respect of these Regulations.

Procedure

3. The Justice 2 Committee has been designated lead Committee and is required to report to Parliament by 6 September 2004.

4. The Subordinate Legislation Committee considered the instrument at its meeting on 15 June and raised a number of issues. That Committee’s report is due to be published on Friday 25 June and will be circulated to members.

5. The instrument was laid on 3 June 2004 and comes into force on 25 June. Under Rule 10.4, the Regulations are subject to negative resolution procedure; the Order remains in force unless the Parliament passes a resolution, not later than 40 days after the instrument is laid, calling for its annulment. Any member may lodge a motion seeking to annul the instrument and, if such a motion is lodged, a debate on the instrument may be requested at a meeting of the committee. No such motion has been lodged.

24 June 2004

Clerk to the Committee
The Instrument

1. This instrument amends the Advice and Assistance (Scotland) Regulations 1996 to increase by 5% the amount payable to solicitors for providing civil advice and assistance and for advice and assistance in relation to matters covered by Part II of the Children (Scotland) Act 1995. Part II of the Children (Scotland) Act relates to the promotion of children’s welfare by the local authorities and by Children’s hearings.

2. This is an interim increase pending the introduction of broader restructuring relating to civil advice and assistance. The Executive estimates that the overall cost of the interim fee rise will be £800,000 each year and that such costs will be met from within the Justice Department budget.

Procedure

3. The Justice 2 Committee has been designated lead Committee and is required to report to Parliament by 6 September 2004.

4. The Subordinate Legislation Committee considered this instrument on 15 June 2004 and raised no points of substance. The instrument was laid on 7 June and comes into force on 28 June 2004.

5. Under Rule 10.4, the instrument is subject to negative resolution procedure - which means that the Order remains in force unless the Parliament passes a resolution, not later than 40 days after the instrument is laid, calling for its annulment. Any MSP may lodge a motion seeking to annul such an instrument and, if such a motion is lodged, there must be a debate on the instrument at a meeting of the Committee.

24 June 2004      Clerk to the Committee
The Criminal Legal Aid (Fixed Payments) (Scotland) Amendment (No.3) Regulations 2004 (SSI 2004/263)

Note by the Clerk

The Instrument

1. This instrument amends the Criminal Legal Aid (Fixed Payments) (Scotland) Regulations 1999 to allow solicitors fixed payments in respect of appearances in the Domestic Abuse Court. It is anticipated that the Domestic Abuse Court will be piloted in Glasgow from August.

Procedure

2. The Justice 2 Committee has been designated lead Committee and is required to report to Parliament by 6 September 2004.

3. The Subordinate Legislation Committee considered this instrument on 15 June 2004 and raised no points of substance. The instrument was laid on 7 June and comes into force on 28 June 2004.

4. Under Rule 10.4, the instrument is subject to negative resolution procedure - which means that the Order remains in force unless the Parliament passes a resolution, not later than 40 days after the instrument is laid, calling for its annulment. Any MSP may lodge a motion seeking to annul such an instrument and, if such a motion is lodged, there must be a debate on the instrument at a meeting of the Committee.

24 June 2004

Clerk to the Committee
The Instrument

1. This instrument amends the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 to provide that the cap on fees for duty solicitors prescribed in regulation 6(2) of the Criminal Legal Aid (Scotland) (Fees) Regulations 1989 does not apply where the duty solicitor is representing an assisted person in the Domestic Abuse Court. It also provides for an interim increase in the fees for certain work done by solicitors in solemn criminal proceedings.

Procedure

2. The Justice 2 Committee has been designated lead Committee and is required to report to Parliament by 6 September 2004.

3. The Subordinate Legislation Committee considered this instrument on 15 June 2004 and raised no points of substance. The instrument was laid on 7 June and comes into force on 28 June 2004.

4. Under Rule 10.4, the instrument is subject to negative resolution procedure - which means that the Order remains in force unless the Parliament passes a resolution, not later than 40 days after the instrument is laid, calling for its annulment. Any MSP may lodge a motion seeking to annul such an instrument and, if such a motion is lodged, there must be a debate on the instrument at a meeting of the Committee.

24 June 2004

Clerk to the Committee
The Instrument

1. This instrument amends the Civil Legal Aid (Scotland) (Fees) Regulations 1989 in order to implement a 21% increase in fees payable to solicitors in children’s legal aid cases. This is an interim measure, pending the introduction of a reformed children’s legal aid scheme.

2. The Executive estimates that the cost of the fee increase will be £420,000 per annum which will be absorbed in the Justice Department budget.

Procedure

3. The Justice 2 Committee has been designated lead Committee and is required to report to Parliament by 13 September 2004.

4. The Subordinate Legislation Committee considered this instrument on 22 June 2004 and the Committee agreed to raise a number of points informally with the Executive. The instrument was laid on 10 June and comes into force on 1 July 2004.

5. Under Rule 10.4, the instrument is subject to negative resolution procedure - which means that the Order remains in force unless the Parliament passes a resolution, not later than 40 days after the instrument is laid, calling for its annulment. Any MSP may lodge a motion seeking to annul such an instrument and, if such a motion is lodged, there must be a debate on the instrument at a meeting of the Committee.

24 June 2004

Clerk to the Committee
The Criminal Legal Aid (Scotland) (Fees) Amendment Regulations 2004 (SSI 2004/282)

Note by the Clerk

The Instrument

1. This instrument amends the Criminal Legal Aid (Scotland) (Fees) Regulations 1996 so as to provide that the exclusive jurisdiction of the duty solicitor does not apply in respect of appearances in the Domestic Abuse Court. At present, legal aid will only pay for persons appearing from custody to be represented by a duty solicitor, who may not have sufficient time to ascertain relevant background to the case before the court. Permitting payments from the Legal Aid Fund to nominated solicitors with a background of the circumstances of the case and of the client will, it is considered, better inform the decisions of the court and help to minimise the impact of attending court on the victim.

2. The Executive estimates that the cost of the domestic abuse court will be £100,000 per annum which will be absorbed in the Justice Department budget.

Procedure

3. The Justice 2 Committee has been designated lead Committee and is required to report to Parliament by 13 September 2004.

4. The Subordinate Legislation Committee considered this instrument on 22 June 2004 and, although no points of substance were identified, the Committee agreed to raise informally with the Executive irrelevant amending instruments which are cited in a footnote. The instrument was laid on 10 June and comes into force on 1 July 2004.

5. Under Rule 10.4, the instrument is subject to negative resolution procedure - which means that the Order remains in force unless the Parliament passes a resolution, not later than 40 days after the instrument is laid, calling for its annulment. Any MSP may lodge a motion seeking to annul such an instrument and, if such a motion is lodged, there must be a debate on the instrument at a meeting of the Committee.

24 June 2004                  Clerk to the Committee
JUSTICE 2 COMMITTEE

23rd Meeting 2004 (Session 2)

Tuesday 29th June 2004

Correspondence from Mrs Gina Riva
REPORT TO THE SCOTTISH EXECUTIVE COMMITTEE.

INAPPROPRIATE, DEGRADING AND DANGEROUS CARE OF DISABLED PRISONERS AT HM PRISON CORNTONVALE STIRLING

THE SCOTTISH OFFICE ARE FAILING TO PROVIDE FACILITIES AND EQUIPMENT BOTH CRUCIAL AND APPROPRIATE FOR CONVICTED DISABLED PRISONERS AT CORNTONVALE

FAILUER IN THEIR DUTY OF CARE FOR DISABLED PRISONERS AT CORNTONVALE

DISABLED (CONVICTED) PRISONERS RIGHTS BEING DENIED AND IGNORED, NO OCCUPATIONAL THERAPY WORK BEING OFFERED TO PRISONERS WHO ARE ELDERLY (PENSIONERS), PHYSICALLY AND MENTALLY DISABLED PRISONERS AND THE CRONICALLY SICK.

EQUIPMENT NEEDED FOR HEALTH & SAFETY REQUIRMENTS AS ASSESSED BY THE OCCUPATIONAL THERAPY REPORTS TO CORNTONVALE, BEING WITHHELD FROM DISABLED (CONVICTED) PRISONERS
A SEVERE AND DANGEROUS GAP OF PROPER HEALTH CARE FOR DISABLED PRISONERS (AND PRISONERS) FROM THE HEALTH CENTRE DOCTOR(S), DUE TO A LACK OF RELEVANT EXPERIENCE/KNOWLEDGE IN THE PRISONERS PARTICULAR DISEASE OR CONDITION, AND POOR CARE OF THE CRONICALLY SICK IN CORNTONVALE. RESULTING IN NEAR DEATH CONDITION OF A PRISONER AND ACTUAL DEATH OF A PRISONER BOTH MIS-DIAGNOSED AS NON-URGENT CASES.

A DAILY HEALTH AND SAFETY RISK TO BOTH DISABLED PRISONERS AND STAFF DUE TO LACK OF APPROPRIATE PROVISION IN PHYSICAL ADAPTATIONS OR ACCESS WITHIN CORNTONVALE.

A POWDER KEG ATMOSPHERE WITHIN CORNTONVALE DUE TO THE TREMENDOUS PRESSURE PUT UPON STAFF, WHICH THEN HAS AN HARMFUL EFFECT ON THE PRISONERS DUE TO SEVERE STAFFING SHORTAGES.
PRISONERS (BOTH ABLE BODIED AND DISABLED) BEING LOCKED UP FAR BEYOND REASONABLE HOURS BECAUSE OF STAFF SHORTAGES. STAFF HAVING TO LOCK UP WHOLE BLOCKS OF PRISONERS DUE TO HEALTH & SAFETY FEARS BECAUSE OF SEVERE STAFF SHORTAGES, CAUSING CHAOS, FIGHTING, DISORDER AND CONFLICT.

STAFF BEING OFF LONG TERM SICK DUE TO STRESS CAUSED BY PRESSURE OF HAVING TO COPE AT CRISIS POINT ON A DAILY BASIS.

A DEMORILISED AND APATHETIC ATTITUDE BY MANAGEMENT THAT THE SITUATION AS ABOVE IS ACCEPTABLE AS THE NORMAL RUNNING ROUTINE OF THE PRISON.

A SEVERE LACK OF COMMUNICATION AND GUIDENCE BETWEEN MANAGEMENT AT CORTONVALE AND THE STAFF IN THE RESIDENTIAL BLOCKS.

A FEELING OF DEMORILISATION AND EXHAUSTION FROM THE STAFF, AND FRUSTRATION BETWEEN MANAGEMENT AND STAFF AT CORNTONVALE CAUSING A POOR WORKING RELATIONSHIP.
PRISONERS REPEATED COMPLAINTS BEING IGNORED BY THE MANAGEMENT REGARDING, STAFF SHORTAGES, LACK OF FACILITIES, OCCUPATIONAL THERAPY, AND APPROPRIATE HEALTH CARE FOR DISABLED PRISONERS.

PRISON OFFICERS (A SMALL MINORITY) CONDUCTING THEMSELVES IN AN INAPPROPRIATE MANNER TOWARDS YOUNG VULNERABLE PRISONERS THAT COULD BE MISCONSTRUED AS THE WRONG SIGNALS. WITNESSED DAILY WAS VERY UNPROFESSIONAL CONDUCT I.E. BODY LANGUAGE, SPOKEN AND WHISPERED COMMENTS, INAPPROPRIATE TOUCHING AND HORSEPLAY BY MALE OFFICER WITH YOUNG GIRL PRISONERS. THIS COULD LEAD TO LEGAL ACTION AND COMPENSATION CLAIMS BEING MADE AGAINST THE OFFICER THEMSELVES OR THE PRISON SERVICE. CONCERNS PASSED ON TO MEMBERS OF STAFF ABOUT THIS WERE DISREGARDED. THERE IS ALSO A DANGOUR OR CLAIMS OF ASSUALT OR RAPE ALLEGATIONS.
THE INAPPROPRIATE AND DAMAGING PLACEMENT OF WOMEN WITH MENTAL HEALTH ILLNESSES BEING INCARCERATED IN CORNTONVALE, WITH NO PROFESSIONAL SUPPORT FROM DOCTORS WITH KNOWLEDGE OF THESE ISSUES. THE GIVING OF DRUGS JUST TO KEEP THESE PRISONERS QUIET, WITH NO CARE PLAN TO ADDRESS THE DIFFICULTIES. THESE PRISONERS BEING LEFT IN THE CARE OF THE BLOCK STAFF WHO TRY THEIR BEST, (A FEW OFFICERS WITH REAL COMPASSION) TO Cope WITH THEIR VIOLENT AND DISTURBED BEHAVIOUR. OFTEN THESE STAFF BECOME WORRIED AND STRESSED ABOUT THEIR HELPLESSNESS TO ASSIST THESE WOMEN.
THESE OBSERVATIONS AND EXPERIENCES WERE WRITTEN BECAUSE OF A REAL FEAR OF A MAJOR INCIDENT JUST WAITING TO HAPPEN IN CORNTONVALE PRISON. THE STAFF ARE JUST COPING ON A DAY TO DAY BASIS IN A VERY HOSTILE AND STRESSFUL SITUATION, WITH LITTLE SUPPORT AND BACK UP FROM MANAGEMENT. THE STAFF ARE AWARE OF THE FACT THEY HAVE TO FOLLOW ORDERS GIVEN BY MANAGEMENT EVEN THOUGH THEY KNOW THE SITUATION THEN LEAVES THEM OPEN TO RISK.

THE SCOTTISH EXECUTIVE COMMITTEE AND THE SCOTTISH JUSTICE MINISTER MUST TAKE ACTION ON THE CONCERNS OF THE REPORT TO ALIVIATE THEM.

THE AUTHOR WROTE THIS REPORT AFTER A FIVE-MONTH JAIL SENTENCE, THE EXPERIENCES AND QUOTES ARE REAL. CORNTONVALE PRISON IS LIKE AN EXPLOSIVE VOLCANO JUST WAITING TO ERUPT.
Dear Convener,

THE ADVICE AND ASSISTANCE (SCOTLAND) AMENDMENT (NO 2) REGULATIONS 2004

I understand that next week your Committee is due to consider the above Regulations which prescribe new fees for solicitors undertaking advice and assistance under the legal aid scheme.

The Law Society of Scotland has made representations to Scottish Ministers that the fees prescribed in these regulations should apply to all work done on or after 28 June, rather than new cases after that date.

The Justice Minister is conscious of the significant efforts of the Society to modernise legal aid generally in the context of promoting value for money for the taxpayer as well as fair reward for the profession and has agreed to make this change. However, to effect this within normal Parliamentary rules, the regulations would have needed to be revoked in their entirety and re-laid once the Scottish Parliament returns after the summer recess. This would have meant a significant delay in the commencement of the fee increase or, exceptionally, a breach of the 21-day rule. The Minister has decided that amending regulations should be laid today that will allow the Scottish Legal Aid Board to pay all work done on or after 28 June at the new rates.

The Minister hopes that the Parliament, and your Committee, would be prepared agree to this change. There is no change to the substance of the Regulations which were laid on 7 June.

I am copying this letter to Dr Jackson, Convener of the Subordinate Legislation Committee and to the Clerks of the respective Committees for their information.

Yours faithfully,

[signature]