ECONOMY, ENERGY AND TOURISM COMMITTEE

AGENDA

9th Meeting, 2010 (Session 3)

Wednesday 10 March 2010

The Committee will meet at 9.30 am in Committee Room 5.

1. **The public sector's support for exporters, international trade and the attraction on inward investment.** The Committee will consider its initial approach to the inquiry.

2. **Subordinate legislation:** The Committee will take evidence on the draft Census (Scotland) Order 2010 (SSI 2010/draft) from—

   Jim Mather, Minister for Enterprise, Energy and Tourism, Duncan Macniven, Register General, General Register Office for Scotland, and Rob Wishart, Chief Statistician, Scottish Government.

3. **Subordinate legislation:** Jim Mather MSP (Minister for Enterprise, Energy and Tourism) to move S3M-05906— That the Economy, Energy and Tourism Committee recommends to the Parliament that the draft Census (Scotland) Order 2010 to the extent that it relates to the following particulars in Schedule 2—

   (a) item 1;
   (b) in item 2, the words “and, as the case may be, where there are 5 or fewer persons in the household, the relationship of each of the previous persons mentioned in the return and where there are 6 or more persons in the household, the relationship of the sixth and subsequent persons to the two previously mentioned persons in the return”;
   (c) item 7;
   (d) in item 8, the words “and, if not born in the United Kingdom, month and year of most recent arrival to live in the United Kingdom”;
   (e) items 9,10,12,14,17,18,19,20;
   (f) in item 21, the words “on a Government sponsored training scheme;”;
   (g) items 22,27,28,30,31,32,34,35;

   and items 1,2,3 and 4 of Schedule 3 to the draft Order, be approved.
4. **Subordinate legislation:** The Committee will take evidence on the draft Renewables Obligation (Scotland) Amendment Order (SSI 2010/draft) from—

   Jim Mather, Minister for Enterprise, Energy and Tourism, and Neal Rafferty, Senior Renewables Policy Adviser, Scottish Government.

5. **Subordinate legislation:** Jim Mather MSP (Minister for Enterprise, Energy and Tourism) to move S3M-05847— That the Economy, Energy and Tourism Committee recommends that the Renewables Obligation (Scotland) Amendment Order 2010 be approved.

6. **The way forward for Scotland's banking, building society and financial services sector (in private):** The Committee will consider a draft report.

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The papers for this meeting are as follows—

**Agenda item 1**

Note by the clerk

**Agenda item 2**

The Census (Scotland) Order 2010 (SSI 2010/draft)

Guidance on the Procedure for the Consideration of the Draft Census (Scotland) Order 2010

Note by the clerk

Note by the clerk

**Agenda item 4**

The Renewables Obligation (Scotland) Amendment Order 2010 (SSI/2010/draft)

Note by the clerk

**Agenda item 6**

PRIVATE PAPER
1. The Committee’s new inquiry for spring 2010 is entitled, “An inquiry into the public sector’s support for exporters, international trade and the attraction of inward investment”. A remit and terms of reference for this inquiry have previously been agreed to (see annexe) and an open call for written evidence was issued at the end of 2009. Written submissions are being received and collated. These will be made available to members shortly and published on the web. Members will then be asked, at a future meeting, to identify which organisations, companies or individuals they wish to invite to appear before the Committee.

2. At this stage, members are being invited to consider the Committee’s initial approach to its inquiry. The Convener proposes that, to launch the inquiry, an initial ‘scene setting’ roundtable be held on 24 March to enable a broad discussion to take place on some of the issues that the Committee will need to address and some of the views of key organisations. This initial discussion should help the Committee then focus on some of the detail to be covered and keep the inquiry relatively contained in light of the heavy volume of work to be completed before the summer recess.

3. It is suggested that the roundtable on 24 March involves some of the users of the services provided by the public sector (i.e. senior representatives of private sector businesses and others), a selection of business organisations (such as SCDI and the CBI) as well as senior representatives of the main public sector bodies (e.g. SDI, UKTI, British Council) or public sector funded initiatives (e.g. Scottish Chambers International) that provide services to companies for export promotion, inward investment and internationalisation.

4. The Convener’s view is that some of the following issues should be covered in order to shape the discussion at the roundtable:

   - Can we learn from best practice in other trade promotion bodies elsewhere (in rest of UK, EU or internationally)?
   - Where and who is best placed to provide advice/support to encourage businesses to internationalise their operations?
   - Do we have the right approach to attracting foreign direct investment?
• What should be the ‘value added’ by SDI to the services offered by UKTI and do we have evidence that there is sufficient coordination between the two bodies?

• What are the impressions of the support offered by other UK bodies to Scottish companies, such as by the FCO, British Council etc?

• Should there be a “country” role/strategy for SDI in emerging markets (e.g. BRIC states) or is it better to focus sectorally?

5. It is also suggested that, at the meeting on 24 March, members reflect on the discussion that take place during the roundtable and also review the written evidence received for the inquiry. Members will then be invited to select the witnesses the Committee should invite to provide oral evidence. It is anticipated that, at this stage, four further oral evidence sessions can be accommodated, followed by two sessions focusing on a final report. This slightly more limited timetable is required if the Committee wishes to finish this inquiry before the summer recess and in order that the Committee’s scrutiny of the Scottish Government’s budget (at stage 1 – budget strategy phase) and review of the enterprise agencies can be accommodated over this period too.

6. Members may also wish to discuss, on the 24 March, if they would wish to conduct any external visits, for examples, to relevant companies across Scotland or to visit organisations further afield. Some of these may also be able to be conducted via videoconference if appropriate.

Recommendations

7. Members are invited to discuss and agree:

• the proposal for an initial roundtable on 24 March and any suggestions for witnesses;

• that consideration of any claim for expenses claimed by witnesses be delegated to the Convener;

• that consideration of any draft inquiry report be taken in private.

Stephen Imrie
Clerk to the Committee
March 2010
ANNEXE

“An inquiry into the public sector’s support for exporters, international trade and the attraction of inward investment”

Terms of reference and call for evidence

Background

As stated by the First Minister in one of the very first policy documents issued by the new administration in November 2007, the ‘Purpose’ of the Scottish Government is to create a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. The Scottish Government’s immediate growth target is to raise Scotland’s GDP growth rate to the UK level by 2011. The longer-term target is to match the GDP growth rate of small, independent EU countries by 2017.

Since this statement was made and these targets set, Scotland, in line with many other countries worldwide, has seen its economy fall into recession brought on in the main by the crisis in the banking sector, which lead to difficulties with liquidity and a tightening of lending to businesses.

Although economic forecasts are by their very nature inexact, the Scottish Government’s own economic adviser and that of many leading independent commentators and researchers is that the path to recovery in Scotland will be slow, perhaps even slower than other parts of the UK, and we will not see a return to growth until 2010 at the very earliest and perhaps even later.

The Committee is aware of the analysis that over the last decade, the Scottish economy has become more service orientated and more reliant on domestic demand. Nonetheless, we are equally aware that exports, international trade and the attraction of inward investment are important to the growth of our economy and that we have many examples of success stories in those areas. However, the Committee believes that if the Scottish economy is to recover and to recover as quickly as possible, then an increased focus on international trade, both inward and outward, may be necessary.

This new inquiry will review the current approach within the public sector in Scotland to support businesses and other organisations to export their goods and services and to expand their operations internationally, such as through mergers and acquisitions, joint ventures, licensing arrangements etc. The Committee will also look at how we encourage international trade and our policies towards the attraction of appropriate types of inward investment.

The Committee will draw upon the research it initially commissioned, which reviewed the past performance of the Scottish economy in relation to exports and international trade, as well as surveyed a number of companies that had used the types of public sector support programmes that are available.
At the end of the inquiry, the Committee will produce a report to Parliament, making a series of conclusions and recommendations for actions to be taken by the Scottish Government and others which will have a beneficial impact on the growth of the economy.

**Remit**

The inquiry will investigate the current strategy, policies and level of resources allocated within the public sector in Scotland, most notably within the Scottish Government and relevant agencies and public bodies that are aimed at helping Scottish companies and other organisations to internationalise their activities, to export their goods and services and how we attract appropriate forms of inward investment. The inquiry will also look at how these policies all co-ordinated within Scotland and with other trade promotion bodies at a UK level.

**Key questions**

1. What is the economic rationale for trade development and promotion in Scotland and what have been the trends in international trade and inward investment?

2. Are the current strategy, policy and type of public sector support programme the right ones in terms of the needs and requirements of Scottish companies and other organisations? Is the support right in terms of the changed economic circumstances, particularly for key sectors such as manufacturing?

3. Specifically in relation to Scottish Development International – the leading public sector body for trade promotion - how the international account management system operates, who gets access to it, what services they offer in market to support Scottish companies not account managed in Scotland, what does it cost to operate, how many companies are supported and to do what and how is the return on investment of the public sector presence in overseas markets measured?

4. What type of support would businesses and other organisations like to see being supplied and who should supply it?

5. Do we have the correct balance between the attraction of a diverse range of inward investment and the type of support needed for exporting and international trade?

6. Should we prioritise where we target the public sector’s resources and intervention in terms of specific sectors of the economy, a geographic focus, on a specific type of company (i.e. those more interested in exporting and trade or those already active in that regard), on opportunities of a particular scale etc?
7. Do we have the right amount of co-operation and a joined up approach within the public sector in Scotland, between the public sector and the trade and promotion programmes run by other bodies and also between agencies in Scotland and those at a UK level that also carry out related activities on behalf of Scottish companies? This should also cover how the public sector could facilitate business-to-business mentoring, within industries and from successful industries (e.g. oil and gas, and whisky) to other industries and, specifically, a review of what the GlobalScot network delivers and whether it could be used more effectively in order to maximise its potential?

8. Are sufficient resources being made available for such activities and do the various public sector support organisations have the necessary skills and expertise to best support Scottish companies to internationalise and to attract inward investment from within a very competitive market?

9. Are there any lessons we can learn from the approaches taken by other countries for their trade promotion and international trade schemes?

10. Do we have in place the necessary data collection and statistical system that is needed to provide policy-makers with a detailed understanding at a Scottish level of our export, international trade and inward investment performances? This could include views on the Global Connections survey and what it is used for and whether there are opportunities to distribute evidence from this survey more widely and more meaningfully.
GUIDANCE ON THE PROCEDURE FOR THE CONSIDERATION OF THE DRAFT CENSUS (SCOTLAND) ORDER

Background

1. The Scottish Parliament’s Economy, Energy and Tourism Committee (the “Committee”) will consider the draft Census (Scotland) Order (“the Order”) at its meeting on 10th March 2010. This note sets out procedural guidance for Committee members on how the Order should be considered, particularly how the Order may be amended.

2. At the outset, it is important to note that the Order is different to most in that it combines provisions that are subject to either the draft negative or draft affirmative procedure. Additionally, in relation to the draft affirmative parts, there is the added complication of the possibility of amendment for which standing orders currently do not provide. The ability to amend a draft order without the need to withdraw and re-lay to accommodate any changes is fairly unprecedented.

3. It is worth stating that this is possible in the case of this Order because the parent act (the Census Act 1920) requires any subsequent order to incorporate any amendments proposed in a resolution of the Parliament (subject to the limits on what is open to amendment). In other words, as regards the parts of the instrument open to amendment, only an order in the terms as amended by Parliament could be put by the Scottish Government to Her Majesty in Council for making.

4. The main body of the Order and large parts of the schedules are subject to draft negative procedure. Parts of schedule 2 and schedule 3 in its entirety are subject to draft affirmative procedure (all text in italics). These are the parts that may be modified with the agreement of the Parliament; no other parts are amendable.

Previous Census Orders

5. In session 1, when Parliament as a whole considered the then draft Order, various forms of motion were proposed during the debate in the Chamber on the Order. These consisted of a Scottish Executive motion (S1M-459) which stated that the Parliament approved “the draft Census (Scotland) Order 2000 to the extent that it relates to the following particulars in Schedule 2”, whereupon the rest of the motion then set out the elements of the draft Order which required to be approved by resolution of the Parliament before those parts of the draft Order can be submitted to Her Majesty.

6. The Parliament also considered a motion (S1M-554) which stated that the draft Order “be not submitted to Her Majesty in Council, and call[ed] on the Scottish Executive to lay a revised draft Order which will include”, whereupon the rest of the motion then set out various suggestions for amendments to a new Order.
7. Finally, an amendment (S1M-459.1) to the Scottish Executive’s motion itself was considered by Parliament, which appeared to be an attempt to effect an amendment to the draft Order. There are doubts, however, as to whether it was in fact sufficiently specific to achieve a proper amendment.

8. To enable all of the above to follow the normal pattern of debate, Parliament was first required to approve a motion (without notice) to suspend Rules 8.6.1, Rule 10.7.1 and Rule 11.4.1 of the Standing Orders for the period of the debate on the Census (Scotland) Order 2000 on 16 February 2000.

Current consideration

9. Unlike the previous consideration of the draft Census Order, this time the Parliament has referred the Order to a lead Committee. As stated above, the process by which the lead Committee considers the Order is complicated by the need in effect to consider the instrument as two separate instruments although it exists in a single form. There is the process which attaches to the draft negative parts of the instrument and the process which attaches to the draft affirmative parts of the instrument with the added complication of possible amendments. Both aspects of the single order will have to be covered procedurally. The Committee will be required to consider how it wishes to proceed in relation to each separate part of the Order.

10. Essentially, the Committee has two decisions that it has to take. Firstly, it has to decide for those for those parts of the Order subject to the negative procedure whether it wants to try to block the instrument from being made in the first place via a motion that the instrument “be not submitted to Her Majesty in Council” (similar to a motion to annul). Secondly, the Committee has to decide whether it supports the Minister’s motion to recommend approval of elements subject to affirmative procedure (the parts of the draft Order written in italics) and if not whether it wishes these elements to be amended and how.

11. It is important to state at the outset that the clerks consider that the current motion in the name of the Minister for the Order (S3M-05339) may not be in the correct form. The clerks believe that it should be in the form set out in S1M-459, specifying which parts of the schedules the Committee is being invited to recommend approval. **It is recommended that the motion needs to be amended in this way prior to consideration by the Committee.** The clerks will liaise with the Scottish Government on this matter.

12. Procedurally, the Committee should commence its consideration of the draft Census (Scotland) Order in the normal way, by initially taking evidence from the Minister and his officials.

13. The Committee should then move to a subsequent agenda item and invite the Minister to move an appropriately drafted motion (see paragraph 11) and for this to be debated in the Committee (for this debate, the Minister’s officials could not participate in the discussion at the Committee although they can advise the Minister). Committee members should then consider whether they are content. If they are not, there will require to be a division on the motion.
14. If members wish to make any amendments to the elements of the draft Order that are subject to affirmative procedure (the parts in *italics*), then the following is the procedure they need to follow.

15. Firstly, if the Committee agrees (even if by majority only) that it wishes to make amendments to any text in *italics*, it should not agree the Minister’s motion that the Committee recommends to Parliament that the Order be made. The specific detail of the changes that the Committee recommends should then be specified in the Committee’s final report. Subject to agreement by the Committee, the terms of the report can be discussed in private at the end of the meeting. It may be advisable to treat the consideration of the detail in a draft report as a separate agenda item rather than try to agree this during the course of a debate on the Minister’s motion.¹

16. If the Committee does not agree the Minister’s motion and proposes amendments, it would then be for the Scottish Government to decide what course of action it wished to take in light of the Committee’s report and recommendation(s). The Government could decide to withdraw the instrument completely and re-lay at a later date or it could ask the Bureau to schedule a debate in the Chamber (because the Committee has not approved the Minister’s motion). Assuming that the Bureau schedules a debate, the Government could take the Committee’s proposed amendments on board in its motion to Parliament or it could propose that the Parliament agree the draft Order in its original form. If the Government did not take on board the committee’s proposed amendments in its motion, the Convener, on behalf of the Committee, would lodge an amendment in line with the Committee’s report setting out proposed amendments to the Order for Parliament as a whole to consider. It is important to note that it is Parliament as a whole that resolves the issue on whether the draft Order is amended, not the lead Committee.

17. In relation to those parts of the Order subject to negative procedure, the Committee must also consider whether it is content that the Order be submitted to Her Majesty in Council. As would be the norm for an instrument subject to negative procedure, a member (whether or not a member of the lead committee) may lodge the necessary motion in order to force a debate at the Committee meeting if s/he is not content (in terms of blocking the instrument, this is akin to a motion to annul a regular negative instrument). If no such motion is lodged prior to the Committee meeting on the 10th March, then the Committee will be asked to simply note the negative parts of the instrument and record this accordingly in its report to Parliament.

18. As with an amendment to the motion for approval of the affirmative parts, there is the possibility of a motion without notice that the instrument be not submitted to Her Majesty. Therefore, it is possible during the Committee meeting itself for a member (whether or not a member of the lead committee) to propose a motion without notice to this effect. It is at the Convener’s discretion whether such a motion without notice is disposed of at the meeting of 10 March or, ¹

¹ NB. The Committee agreed at its meeting on 10 March that these deliberations should be taken in public.
perhaps better, dealt with at a subsequent Committee meeting providing there is sufficient time. There is sufficient time for this to be accommodated.

19. If the Committee agreed to such a motion that the Order be not submitted to Her Majesty in Council, then the Bureau would be required to propose to the Parliament that the Order be not submitted and schedule time for a debate.

20. It is important that members note that should they wish to make changes to those parts of the Order subject to negative procedure (i.e. the text not in italics) then they are required to lodge the necessary motion that the Order be not made as these parts of the Order cannot be amended during the passage of the instrument through Parliament. It would be preferable that any motion to this effect be lodged by Friday 5th March.

Stephen Imrie
Clerk to the Economy, Energy and Tourism Committee
March 2010
Economy, Energy and Tourism Committee

9th Meeting, 2010 (Session 3), Wednesday, 10 March, 2010

The draft Census (Scotland) Order 2010

Background

1. The Committee has received further evidence from the Scottish Government in relation to the draft Census (Scotland) Order 2010. The paper is from the Registrar General and Chief Statistician at the Scottish Government.

2. The evidence is attached in the annexe to this paper. Members are invited to take it into account in their deliberations when questioning the Minister and his officials.

Stephen Imrie
Clerk to the Committee
March 2010
CENSUS (SCOTLAND) ORDER
Paper by Registrar General and Chief Statistician, Scottish Government

1. The Census Act 1920 requires that Parliament should approve “the particulars to be stated in the returns” – in schedule 2 to the draft Order. The proposals are based on:

- the lessons from the 2001 Census and from censuses in the UK and elsewhere;
- extensive consultation with users to establish their needs and appraisal of those needs;
- wide consultation with community groups and members of the public to ensure that proposed questions are will not cause offence or difficulty;
- detailed testing of questions for practicality and quality of responses, including 2 large scale trials – a census test in 2006 (in parts of 6 council areas: Glasgow City, West Dunbartonshire, Highland, Stirling, Perth & Kinross and Argyll & Bute) and a census rehearsal in March 2009 (in parts of Eilean Siar and City of Edinburgh council areas).

2. Great care has been taken to ensure so far as possible that the questions, and the way the census is taken, command broad public support and that people are motivated to complete the census questionnaire. These efforts will continue to Census Day and beyond.

3. Given its comprehensive nature and high response rate, the census plays a unique role in data collection by:

- providing a wide range of data at a local level that is not available elsewhere;
- allowing cross tabulation of key characteristics on a scale and at a level of detail not available elsewhere;
- providing data against which other sources can be benchmarked.

It follows that comparability with previous censuses and other statistical sources are important considerations.

Comparison with 2001 Census

4. Continuity with the question set in the 2001 Census is important, because many users want to see how Scotland has changed in the meantime. There are 14 questions for the whole household (3 more than in 2001) and up to 35 questions for each resident (again, 3 more than in 2001). The significant changes proposed compared to 2001 are:-

- 5 questions have been dropped as being now of little benefit: religion of upbringing, size of organisation in which people work, availability of bath/shower/toilet, lowest floor level and whether or not rented accommodation is furnished;
- there are 6 new questions to provide information which users have requested: long-term health conditions, national identity, month and year of arrival in the UK, language (2 extra questions) and household income;
• 6 questions have been significantly changed, while retaining comparability with 2001: type of central heating (to capture fuel used), marital status (to capture information about civil partnership status), ethnic group (numerous changes giving 19 response options instead of 14), languages understood/spoken/read/written (English and Scots added alongside Gaelic), qualifications (response options expanded, particularly to capture foreign qualifications more easily);
• some other questions have been changed slightly, particularly to make them easier to understand and answer;
• more information is asked about visitors, because the failure to count visitors at their address on census night in 2001 resulted in some people being missed altogether.

Comparison with Census in rest of UK

5. The proposed questions have been chosen and worded in a way which fits Scottish needs and circumstances. But careful attention has been paid to ensuring comparability where possible with the rest of the UK, to allow users of census information to compare Scottish information with that from elsewhere. The question set for the Northern Ireland census has not yet been published. Comparing the proposed Scottish question set with the questions approved by the Westminster Parliament for the census in England and Wales:-

• the Scottish census includes proposed questions on long-term health conditions and household income which have not been included in England and Wales – reflecting stronger demand from Scottish users for that information;
• it is not proposed to ask, in the Scottish census, questions about passports held and intended length of stay in the UK (which have been included in the census in England and Wales because of the larger number of immigrants from overseas), nor about second residence (reflecting the greater use of second homes in England and Wales);
• only 2 questions about language will be asked in England and Wales, compared to 3 proposed in Scotland: “What is your main language?” (with an English tick box and an “Other” write-in box) and, for those whose main language is not English, “How well can you speak English” (with a range of 4 tick boxes);
• the response options are significantly different in the questions about religion, national identity, ethnic group and qualifications, reflecting different circumstances, and there are minor differences in the response options in other questions.

6. MSPs have expressed particular interest in the questions on religion (paragraph 13 of schedule 2 to the Order), national identity and ethnicity (paragraphs 14 and 15), long term health conditions (paragraph 18) and household income (paragraph 31). The remainder of this paper concentrates on these questions, explaining why the Scottish Government is recommending them in their current form.
Religion

7. In the 2001 Census, there were 2 questions about religion: current religion and religion of upbringing. Only the former is recommended for the 2011 Census because consultation suggested that there was limited user demand for information about religion of upbringing, and its omission makes space for other questions for which there is higher demand. As in 2001, this is the only voluntary question in the census. The wording of the proposed question is identical to 2001 and the same tick boxes are offered. The only change is that the write-in boxes for “Other Christian” and “Another religion” have been amalgamated to make the question simpler to answer.

8. The census question in England and Wales, which is also voluntary, is “What is your religion?” – again, unchanged since 2001. Similar tick boxes are provided, except that there is only one tick box for “Christian”. As in the Scottish census, the question aims to measure religious affiliation. Scottish users wished to retain the 2001 question and to retain a breakdown of the “Christian” category, to monitor, amongst other things, sectarian discrimination.

9. The draft Order originally laid before Parliament in November 2009 included an extra “Pagan” tick box, on the grounds that it was the largest group which used the write-in box at the foot of the religion question in the 2001 Census and there were markedly more Pagans than any other group using that box. But the number totalled only 1,930 and, in the light of concerns expressed by MSPs, a separate tick box has been omitted from the present draft Order. As in 2001, people will have the opportunity to write-in “Pagan” in the box at the foot of the question, allowing the number to be published so long as there are sufficient respondents to avoid jeopardising the confidentiality of individual returns.

National Identity and Ethnicity

10. Information about ethnicity is of great importance to tackling issues of discrimination and disadvantage and meeting statutory monitoring requirements. Given the small size of some groupings, the census is the only source of information at sub-Scotland level.

11. The question about national identity is new since the 2001 Census. The question about ethnic group has been considerably amended, with a wider choice of tick boxes. The parallel questions in England and Wales are broadly similar. The wording of the national identity question in England and Wales is different: “How would you describe your national identity?”. In the ethnic group question for England and Wales, there are fewer tick boxes (18 rather than 19), the categorisation is different (eg a single category for “Black/African/Caribbean/Black British”) and there are different tick boxes (no Scottish or Polish tick boxes, for example, but specific tick boxes for certain mixed or multiple ethnic groups eg “White and Black African”). But cross-border comparison will be possible at the level of the main categories (eg “White”).

12. The Scottish question derives from a review launched in 2002, following concerns about the classifications used in Scotland’s 2001 Census. The then
Communities Minister promised to review the official ethnicity classification to ensure that it reflected modern Scotland and had community support. Consultation, both formal and informal, was conducted with a wide range of data users, ethnic groups, stakeholders and other interested groups. Research, including in-depth interviews, focus groups, desk research and fieldwork with public bodies was undertaken over a period of 5 years, and the questions were extensively tested with individual members of the public from a range of ethnic groups. The resultant classification, incorporated in the draft Order tabled in November 2009, was published in July 2008 at http://www.scotland.gov.uk/Topics/Statistics/Browse/Social-Welfare/newethnicityclass.

13. A large part of the consultation focused on how people interpret the concept of ethnicity. The research found that, for some people, national identity was a dominant factor in their ethnic identity, while for others it was country of birth, parents’ place of birth, country of residence, heritage, religion, race, language or community affiliation. It became clear that, even within Scotland, it was a complex concept with no single agreed definition. People from different ethnic groups (and sometimes within the same ethnic group) held varying opinions about what ethnicity means. During consultation, people said that they would be able to describe themselves more accurately if they could tick more than one box. There are undoubted benefits in allowing multi-ticking in the response to the ethnic group question – but it also has disadvantages:

- it makes it difficult to count the ‘mixed or multiple’ ethnic group;
- it would produce an unmanageable number of outputs;
- it risks obscuring the size of the main ethnic groups;
- it would make it difficult to publish statistics about small areas;
- it would hinder comparison with previous censuses, and other parts of the UK.

14. Largely because multi-ticking would seriously impair the usefulness of the data, it was decided that a single response (tick) would be required in response to the ethnic group question. However, a new question was included on national identity, where multi-ticking would be allowed, giving people more freedom to express their identity whilst protecting the statistical integrity of the ethnic group data.

15. For many (but not all) people, national identity is closely related to, but different from, ethnicity. National identity refers to the country, nation or nations which a person feels most connected to, or has a strong affinity with. Like ethnicity, it is a subjective concept which can, and does, change over time. Consultation and research found that many UK-born people whose parents or grandparents were born outside the UK considered ‘Scottish-ness’ or ‘British-ness’ to be central aspects of their identity. Testing showed that a question on national identity worked well for many in allowing a separate expression of this aspect of their identity. There are limitations to data on national identity: respondents interpreted the question very widely and in different ways (country of birth, nationality/citizenship, countries in which they would like to live). But, on the basis of the evidence, the national identity question is recommended because it will provide increased choice for respondents, complementing the ethnic group question.
16. One of the most complex and contentious issues throughout the whole review was the acceptability of using colour labels (particularly ‘Black’) to describe ethnicity. A classification was developed and tested in 2006 which did not include colour terms. However, analysis of the resultant data revealed that an entirely geographic categorisation has number of adverse effects on response and data quality. In addition, during the subsequent consultation in 2007, some data users said that they needed colour labels in the classification to monitor discrimination and inequality, while some respondents said very forcefully that ‘Black’ was a term that they wished to use to describe their ethnicity. The ethnicity classification published in July 2008 included a category for “African, Caribbean or Black”, with separate tick boxes for each of these groups, which provided an acceptable tick box for every group. That classification was incorporated in the draft Order tabled in November 2009. Subsequent discussions with the ethnic groups concerned identified a different solution, now incorporated in paragraph 15 of the present draft Order: the creation of two categories (‘African’ and ‘Caribbean or Black’) with write-in boxes under each category. If respondents wrote in (for example) a particular part of Africa, that information would be coded and published, so long as there are sufficient respondents in the categories of interest to avoid jeopardising the confidentiality of individual returns. Although that solution differs from the ethnicity classification adopted by the Scottish Government in July 2008, it seems acceptable to stakeholders and provides acceptable data, comparable to the 2001 Census and to the census results in England and Wales.

17. The other key issue which has emerged since the tabling of the draft Order in November is whether “Scottish” should be included as an ethnic group or as a national identity (or both) and whether people are forced to choose between Scottish and British or any other classifications in the ethnic group question.

18. The ethnic group question in the 2001 Census gave ‘Scottish’ and ‘Other British’ response options. The results showed that the most disadvantaged UK ethnic group in Scotland is the Scottish. For example:

- 30% of Scots were lone parents compared to 18% of Other British;
- 26% of Scots had no car compared to 17% of Other British;
- 4% of Scots were students compared to 8% of Other British;
- 35% of Scots had none of the educational qualifications recorded compared to 18% of Other British.

19. It is very important to ensure that the 2011 Census results are capable of comparison with these findings – particularly because the census allows for cross-tabulation of different attributes (such as those quoted in the previous paragraph) to help identify causes of disadvantage and since the census results can be compared with the wealth of information on White Scots from other data sources, both survey and administrative, to track changes between censuses.

20. There is no single answer to whether or not Scottish is an ethnic group or a national identity. Different respondents will have different views. But it is clear that:
• in the 2001 Census, 88% of the population of Scotland (almost 4.5 million people) described their ethnic group as “White Scottish”;
• in tests and consultation during the review, most people stated that they wanted to identify their ‘Scottish-ness’ or ‘British-ness’ as part of their ethnicity regardless of the addition of a national identity question.
• the 2009 census rehearsal data suggests that comparable data on “White Scottish” people cannot be compiled from the national identity question. Such an approach would result in the inclusion of around 3% of people who did not describe themselves as ethnically Scottish and result in the omission of at least 6% of people who did.

21. For these reasons, the draft Order proposes a “Scottish” tick box in the “White” category of the ethnic group question, as in the 2001 Census, as well as in the new national identity question. That approach does not force people to choose between “Scottish” and “Other British” in the ethnic group question if they do not wish to do so. They could, for example, use the write-in box at the end of the “White” section of the question to specify British or English, or some combination of ethnic groups. Such information would be coded and published, so long as there are sufficient respondents in the categories of interest to avoid jeopardising the confidentiality of individual returns.

Long Term Health Conditions

22. This is a new question, additional to the 2 questions asked in the 2001 Census (health over the last 12 months and long-term illness, health problem or disability). It will not be asked in the census in England and Wales.

23. The question is proposed, in response to requests from data users and stakeholders, to provide information for policy development and service planning. Analysis of data across a whole range of policy areas shows that life chances and outcomes are very different for people with particular health conditions. For example, people who have mental health conditions or learning difficulties are much less likely to be in employment and much more likely to be living in poverty than people who have difficulties associated with hearing or seeing. So it is important to collect enough information to allow for separate analyses of different groups.

24. The question will give important new information, not available from sample surveys, about the incidence of health conditions in small areas and among small groups of the population. The response categories were developed from the (former) Disability Rights Commission’s suggested disability monitoring categories. They were the subject of consultation on several occasions over the last few years, most recently at a consultation event held by the Scottish Government in July 2009.

25. It is generally agreed that they represent a good set of response categories. But they have been criticised for not giving sufficiently detailed information for planning of specific services. For example, groups interested in deafness argue for an extra 3 tick boxes to identify the degree of deafness, stakeholders interested in Autistic Spectrum Disorder advocate a specific tick box and there are arguments in favour of several response options within “physical disability”. The obstacle to accepting these suggestions is lack of space on the questionnaire: another question would have to
be dropped. A write-in box is provided for “Other condition” and it is proposed to code, and publish counts for, conditions which are written in, so long as there are sufficient respondents in the categories of interest to avoid jeopardising the confidentiality of individual returns. The Scottish Government is committed to discussing with data users and stakeholder groups the need for more detailed information and ways of collecting it.

**Estimated Household Income**

26. This is a new question, which was not asked in the 2001 Census. Nor is it part of the approved question set for the census in England and Wales.

27. Poverty is still very prevalent in Scotland. The income of the poorest 30% of people in Scotland has remained around 13-14% of total income since 1997/98. This affects the lives of those involved and hinders progress on such policies as health and education. It is important to measure the size and effects of poverty in order that further policies can be developed to tackle it. For example, affordable housing policy could be improved if more was known about the income and other characteristics of households in different types of properties in small areas. Healthcare resources could be targeted better if more were known about the need and use of services by different income groups in different areas.

28. Yet information on the relationship between poverty and other conditions is quite poor. At the local level, where much of the action to tackle poverty takes place, it is virtually non-existent and indeed it is very hard to tell how many people are in poverty in small areas. Poverty figures are derived from household income collected via sample surveys and, while improvements have been made at a national level, it is still very difficult to produce any reliable measure of income (and therefore poverty) for many rural areas and for many smaller vulnerable groups – even in aggregate. For example, recent work carried out by Scottish Government analysts shows that 34% of households where the head has an Asian background are in poverty, compared to 18% of households where the head is from the White British group. However these statistics rely on combined survey data from 2002/03 to 2007/8. The sample size does not allow a breakdown below Scotland level or any breakdown of the differences between and within Asian groups. Similar issues are faced when trying to provide explore the situation for people with different types of disability or in remote rural areas. The census provides a unique opportunity to link income data with other household characteristics (such as ethnic group, disability, age, geographic location) and therefore to help in the development of thinking in many policy areas.

29. The proposed question asks about household rather than individual income, because that is less intrusive in the sense of “government snooping”. The question makes clear that it seeks estimated income rather than the precise information which would be submitted to the tax inspector. There is no question of the information being shared with the tax authorities: personal census information is not provided to any other Government department. A precise figure is not sought. Instead, to minimise the sense of intrusion, 9 response bands are provided (the topmost of which is, for example, £78,000 or more).
30. The large scale tests carried out in 2006 and 2009 suggest that people do not find the question objectionable. In a 50,000 household test in 2006, an income question was included in half of the questionnaires and excluded from the other half – and the difference in response rate was insignificant. During the census rehearsal in March 2009, almost 92% of the households which returned questionnaires responded to the income question, and there was little correspondence suggesting that people objected to the question. Neither the 2009 rehearsal, nor previous testing in small groups, suggested that people found the question difficult to answer because the householder did not know the income of every member of the household. The results of the 2009 rehearsal were plausible: there was no suggestion that the information was inaccurate, and it appeared to accord with the other data collected about the household (for instance, about car ownership).

31. Users of census information have made very clear the importance they attach to information about income. The following comments, drawn from the Spring 2007 consultation on the Scottish census and evidence to the November 2009 Westminster Public Administration Select Committee on the census in England and Wales, illustrate user views:

- **NHS Health Scotland** “NHS Health Scotland strongly supports the inclusion of an income question. Personal income may offer greater precision, but we would accept household rather than no income data, particularly if there is a risk that a personal income question reduces response rates.”

- **Highland Council.** “There is a strong feeling amongst rural authorities that the current approach to measuring deprivation (through the use of the Scottish Index of Multiple Deprivation, measured at data zone level) is unhelpful in rural areas, and that the approach taken to measuring income deprivation is weak. We would strongly support the inclusion of an income question in the 2011 Census…… For local authorities, the main use of income data would be in understanding the issues associated with low pay.”

- **Falkirk Council.** “As with most local authorities, we strongly support the inclusion of an income question in the 2011 Census and indeed campaigned strongly for such a question in 2001.”

- **Scottish Enterprise.** “We would find this useful to assess any disadvantages faced by an under represented group such as people from different racial backgrounds, disabled people and older people etc... This would provide good evidence for our equality impact assessment work as part of public sector equality duties.”

- **Demographics User Group** (commenting on English decision to exclude income question, and representing major commercial companies which make extensive use of the Census). “Our one major regret is that there are no plans to include a question on Income. This topic is important to users in all sectors.”

- **Equality and Human Rights Commission.** “It is vital for an income question ….. to be included in the census if policy and service delivery is to take proper account of socio-economic inequality. The experiences and needs of the other identity groups covered in the census are very different at different levels of income and without an income question the value of many other aspects of the census data is much reduced. It is important to begin to get more accurate population estimates of equality groups at different levels of income.”
• Professor Phil Rees, Leeds University (former co-ordinator of academic users of census data). “There were strong representations made by social scientists and business researchers for inclusion of a household income question in the census in 1991 and 2001. The arguments for a question on income are (1) it is the best socio-economic indicator for establishing the level of poverty in households and (2) we need to know about people’s incomes by region, local authority and neighbourhood in order to deliver services effectively. Measured income is much more discriminatory than the proxy variables used to construct indexes of deprivation, such as occupation or education. The alternatives which are used as proxies in indexes of deprivation (census based or administrative data based) dampen down the extent of variation in poverty/affluence across the UK population.”

32. Questions on income have been asked successfully in a number of censuses across the world. Australia, New Zealand, the US and Canada have all included such a question. The level of response to the specific question tends to be lower than for other questions but international experience does not seem to suggest any noticeable detrimental effect on the overall response rate. In Canada’s 2006 census, there were no formal complaints and no organised campaigns centred on the income question. Testing in Australia has indicated that the main cause of non-response to the question is that people do not consider the question relevant to their situation (for example, full-time students, people out of the labour force such as retirees, or those receiving government benefits). Extensive use is made of the data, in planning, monitoring and service delivery of social and economic policy, and in particular (alongside other social and demographic characteristics) to identify the location of disadvantaged groups, and areas of deprivation, so that support services can be appropriately distributed. All levels of government, researchers, analysts, academics and many more greatly value the analytical power lent to them by census income data.

33. Ultimately it is a matter for Parliament to decide on the balance between the usefulness of the data and the issues of intrusiveness or non-response. The Committee is asked to take into account that:

• the potential importance of income data in tackling poverty and the many issues related to poverty is very substantial;
• there is a very strong demand for the data particularly from those who need data at the local level including for rural areas or for particular subsets of the population;
• testing did not suggest significant problems of intrusiveness or impact on responses.

Conclusion

34. It is never easy to select the questions for the census. It gives a once-in-a-decade opportunity to take a detailed snap shot of Scotland’s population, and the statistics that flow from it are very widely used and highly valued. But a balance has to be struck between the utility of the data and the burden on the people of Scotland of completing the census questionnaires. The choice of questions is based on a long period of consultation, and careful research and testing to ensure that the
questions are comprehensible and acceptable to the public. Subject to the approval of Parliament, the census will provide the excellent statistics which civic Scotland requires and expects.

Registrar General, General Register Office for Scotland
Chief Statistician, Scottish Government
4 March 2010
Economy, Energy and Tourism Committee

9th Meeting, 2010 (Session 3), Wednesday, 10 March, 2010

The draft Census (Scotland) Order 2010

Background

1. The Committee has received a submission from Autism Rights and correspondence from members of the public in relation to question 20 in the draft Census (Scotland) Order 2010.

2. The submission and emails are attached in the annexe to this paper. Members are invited to take them into account in their deliberations when questioning the Minister and his officials.

Stephen Imrie
Clerk to the Committee
March 2010
COVERING LETTER AND SUBMISSION FROM FIONA SINCLAIR, CONVENER OF AUTISM RIGHTS

Dear Clerk and Committee Members of the Economy, Energy and Tourism Committee of the Scottish Parliament,

I wish to present evidence to you on the proposed list of questions for the 2011 Census, specifically on question 20 which asks the nature of a person’s disability.

I have been in irregular contact with both the General Register Office for Scotland and the Census Office over more than a year, to find out whether or not the Census will provide an opportunity to gather statistics on the numbers of people with an Autistic Spectrum Disorder (ASD) in Scotland.

You may or may not know that one of the main recommendations of the 2001 Public Health Institute for Scotland’s (PHIS) National Needs Assessment on ASD was that accurate statistics should be collated on the number of people with ASD in Scotland. To date, there are no statistics available, in spite of this recommendation. After 10 years of waiting, the 2011 Census will provide the most cost-effective opportunity to obtain these statistics.

The main purpose of the Census is to provide statistical data to enable planning of public services. Services for people with ASD have been widely acknowledged for many years to be virtually non-existent.

The PHIS National Needs Assessment stressed that people with ASD needed autism specific services, because of the unique nature of this disability.

`Surveys` will merely provide yet more estimates. If `surveys` were going to provide that information, successive governments have had ample opportunity to put these in place.

I attach my written evidence on behalf of Autism Rights for your careful consideration.

Please note that I have booked tickets for the meeting of the committee on the 10th March, so I will be present at the meeting, should you wish to ask me questions.

Regards,

Fiona Sinclair
Convener
Autism Rights
Autistic Spectrum Disorder (ASD) should be included in the options for question 20 on the nature of a person's disability or long-term condition. It is a unique disability, incorporating problems with sensory modulation that are disabling in themselves. It is a syndrome that incorporates people whose ability to lead independent lives diverge wildly from each other, of whom many possess ‘islands’ of ability, irrespective of their capacity to lead a completely independent life.

What will the families of people with ASD make of a refusal to include an option that is now reckoned to be the single largest disability amongst children - outnumbering all other serious childhood disabilities and disorders put together?

Not to use the Census, when it is the most cost-effective method of obtaining an accurate statistic on the total number of people with ASD in Scotland - rather than the usual estimate - is a dereliction of your duty as ‘decision makers’. ‘Surveys’ will merely provide yet more estimates. If ‘surveys’ were going to provide that information, successive governments have had ample opportunity to put these in place.

One of the key recommendations of the National Needs Assessment Report on Autistic Spectrum Disorders, which was published in 2001 by the Public Health Institute for Scotland, was that overall statistics on the numbers of people in Scotland with ASD were an absolute necessity, to enable the provision of appropriate services. Nearly nine years later, and these statistics are still not available.

Critique of the current draft of Question 20 on the nature of a person’s disability or condition
It is not acceptable to claim that room cannot be made for one further category of disability, as ASD is the only disability not covered by the options in the draft question. ASD is not a ‘developmental disorder’ - it is a developmental disability - and it is quite unlike any other disability, because of its nature (incorporating, as it does, difficulties with sensory modulation that are almost disabilities in themselves as well as the ‘triad of impairments’ that must be met before a diagnosis of ASD can be made). It is certainly not a ‘learning difficulty’!

It is totally illogical to deny this opportunity to determine the numbers of people in Scotland with ASD, on the basis of a lack of space, particularly when disabilities and ‘disorders’ of a much lesser incidence are given their own tick boxes.

Moreover, it is both illogical and a complete waste of space to ask people if they have a disability and to tick all the boxes that apply, with the final option being ‘No’. Is that really necessary, when people who are not disabled can omit this question from their census responses? In fact, the 2009 cognitive testing of Question 20 of the Census confirmed that respondents generally
overlooked the `No` response. If Question 20 is irrelevant to respondents, they will naturally overlook it, so there is absolutely no need for a `No` response to Question 20.

The Census question on the nature of disability should be clear, and it is not.

The Registrar General informs me that the General Register Office of Scotland (GROS) `will aim to code, and produce counts for, conditions and disabilities which are written in under the 'other condition' heading.` Note that there is no guarantee that this is going to happen. More importantly, this is hardly satisfactory, as:-

1) Autistic Spectrum Disorders are a disability, not a disorder or condition
2) the inclusion of learning disability and learning difficulty or developmental disorder will merely serve to confuse, as none of them are applicable to ASD, although many organisations (including, it seems the GROS) think they are. In fact, GROS’s cognitive testing of this question and its options in 2009 confirms this:-

- see p.12, 2nd paragraph.

To conflate `learning difficulty` (which is not a disability at all, and something we all suffer from at some point in our lives) with `developmental disorder` is wildly inappropriate. Where did the expertise come from in advising GROS on this question?! It is clear, from the above report, that GROS does not know how to interpret the confusion that the options to the question on the nature of disability creates for those families who have a member with ASD. A confusion that resulted in 5 different options being chosen by people with ASD and their families. Indeed, misconceptions are so widespread and deeply ingrained within the administrative and professional sectors of the public services that ASD is variously referred to as a mental illness, a learning disability and a developmental disability – which is not helpful to people with ASD or their families. It has also to be remembered that the 2009 testing of this question was conducted amongst a very small sample of people with disabilities, only 7 of whom were on the autistic spectrum. Additionally, there has been no dialogue with service user groups such as Autism Rights, that would have facilitated understanding of problems with the question options and potential solutions to these.

I would advise that the question tick box on `A learning difficulty or developmental disorder` is taken out, as it is particularly confusing. Anyone who has cerebral palsy can then tick under physical disability, with the option of also including learning disability, if that is appropriate. Those who have Specific Learning Disabilities, such as dyspraxia and dyslexia, can then tick the box for `other condition` - GROS might want to reword this as `other condition or disability`. It is far more appropriate to structure the question this way, with the inclusion of an option on ASD, than to give a higher priority to relatively minor and low-incidence disabilities.
One other problem with using the category ‘learning difficulty’ is that some people who have a learning disability are inclined to use this term - such as those who are associated with ‘People First’, the campaigning organisation for people with learning disabilities. Their reason for doing this is perfectly understandable, given widespread attitudes about people with learning disabilities. ‘People First’ prefer the use of the term ‘learning difficulty’ on the basis that they think this helps to eradicate the common misconception that the abilities of people with learning disabilities are fixed, and are not capable of improvement through education and therapy.

If the Census uses the term ‘learning difficulty’, which has clearly been inserted to cover Specific Learning Disabilities such as Dyspraxia and Dyslexia, it will produce highly misleading statistical data.

The alteration to include an option on ASD would be little trouble to make, but would enable the Scottish Government to gauge the real numbers of both adults and children with ASD, in order to plan for the provision of services.

The contradictory nature of available statistics on Autistic Spectrum Disorder – and why the Census needs to contain an option on ASD

1) Statistics for children
The legislative change, from the 1981 legislation that introduced the Record of Needs (RoN), to the 2003 Additional Support for Learning Act, which created the Co-ordinated Support Plan (CSP), has resulted in a widening of the definition of children who require ‘additional support’, but a severely contracted number of children receiving statutory support upheld by statutory documentation:-

‘In September 1997, there were 14,912 pupils resident and educated in Scotland with a Record of Needs (excluding pupils in nursery schools).’

and:-

‘There were 15,315 pupils with a Record of Needs in September 2002, a fall of 563 pupils since September 2001. In September 2002 and September 2001, 2.1 per cent of pupils in publicly funded schools had a Record of Needs.’

But, according to the National Statistics publication ‘Placing Requests in Schools in Scotland, 2007/2008’, only 2,694 pupils – or 7% of pupils identified as having additional support needs – have a Co-ordinated Support Plan. That is less than one fifth of those pupils who formerly possessed a Record of Needs, which was, in itself, a statement of need restricted to a small proportion of children deemed to require a high degree of additional and specialist support in order to access school education.

The Pupil Census figure for the total numbers of pupils with ASD in Scottish state schools in 2009 is 5,254. The total number of pupils in Scottish state schools in the same year is 675,410. At current UK and international estimates of ASD prevalence of 1 in 100 children, this may be a failure to properly assess children’s needs. Indeed, other figures from the Pupil Census
would support this interpretation, as there were a total of 3,031 pupils who were declared as disabled, but were not assessed. Furthermore, those children who were declared or assessed as disabled numbered only 11,334, comparing unfavourably with the much larger numbers of children who would properly be classed as disabled within those having Additional Support Needs – at least 20,000 children. This illustrates the difficulties that schools and local authorities have with determining whether or not ASD is a disability – or some kind of “disorder”. Such perceptions reach right to the top of public life, resulting in the truly horrendous decision to re-categorise learning disabilities and ASD as ‘mental disorders’ under the Adults with Incapacity Act and, subsequently, the Mental Health Act. There is also the problem of misdiagnosis – with some parents still struggling to get a diagnosis of ASD for their children. ADHD is sometimes used as a substitute diagnosis for ASD and local authorities are not averse to using meaningless substitutes such as ‘Communication Difficulties’ (as South Ayrshire Council did for my son’s first Record of Needs) or ‘Communication and Language Disorder’. Hence the crucial importance of assessment – which is no longer deemed necessary under the Additional Support for Learning Act.

However, none of the available statistics for children include pre-school children (who represented 13% of children with ASD in a 2004 Audit) or children who are educated outwith school. Schoolhouse, the main home education organisation in Scotland, reckons that as many as a third of these children have special educational needs, and I know from personal experience that the bulk of these are children who have an ASD. Schoolhouse further disputes the statistics on the numbers of children who are educated outwith school, claiming that these number in the thousands, and not the hundreds that are given in government statistics.

Whilst statistical data for children with ASD in Scotland may seem to have a reasonable degree of accuracy, at least one large and recent study (of 20,000 children) has clearly demonstrated that many cases of ASD are undiagnosed. This study gave the prevalence of ASD amongst children as 1 in 100.ii

The Census will offer a ‘belt and braces’ approach to the gathering of statistical data. Too often, local authorities and health boards have particular difficulties in diagnosing and assessing ASD. Indeed, the international ‘gold standard’ for ASD statistics is California, where, by using 3 datasets – from health, education and the US Census – they were able to demonstrate that there was a genuine rise in the number of children presenting with ASD and are now able to plan services accordingly.

2) Statistics for adults
When the previous Scottish Executive, in response to a Parliamentary Question asking for the numbers of adults with ASD in the State Hospital, Carstairs, stated that, ‘The information requested is not held centrally’, we knew that the statistics on the numbers of adults with ASD in Scotland had to be something of a mess.iii And so it transpires.
On the Borderline? - People with Learning Disabilities and/or Autistic Spectrum Disorders in Secure, Forensic and Other Specialist Settings, which was published in June 2004, gave a wholly unbelievable total of 6 people with ASD in a selection of mental hospitals, prisons and other secure institutions within Scotland.

In 2005, a Senior Speech and Language Therapist working within Lothian Health Board gave a talk to the Scottish Parliament's Cross Party Group on Autistic Spectrum Disorders. She talked about her work, which in part had involved a re-diagnosis of patients within the mental hospitals in her Primary Care Trust. The resulting figure was quite shocking – over 450 people were re-diagnosed as having ASD within just one PCT. As far as I am aware, this is the only serious attempt to investigate the real numbers of people with ASD who have been disposed of in mental hospitals through misdiagnosis and because of an absence of appropriately supported accommodation in the community. The Cross Party Group were informed of worrying cases where mental health professionals were refusing to recognise a diagnosis of ASD, or the features of this disability, and were continuing to medicate with psychotropic drugs. These practices continue today.

Also in 2004, the `Audit of Services for People with ASD Statistical Report`, found that there were 645 adults with ASD in Scotland, and that around 1 in 7 of these people was identified as having Asperger Syndrome. This statistic was a joint effort between health boards and local authorities. The Audit detailed inconsistencies between localities in the types of personnel and assessments used to identify adults with ASD. This audit also calculated the incidence of ASD amongst children as 35 per 10,000 – which was not even in line with the historical figure of 60 per 10,000.

The Statistics Release, Adults with Learning Disabilities Implementation of `The same as you?` was published in 2008 and claims to be the best set of figures so far – but still only 1,494 adults with ASD were identified by local authorities, `11 per cent of those for whom this information is known`. `28 (of the 32) local authorities reported on this item`. The language in this report would not win any prizes for clarity, but it seems that 13,451 were thought to have ASD combined with Learning Disabilities, and the 1,494 figure is for ASD diagnosis only. Quite how you can `identify` that someone has ASD without a professional diagnosis, beats me – as does the claim that there are 11,909 people with ASD `missing` but unknown to local authorities! However, with a very rough prevalence rate at the `old` rate of 60 in 10,000 for an adult population of 4 million, this is 24,000 people. I presume that this is what these estimates are based on. So, the `best` figures so far for adults with ASD are just estimates!

Autism Rights agrees with the conclusion, if not with the figures, from the National Autistic Society's survey of adults with ASD and their families:-

The Scottish Government, local authorities and community health partnerships (CHPs) do not how many adults with autism there are in Scotland. Staff who carry out assessments or provide social care support are
often not trained in autism and many adults with autism do not fulfil local authorities' criteria for support."

We know, quite literally, of only a handful of adults with ASD in Scotland who are receiving any services that appropriate to their needs. On the contrary, we know parents who are desperate to wean their adult sons off antipsychotic medication which is routinely used as a means of control in the absence of appropriate services – contrary to the European Charter of Rights for Persons with Autism.

Ten years of waiting patiently has got us precisely nowhere. There are no adult services to speak of – and those that do exist, like the Autism Resource Centre in Glasgow, are facing cuts in funding. Educational Provision is mainly in mainstream classes, which does not suit many, if not the majority, of children with ASD. Those of us who pay taxes are sick to death of paying for the education of other people's children and for other services that are equally inappropriate to the needs of our children, let alone for all the 'extras' in the arts and sport which are inaccessible for our children.

If this committee refuses to see the connection between an absence of services and absence of reasonably accurate statistics, then a boycott of the Census is something that we may have to consider.

REFERENCES

http://www.scotland.gov.uk/library2/doc04/ridm-03.htm
- Advisory Committee: Report into the Education of Children with Severe Low Incidence Disabilities
  'In September 1997, there were 14,912 pupils resident and educated in Scotland with a Record of Needs (excluding pupils in nursery schools). This number represented 1.9% of the pupil population, although recording rates by authorities vary across Scotland ranging from 0.8 % to 2.6%.'

http://www.scotland.gov.uk/Publications/2003/10/18407/28342
- Additional information on the number of pupils with a Record of Needs, from the September 2002 School Census, is published today by the Scottish Executive Education Department.
  These results are for publicly funded primary, secondary and special schools only, and have been compiled from a special exercise carried out to confirm the figures originally supplied in the census.
  This statistics publication notice updates the figures published in August 2003 in the statistical bulletin 'Summary Results of the September 2002 School Census' which reported the initial results.
  The main findings are: -
  There were 15,315 pupils with a Record of Needs in September 2002, a fall of 563 pupils since September 2001. In September 2002 and September 2001, 2.1 per cent of pupils in publicly funded schools had a Record of Needs.

- Pupil Census 2009

- Table 1.8: Reasons for support for pupils with Additional Support Needs, by gender, 2009
  Occurrences. Pupils with more than one reason for support will appear in each row.

- Table 1.9: Pupils who are assessed or declared as disabled, by gender, 2009

PRIMARY
- Table 2.7: Reasons for support for pupils with Additional Support Needs, by gender, 2009
  Occurrences. Pupils with more than one reason will appear in each row.

SECONDARY
- Table 3.7: Reasons for support for secondary pupils with Additional Support Needs, 2009
  Occurrences. Pupils with more than one reason will appear in each row.

SPECIAL
- Table 4.6: Reasons for support for pupils based in special schools with Additional Support Needs, by gender, 2009
  Occurrences. Pupils with more than one reason for support will appear in each row.

http://www.scotland.gov.uk/Publications/2005/04/11114958/50011
  Description
  Statistical bulletin containing information on pupils in publicly funded schools in Scotland mainly derived from the latest annual pupil census which took place in September 2004.
  ISBN 0 7559 3986   Official Print Publication Date Website Publication Date
  April 12, 2005

http://www.scotland.gov.uk/Publications/2005/04/11114958/50073
- Table 1.4: Main difficulty in learning of pupils with a Record of Needs and/or an Individualised Educational Programme in primary, secondary and special schools, 2004

http://www.scotland.gov.uk/Publications/2006/04/24104745/1
- Changing childhoods?: The same as you?: National Implementation Group: Report of the Children's Sub Group
  'Children with learning disabilities and autism spectrum disorder in Scotland'
The estimated number of children aged 18 years and under in Scotland, as at 30 June 2004, was 1,132,000. One in 40 of these children may have a learning disability. Many will have a mild learning disability and require a little additional support. However, four in one thousand of the population will have moderate to profound disabilities and require significant additional support. Using prevalence studies that estimate 60 per 10,000 children with autism spectrum disorder, there are an estimated 7,614 children and young people under 19 in Scotland with autism spectrum disorder. A service audit in 2003 identified 3,412 individuals, but the information identified by local agencies varied significantly and it is recognised that these figures were an underestimate.

http://www.scotland.gov.uk/Publications/2010/02/15094039/18
- Statistics Publication Notice: Education Series: Exclusions from Schools 2008/09
Table 14: Cases of exclusion amongst pupils with additional support needs by type of need (1) This information will be affected by differing reporting practices across local authorities and are indicative only.

- Exclusions from Schools, 2002/03 (REVISED)

- Provisional Pupil Numbers 2004, Projections and Children Educated Outwith School 2003/04

- Audit of Services for People with ASD Statistical Report, 2004

http://www.scotland.gov.uk/Publications/2004/06/19505/38859
- On the Borderline? - People with Learning Disabilities and/or Autistic Spectrum Disorders in Secure, Forensic and Other Specialist Settings, published June 2004

- see for printouts on publications

http://www.nas.org.uk/nas/jsp/polopoly.jsp?d=1558&a=15670
- In 2007, we carried out a survey of adults with autism and their families, asking them about the support they receive or would like to receive. We also surveyed local authorities and Community Health Partnerships (CHPs). The results reveal a stark and often desperate reality, where the majority of adults with autism are not receiving the support and services they need.

51% of adults with autism have experienced problems in receiving support from their local authority or health board.
56% of adults are currently receiving any services, despite there being a clear and ongoing need for more support.
31% of adults with autism have experienced severe mental health problems due to a lack of support.  
82% of parents are worried about their son's or daughter's future when they are no longer able to support them.  
37% of adults have had no contact at all with a social worker or support worker since reaching adulthood.  
51% of adults would like to receive social skills support but only 14% receive it.

Everyone with autism is different; however, many of the barriers that people face are the same. It is these barriers that I Exist aims to break down. The Scottish Government, local authorities and community health partnerships (CHPs) do not how many adults with autism there are in Scotland. Staff who carry out assessments or provide social care support are often not trained in autism and many adults with autism do not fulfil local authorities' criteria for support.

- Statistics Release, `Same as You/' 


http://www.medicalnewstoday.com/articles/134717.php  
- UC Davis M.I.N.D. Institute Study Shows California's Autism Increase Not Due To Better Counting, Diagnosis  
  Main Category: Autism  
  Article Date: 08 Jan 2009 - 1:00 PDT 

Fiona Sinclair 
Autism Rights 
3 March 2010

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i One of the organisations that was requested by GROS to give its input to question 20, the SDEF, erroneously categorised Asperger's Syndrome, which is part of the Autistic Spectrum, as a 'learning difficulty' (see -  
  http://www.sdef.org.uk/OurWork/ConsultationRecord_census disability question.htm )  
  Why the SDEF’s opinion was thought to be more valuable than those from autism organisations, when their organisation does not include anyone with any expertise or understanding of ASD, is indicative of the lack of knowledge of ASD within the civil service. 

ii http://news.bbc.co.uk/1/hi/health/8072127.stm  
  - Many autism cases 'undiagnosed'  
  Friday, 29 May 2009 

iii Parliamentary Question S2W-25791, May 2006
EMAIL FROM DEBI BROWN

I am writing regarding the 2011 Census  Order. In summary, I believe that failure to record accurately the numbers of people on the autistic spectrum is leading to a huge lack of services and funding specific to ASD and is also contributing to lack of understanding of this very complex condition. So, I would like to request you put ASD as a specific, stand-alone box in the 2011 Census, for the reasons below.

I am an adult with Asperger Syndrome. I have found there is almost no understanding of the autistic spectrum in our society. And I am shocked beyond what I can say about the lack of services available to adults on the spectrum. No professional ever noticed or diagnosed me with Asperger Syndrome. I realised I had it when reading an article on the internet. When I asked my doctor to refer me for a diagnosis, her response was "Are you sure you want a diagnosis? There's no help out there for you". Since then, I decided to get a diagnosis and I've had struggles to obtain post-diagnostic support, which is not available at all in Glasgow outside of the hours of 9-5pm and which is therefore not accessible for anyone who has a fulltime job. It was only after I quit my full-time job, that I was able to access any useful support at all. Even when I left my full-time job, I found that only short-term post-diagnostic support in the form of specialist one-to-one appointments was available. These ended after about 6 months, whereas I have a condition that brings up continual difficulties in my life and I believe actually requires ongoing support. Now, the Autism Resource Centre (ARC) in Glasgow where I have been receiving this support is withdrawing a lot of its services to people on the spectrum (e.g. Art Class, Drama class, post-diagnostic support groups, removal of 9-5 drop open access and instead only open for social use 2 afternoons per week, etc.), due to reasons I do not fully understand but which seem to have concern withdrawal of funding. This is leaving a lot of very vulnerable people literally in a crisis situation, with some having suicidal thoughts, and others being completely stuck because the only place they have ever found in their life in which they can be accepted/supported/not bullied is withdrawing many of their life-support services. The reason for all of this probably does just come down to a simple lack of money, but I wish to make clear that what is being withdrawn is not a nice little luxury that we were lucky to have before. These things were essential.

So, you might think, if there are not many ASD-services, surely I can access other services, e.g. through mental health? Well, no. I tried to access a Cognitive Behavioural Therapy appointment via the NHS with a therapist who knew about ASD. I was unable to find any CBT therapist who knew of ASD. I then tried to contact an NHS psychologist. He sounded happy to see me at first. When I mentioned ASD, he got very scared and said I shouldn't bother to see him because he doesn't think he is able to help me with such pervasive issues.

WE ARE NOT MENTAL HEALTH AND WE ARE NOT LEARNING DISABILITY!!!!!
I have a degree and I have qualified as a patent attorney. Do you think I am learning disabled? I am not. Mental health is a long way from being able to cope with us, because often our mental health issues are not irrational but stem so directly from ASD. Also, if I am not anxious or depressed, I am not mental health either. Do you want me to have to develop a serious mental health problem before I can access any services at all, even non-appropriate ones with people not trained in ASD and who are scared of dealing with me?

Here is the CURRENT DRAFT OF QUESTION 20 ON THE NATURE OF DISABILITY

'Do you have any of the following conditions which have lasted, or are expected to last, at least 12 months?'

Tick all that apply.

* Deafness or partial hearing loss
* Blindness or partial sight loss
* A learning disability
* A learning difficulty or developmental disorder
* A physical disability
* A mental health condition
* A long term illness, disease or condition
* Other condition, please write in
* No condition

As you can see, there is no option for Autistic Spectrum Disorder. 10 years is more than enough time to gather statistics on autism incidence.

I would like to request that you include a separate option for ASD within the tick boxes for question 20 (on the nature of a person’s disability) of the Census.

One of the main recommendations of the 2001 Public Health Institute for Scotland’s (PHIS) National Needs Assessment on ASD was that accurate statistics should be collated on the number of people with ASD in Scotland. Without statistics, service planning is impossible – this cannot be done on the basis of an ESTIMATE of 1 in 100 or 150 incidence.

ASD should be included in the options for question 20.

Not to use the Census, when it is the most cost-effective method of obtaining an accurate statistic on the numbers of people with ASD in Scotland - rather than the usual ESTIMATE - is a dereliction of your duty as ‘decision makers’. ‘Surveys’ will merely provide yet more estimates.

One of the key recommendations of the National Needs Assessment Report on Autistic Spectrum Disorders, which was published in 2001 by the Public Health Institute for Scotland, was that statistics on the numbers of people in Scotland with ASD were an absolute necessity, to enable the provision of
appropriate services. Nearly nine years later, and there are still no statistics available. If ‘surveys’ were going to provide that information, successive governments have had ample opportunity to put these in place.

It is not acceptable to claim that room cannot be made for one further category of disability, as ASD is the ONLY disability not covered by the options in the draft question. ASD is NOT a ‘developmental disorder’ - it’s a developmental disability - and it is quite unlike any other disability, because of its nature (incorporating, as it does, difficulties with sensory modulation that are almost disabilities in themselves as well as the ‘triad of impairments’ that must be met before a diagnosis of ASD can be made). It is certainly NOT a ‘learning difficulty’!

It is totally illogical to deny this opportunity to determine the numbers of people in Scotland with ASD, on the basis of a lack of space, particularly when disabilities and ‘disorders’ of a much lesser incidence are given their own tick boxes.

What will the families of people with ASD make of a refusal to include an option that is now reckoned to be the single largest disability amongst children - outnumbering all other serious childhood disabilities and disorders put together?’

The Census question on the nature of disability should be clear, and it is not.

Please could you tell me how the Census will collate and present the responses to the option of ‘other condition’? Will the responses be aggregated under ‘other condition’, or will you give a complete breakdown of the various responses made?

In any case, this is not satisfactory, as:-

1) Autistic Spectrum Disorders are a disability, not a disorder or condition
2) the inclusion of learning disability and learning difficulty or developmental disorder will merely serve to confuse, as none of them are applicable to ASD, although many organisations (including, it seems the GROS) think they are. In fact, your testing of this question and its options confirms this:-

- see p.12, 2nd paragraph.

To conflate ‘learning difficulty’ (which is not a disability at all, and something we all suffer from at some point in our lives) with ‘developmental disorder’ is wildly inappropriate, and I cannot think who could have advised you that it is appropriate. Where did the expertise come from in advising GROS on this question?! It is clear, from the above report, that GROS does not know how to interpret the confusion that the options to the question on the nature of disability creates for those families who have a member with ASD.
I would like to request you put ASD as a specific, stand-alone box in the 2011 Census, for the reasons above.

Yours sincerely,

Debi Brown
EMAIL FROM KATH BAKER

Please forgive me copy and pasting rather than composing. I am an adult female aspergers person and very stressed at the moment as all the services I accessed for my daily life have been withdrawn because of the financial situation. I have an academic background and would otherwise have made my own case for including ASD as a separate category in the census.

I fully support the case Fiona Sinclair at Autism Rights is making. She speaks for me and my carer on this issue.

I hope she will be called to give spoken evidence.

Kath Baker

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EMAIL FROM TOM WIGHTMAN

Sir,

The 2011 Census Order is likely to be discussed at the Scottish Parliament's Economy, Energy and Tourism Committee meeting on 10 March. The Scottish version of the Census has a question on the nature of a person's disability - the version for the rest of the UK doesn't. There is no specific option for Autistic Spectrum Disorder.

If my autistic son were to be at home at the time of filling in the census form, I would not know how to answer question 20.

Is it a developmental disorder that he has? Or perhaps learning difficulties (but that's only part of it). Maybe you would call it a learning disability (but again, that's only part of it). Perhaps it is a physical disability, in that his brain hasn't developed like other peoples - or it could be hormonal (who knows? it seems we are not very far along the road to uncovering cause, never mind cure).

It is certainly a long-term condition. It could be entered in 'Other Condition' field. But wouldn't it be better to be specific, and have it included as a separate question? The option 'Autistic Spectrum Disorder' would give an opportunity to find out how many people have this condition in Scotland.

Admittedly, you won't find them all. Not everyone who has ASD in its myriad forms either knows they have it; or is willing to admit to it. But it would be a start. If we don't do it for the next census, it will be another 10 years to regret the omission.

What are we afraid of? We don't know the full extent of the problem. Including this in question 20 would, at least, provide some figures to work from. Knowing the demographics is fundamental to the provision of support for the people with ASD, their families. Research into the 'condition', the commissioning of long-term care facilities and the training of professionals. We need the information and this is the simplest and most efficient way of obtaining it.

Thank you for your attention,

Regards,

Tom Wightman
EMAIL FROM ALISON RUTTER

Dear Sir/Madam,

I would like to make some comments on the disability questions (question 20) on the next census. While I understand that there can't possibly be a separate option for each disability I believe that Autistic Spectrum Disorder should be included as an option as it is not covered by any of the other options.

Services cannot be planned without accurate data and I feel that this is particularly important in the light of recent cutbacks-and even complete cutoffs-in services to people with ASD. A tickbox on the census will allow accurate data to be collected, something which has never been done before as only estimates have been used.

This is a good opportunity to get accurate numbers of people living with ASD in Scotland so that their needs can be served and I hope that it will not be wasted.

Alison Rutter
EMAIL FROM STUART & CHRISTINE MacVICAR

Dear Sir

It appears that an ideal opportunity to identify the true figures for those affected by Autistic Spectrum Disorder will be omitted from the forthcoming census document.

Autistic Spectrum Disorder is neither a learning disability or a mental illness, but a complex organic disease state with neurological outcomes.

Those who have had the correct diagnosis of their condition may be reluctant to be categorised in the headings that are offered.

Christine MacVicar
Economy, Energy and Tourism Committee
9th Meeting, 2010 (Session 3), 10 March 2010

SUBORDINATE LEGISLATION

<table>
<thead>
<tr>
<th>SSI title and number:</th>
<th>The Renewables Obligation (Scotland) Amendment Order 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Instrument:</td>
<td>Affirmative – Standing Orders 10.6.1(a)</td>
</tr>
<tr>
<td>Date Laid:</td>
<td>9 February 2010</td>
</tr>
<tr>
<td>Date circulated to Members:</td>
<td>5 March 2010</td>
</tr>
<tr>
<td>Economy, Energy and Tourism Committee deadline to report on SSI:</td>
<td>22 March 2010</td>
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Background

1. The Renewables Obligation (Scotland) Order (ROS) was first made in 2002 under powers contained in the Electricity Act 1989 and imposes an obligation on licensed electricity suppliers supplying electricity in Scotland to provide suppliers supplying electricity in Scotland to provide an increasing percentage of that supply from qualifying renewable energy sources.

2. Following reviews of its operation and to accommodate the introduction of a number of changes, the ROS has been revised and replaced each April from 2004.

Changes introduced by the proposed 2010 Amendment Order

3. The main objective of the ROS is to ensure that the ROS is capable of driving the substantial increases in renewable electricity in Scotland which will be necessary to help meet the Scottish Government targets. The changes will:

   - Remove the existing cap of 20% on renewable generation
   - Increase the level of headroom from 8% to 10%
   - Extend the lifetime of the ROS to 2037, while limiting participation under the Obligation to 20 years
   - Introduce a temporary higher band for offshore wind generation accredited after a certain date; and
   - Transfer microgenerators out of ROS and create an option for other small generators to either stay within the ROS or transfer to a Feed-in Tariff (FIT).
Enabling Powers

4. The 2010 Amendment Order is being made under powers conferred by sections 32(1) and (2), 32A(1) and (2), 32(C)1, (2) and 8, 32D(1) and (2), 32G, 32J(3) and 32K(1) and 3 of the Electricity Act 1989, as amended and introduced by the Energy Act 2008.

European Directive

5. The ROS in tandem with the Renewable Obligation Order (ROO) forms an important part of the UK’s compliance with article 3.1 of the European Directive on the promotion of electricity produced from renewable sources (Directive 2001/77/EC).

State Aid

6. The Scottish Government has produced a separate briefing note for the Committee with an update in relation to state aid approval for the provisions of the draft Order (attached at annexe A).

Financial Impact

7. The Order creates a small additional cost for electricity suppliers, which can be passed on to industrial, business and domestic customers as part of their electricity bills. Ofgem estimate the cost to the average household in 2007 was £7.35 per year and has forecast that this will rise to £11.41 by 2010-11 (based on 2006 prices).

Regulatory Impact Assessment

8. A Regulatory Impact Assessment was undertaken in relation to the draft Order (attached at annexe B).

Subordinate Legislation Committee Report

9. The Subordinate Legislation Committee (SLC) considered this instrument and agreed that no points arose in relation to the instrument.¹

Action

10. The Committee is invited to decide whether it wishes to agree or disagree to motion S3M-05847 and to report its decision to Parliament no later than 22 March 2010.

Stephen Imrie
Clerk to the Committee

¹ Subordinate Legislation Committee 14th Report, 24 February 2010.
ANNEXE A

Renewables Obligation (Scotland) Amendment Order 2010

Briefing Note on State aid

1. The purpose of this short note is to provide an update to the Committee on the situation regarding state aid approval for the provisions of the above Order, due to be considered by the Committee at its meeting on Wednesday 10 March.

2. The Order, known as the ROS, operates in tandem with similar Orders in place across the UK. Together, these Orders create effectively a single market across the UK for Renewables Obligation Certificates (ROCs) which are awarded to electricity suppliers, and which those suppliers may use to demonstrate that they have complied with their Obligation under the Order(s).

3. The UK Obligations are considered by the Commission to represent a state aid, specifically the distribution of buy-out fund payments to suppliers by Ofgem. As such, the Obligations have been notified and improved both at their introduction in 2002 and in respect of any and each set of changes to the legislation which have been made since.

4. The amending Order was laid before the Scottish Parliament in February, shortly after the equivalent England and Wales Order was laid at Westminster. This is due to the way in which the Obligation operates – each Obligation period runs for 12 months from April 1. As such, we have always had to introduce any amendments to the legislation by this date.

5. The provisions in the amending Order have been notified to the Commission by the UK Government, as is customary. However, this process has encountered delays, with the effect that the formal notification was not made until February 19. The Commission has agreed helpfully to consider it under the terms of a simplified and shortened procedure. This means that we will receive the Commission’s response by March 19.

6. This means that the Order will not have been officially approved by March 10, when the Committee is due to consider the Order. At the same time, officials are fully confident that the Commission, having had advance sight of the proposed changes and having since received additional information in response to some questions, will approve the changes by March 19.

7. However, this can’t be guaranteed. As such, and in the event that the Commission has not approved the changes by March 19, the Order will not be made by Ministers. Instead, the existing provisions and Obligation on suppliers will remain in place with effect from April 1, and the changes contained in the amending Order withdrawn and re-laid at a later date.
ANNEXE B

Regulatory Impact Assessment for the Renewables Obligation (Scotland) Amendment Order 2010

1 Title of Proposed Regulation

1.1 Renewables Obligation (Scotland) Amendment Order 2010

2 Purpose and Intended Effect of Measure

Objectives

2.1 The prime objective of the Renewables Obligation (Scotland) Amendment Order 2010 (the ROS) is to ensure that the ROS is capable of driving the substantial increases in renewable electricity in Scotland which will be necessary to help meet Scottish Government targets. The Order will:

- Extend the ROS out to 2037 from its current end date of 2027;
- Introduce changes to the proposed level of “headroom”;
- Remove the existing 20% limit under the ROS;
- Introduce a temporary higher band for offshore wind generation accredited after a certain date; and
- Make additional provision for the revocation of ROCs.

Background

2.2 The Renewables Obligation mechanism was introduced in 2002, with separate Orders in England and Wales, Scotland (and later Northern Ireland). These combined to create an obligation on licensed electricity suppliers across the UK to source more power from eligible sources of renewable electricity, such as wind, biomass, hydro, wave and tidal power. The Obligation remains the primary instrument via which renewable electricity generation targets in Scotland (50% of whole electricity demand by 2020) and across the UK are being pursued.

2.3 From 1 April 2009, the UK obligation changed from a percentage of a supplier’s sales to an obligation to present a number of ROCs per MWh of a supplier’s sales. The introduction of this change removed the direct link between the level of the Obligation and the actual amount of renewable energy required to meet it. One ROC is no longer necessarily equivalent to 1 MWh of renewable electricity. This has changed the ROS from an Obligation to produce evidence that a percentage of electricity supplied to customers comes from renewable sources, to one where suppliers are obliged to present a specified number of ROCs.

2.4 The UK Obligations therefore combine to require licensed electricity suppliers to produce a certain number of renewables obligation certificates (ROCs) in respect of each megawatt hour of electricity that they supply to customers during a specified period. In 2009/10, this number was 0.097
ROCs per megawatt hour. Without the financial support provided by the Obligations, most forms of renewable electricity would not be economic and the Scottish Government would not achieve its targets for increasing the supply of electricity from renewable sources.

**Rationale for Government Intervention**

2.5 The ROS is the key driver in terms of meeting the Scottish Government’s renewable electricity targets. Achieving this will, particularly in light of the demands imposed by the EU Renewable Energy Directive, require the ROS and the other UK Obligations to move beyond the current cap in the legislation of 20%, and the creation of a longer term framework and incentive through the extension of the lifetime of the measure.

2.6 The market on its own will not deliver the required development and deployment of renewable technologies to achieve Scotland’s renewables and carbon reduction targets. This is because the carbon price is not yet high enough or certain enough to support these higher cost technologies, and there are market failures such as positive externalities from innovation, asymmetric information and uncertainty, and increasing returns to scale in the power sector.

2.7 The ROS, in tandem with the other UK ROs, needs to increase the proportion of renewable electricity to the levels required by to meet the EU target. To do this, it needs to be modified and extended. Subject to Parliamentary procedure and State Aid approval, the Scottish Government plans to implement changes in April 2010 to make the ROS more effective.

2.8 Further to the recent introduction of banding, there is evidence that offshore wind generation costs have increased. This technology will play a key role in meeting the 2020 targets, as recent announcements regarding potential lease awards in Scottish waters have confirmed. For this reason, consideration needs to be given to providing additional support under the ROS to these projects so that they come on-stream as originally envisaged, maintaining investor confidence and reducing the risk that the renewables targets are missed.

2.9 Not all of the uplift in renewable generation capacity will come from large-scale generation. Deployment of small-scale renewable generation can play a valuable part. For this reason, the Energy Act 2008 included provision to allow for the establishment of a FITs scheme to subsidise new renewable generation of up to 5 MW in size. The intention is to introduce this scheme across the UK in April 2010. Generation which currently benefits from the ROS but which qualifies for the new FITs scheme will need to be transitioned efficiently from one scheme to the other.
3 Consultation

Within Government

3.1 The Order and the related consultation have been subject to discussions within Enterprise, Energy and Tourism Directorate, and circulated to colleagues in other Departments with an interest, notably Environment. The UK wide nature of the Obligation mechanism has been reflected in regular discussions with colleagues in the Department of Energy and Climate Change, and the Department of Enterprise, Trade and Investment in Northern Ireland.

Public Consultation

3.2 A consultation paper, Renewable Energy: Changes to the Renewables Obligation (Scotland) Order 2009: Consultation, ran for 12 weeks between August and October 2009. This consultation sought views on the following proposals:

A – Extend the lifetime of the RO from 2027 to 2037

3.3 Because of the long term nature of renewable electricity projects, if the RO were to expire on its current end date of 2027, it would be unlikely to incentivise new investment much beyond 2015. Extending the RO to 2037 will give long term certainty to investors to at least 2020 that they will receive support for renewable electricity projects

B – Introduce a 20 year time limit on support under the RO

3.4 By extending the RO to 2037, a time limit on eligibility needs to be set, as it would not be cost-effective to allow projects to continue to claim ROCs for the full life-time of the RO where that exceeds the amount of support they really need for economic viability. As RO support is based on a 20-year period, participation has been limited to 20 years. The introduction of the new time limit on participation will be grandfathered to protect existing investments.

C – Remove the 20% renewable electricity limit from the RO

3.5 The current 20% limit on RO generation would restrict the UK’s ability to reach the 2020 renewable energy target. Removal will ensure generation can grow and be guaranteed support from the RO.

2 http://www.scotland.gov.uk/Publications/2009/08/07092158/0
D – Retain the concept of headroom, replacing fixed targets\(^3\) after 2015/16

3.6 The original purpose of fixed targets was to provide a clear trajectory towards our target for renewable generation that would create a “scarcity signal” if deployment lagged behind. However, experience has shown that this scarcity signal has not been effective as deployment has been hampered by other constraints such as grid connection and planning and the price spikes which result are too short term to influence developers’ decisions to invest. Government believes that fixed targets can therefore drive up ROC prices, increasing the cost of the RO to consumers, without necessarily increasing deployment.

3.7 Headroom will continue to operate alongside fixed targets to 2015/16. In determining the Obligation level from 2011/12 to 2015/16, it will be the higher of fixed target and the prediction of renewables generation in the period plus 10% headroom that sets the level. The size of the Obligation has already been set using headroom for the 2010/11 Obligation period. From 2016/17 onwards, the obligation level is expected to be set through the prediction of renewables generation plus headroom. Headroom ensures that the chances of an oversupply of ROCs and hence a ROC price crash are low, and thus increases incentives to invest.

E – Increase the level of headroom from 8% to 10%

3.8 Recent research and industry feedback indicates that the current level of headroom of 8% above deployment levels is too low to give investors confidence that a ROC price crash will be avoided. The level of headroom will therefore be increased from 8% to 10% in one step as of the 2011/12 Obligation period. The initial proposal had been to ramp this up in four 0.5% point increments, but it has since been decided that, given the risks, it should be increased directly to 10% from 2011/12.

F – Amend the RO so that some offshore wind projects qualify for an increase in ROC support.

3.9 Over the winter of 2008-9, DECC were approached by a number of offshore wind developers who argued that the economics of offshore wind projects had been particularly hard hit by the credit crunch, coming at a time when their supply chain costs were already rising. A study was commissioned to look into the costs faced by projects looking to achieve financial close in the next year.

\(^3\) Fixed targets will still be in operation from 2016/17 onwards, but will not be increase any further. It is therefore expected that the level of the obligation will be set by the predicted level of generation for the period plus headroom.
3.10 The results appeared to demonstrate that a combination of factors had led to significant increases in costs over a relatively short period. These factors include: increased costs due to the immature supply chain; increased foreign exchange costs where the majority of capital costs are priced in Euros or Danish Kroner and increased cost of risk (reflected in increased borrowing costs) in the current financial climate. An early review of the offshore wind banding was initiated, and following review by the Renewables Advisory Board (RAB) and statutory consultation, the Secretary of State for Energy and Climate Change has proposed, subject to state aid and parliamentary procedure, that there should be an increase in offshore wind banding for stations or capacity receiving full accreditation between 1st April 2010 and 31st March 2014.

3.11 Scottish Ministers have been consulted and kept fully informed regarding this review’s progress and conclusions; they have consulted in turn with Scottish stakeholders on the question of any changes emerging from the review being introduced to the ROS.

G – Enable transition of eligible microgenerators (up to 50 kW) and small generators (50 kW – 5 MW) to the FITs scheme

3.12 Despite the changes made to the ROS within the past few years to make it easier for microgenerators to access support - for example, allowing them to appoint an agent and submit annual claims - it remains a scheme better suited to large-scale generation. By contrast, the simplicity and income certainty of feed-in tariffs makes them much better suited to the needs of households and other microgenerators. In addition, the administrative burden placed on Ofgem by the microgeneration section of the ROS has always been disproportionate to the level of support provided.

3.13 The introduction of a FITs scheme for small-scale electricity generation up to a maximum of 5 MW will provide an alternative support mechanism for small generators of most technologies that would previously have been eligible for support under the ROS. Whilst small generators already accredited under the ROS before FITs were announced will remain there, small generators up to the maximum capacity of the FITs scheme who have not applied for ROS accreditation before this date will be able to choose between the two schemes.

3.14 Our consultation attracted 20 responses from a range of stakeholders, including electricity suppliers and generators, trade associations, environmental organisations, public sector bodies and individuals.

3.15 The consultation responses revealed a strong consensus on the majority of issues raised.
4 Options, Costs and Benefits

4.1 Do Nothing – under this option, the ROS would not be modified to create the necessary longer term incentive for investment in new renewables capacity, nor would an Obligation of higher than 20% be possible. This would result in the Scottish Government’s renewable electricity targets being missed.

4.2 The alternative options for making the ROS consistent with the Scottish Government and EU renewables targets, and which will also apply to the other UK Obligations, are set out over the following paragraphs. The costs and impacts of doing so are set out at a pan-UK level; this reflects both the combined nature of the Obligations and their creation of a market for renewable electricity across the UK, as well as the way in which electricity supply businesses are likely to share their compliance costs across a UK customer base.

Analysis of the options and the costs and benefits – Introduction

4.3 The analysis presented here considers the impact of the preferred “minimum change” option. It also considers the proposed rebanding of offshore wind and the transition arrangement for small generators from the ROS to FITs. All costs and benefits are reported in 2009 prices discounted to 2009, and using the assumption of updated carbon price projections.

4.4 There are four elements to the analysis of options and costs and benefits:

- 1A – Minimum Change
- 1B – Moving to 10% headroom from 2011/12
- 2A – Rebanding Offshore Wind
- 3 – Transferring eligible microgenerators from the Renewables Obligation to the Feed-in Tariff scheme, and enabling new small generators to choose between the two schemes

4.5 Because of the overlap between the assumptions for policy options 1A and 2A, some of the impacts, in particular those relating to extra support for offshore wind projects accredited in 2013/14, are counted in both.

1A – Minimum Change Option

4.6 The analysis of this option covers modifications (1) to (5) on pp 7 to 8. These are:

- Extension of Obligations to 2037
- Extension of participation period to 20 years for new projects
- Fixed annual targets and headroom to 2015/16, and then “headroom only”
- 20% cap on Obligation size lifted
- Obligation size increased as necessary to maintain headroom
- Increase in headroom from 8% to 10% in 2011/12
4.7 The impact is measured against the ‘do nothing’ option (status quo). Under this option the Obligations would not be modified to increase the amount of renewable deployment in the electricity sector, resulting in around 14% of renewable generation across the UK by 2020 (with the highest proportion in Scotland, as at present). The baseline costs and benefits of the do nothing option are given in Table 1 below:

Table 1: Characteristics of the Status Quo ‘do nothing’ option, 2009 prices

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<thead>
<tr>
<th></th>
<th>2020</th>
<th>Lifetime to 2030</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generation costs</td>
<td>£18 bn</td>
<td>£390 bn</td>
</tr>
<tr>
<td>Carbon Emitted/ Mt CO2</td>
<td>150</td>
<td>2900</td>
</tr>
<tr>
<td>Consumer cost</td>
<td>£21 bn</td>
<td>£460 bn</td>
</tr>
</tbody>
</table>

4.8 The generation costs in this table refer to the costs attributable to UK electricity generation, including the cost of generation from both renewable and fossil fuel sources, the cost of carbon emitted (estimated at the EUA price), an estimate of the cost of unserved energy and demand side response. The costs to consumers of this generation are slightly higher than generation costs due to margins and rents.

4.9 The impacts of the Minimum Change option, compared to the Status Quo scenario, are given in Table 2 below:

Table 2: Quantified Costs and Benefits of the Minimum Change Option relative to the status quo counterfactual, 2009 prices

<table>
<thead>
<tr>
<th></th>
<th>2020</th>
<th>Lifetime to 2030</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross resource costs (additional generation costs gross of carbon compared to counterfactual)</td>
<td>£2.6 bn</td>
<td>£41 bn</td>
</tr>
<tr>
<td>Reduction in Carbon Emitted/ Mt CO2</td>
<td>22</td>
<td>400</td>
</tr>
<tr>
<td>Value of Carbon Reduction</td>
<td>£380 m</td>
<td>£10 bn</td>
</tr>
<tr>
<td>Grid reinforcement costs</td>
<td>£230 m</td>
<td>£3.0 bn</td>
</tr>
<tr>
<td>NPV of monetised costs and benefits for UK economy (= net resource cost, that is net of carbon)</td>
<td>£2.5 bn</td>
<td>£34 bn</td>
</tr>
<tr>
<td>Additional consumer cost</td>
<td>£3.1 bn</td>
<td>£42 bn</td>
</tr>
</tbody>
</table>

4 Defined here as the sum of the net renewables subsidy, wholesale cost and balancing costs. The net renewables subsidy is made up of the Obligation subsidy, climate change levy exemption and balancing costs.

5 The increase in net renewables subsidy, wholesale cost and balancing cost, plus the cost of grid reinforcement.
4.10 Resource costs include all costs associated with the increase in renewable generation, over and above the costs of the counterfactual fossil fuel technology. These estimates include the higher cost of the renewable technologies, and other costs, for example, the grid connection costs. The separate entry on grid costs includes the costs of further reinforcement to the grid that would be necessary to support additional renewable generation. The estimate of grid costs is taken from the ENSG report.\(^6\)

4.11 The minimum change option leads to an increase in generation costs compared to the status quo as a result of the increased proportion of renewable electricity, which costs more than the fossil fuel alternative. The consumer cost increases as well, mainly reflecting the increase in the renewables obligation needed to incentivise this additional generation.

4.12 In addition to the carbon-related benefit quantified above at around £10 billion from 2010 to 2030, minimum change is likely to have other benefits which have not been monetised. These include encouraging innovation, economic benefits in developing new industries and jobs, and security of supply benefits through diversity of supply and reduced dependence on imported fossil fuels compared to the dependence that would pertain in the status quo counterfactual. However, there are also non-monetised costs of minimum change, especially the macroeconomic costs of higher electricity prices, as well as displacement and crowding out effects. ROS administration costs are not included in the monetised costs either, but are expected to rise with the increasing size of the ROS.

4.13 In some sectors such as electricity generation – where new technologies can struggle to compete with conventional technologies – policies to support the market for early-stage technologies are critical. The cost of deploying new technologies typically falls as volumes increase and learning effects take hold, supply chains are established, and commitments to further expansion get firmer. Minimum change is likely to encourage renewables innovation and hence reduce the future costs of reaching Scotland’s long-term renewable energy and greenhouse gas emission targets.

4.14 Analysis of the costs and benefits of minimum change stops in 2030, reflecting the dates used in the relevant model.\(^7\) At this date there will still be operational renewables plant that was incentivised by minimum change. This plant will be associated with continued resource costs post-2030 (annuitised capital costs, operation and maintenance costs etc. over and above the level in the status quo scenario) and continued offsetting benefits including carbon-related benefits.


\(^7\) Redpoint (2009), *Implementation of the EU 2020 Renewables Target in the UK Electricity Sector: RO Reform*
1B – Moving from 8% to 10% Headroom as of Obligation Period 2011/12

4.15 Redpoint’s study modelled a move from 8% to 10% headroom as of the obligation period 2011/12, instead of moving gradually from 8% to 10% by 0.5 percentage points a year, finally reaching 10% headroom in 2014/15, as was proposed originally.

4.16 It found that there was no net resource cost or carbon benefit to the UK economy as a whole from the change, but the small increase in size of the Renewables Obligation would lead to a transfer of £39 million discounted over three years from consumers to producers, that is to say there would be a cost of £39 million spread over electricity consumers, which would be a shared benefit between electricity suppliers and renewables generators. The profile of costs is £19 million in 2011/12, £15m in 2012/13 and £8m in 2013/14 (all values discounted to 2009 at the social discount rate). This increase in subsidy cost is included in the total subsidy costs of minimum change above.

4.17 The result that an early move to 10% headroom has no net resource cost or carbon benefit is because there is no change in the level of renewables deployment. In practice, however, moving from 8% to 10% headroom early will reduce the chances of a ROC price crash in those years, and this will increase investor confidence and in practice could marginally increase the level of renewables build from 2011/12 to 2013/14, thus potentially reducing investor hurdle rates. Any extra renewables build will be associated with a resource cost, since renewables generation is more expensive than conventional electricity generation, but this effect is likely to be small for this minimal change. ROS administration costs should not be affected by the early move to 10% headroom.

2A – Increase in ROC support for Offshore Wind

4.18 Evidence from Ernst & Young suggests that the costs of offshore generation have increased significantly in recent years, and hence up to 2 GW of offshore wind farms around the UK may not go ahead without increased support. The proposal for a temporary increase in offshore wind bands has, following consultation, shifted from a contract criteria to accreditation-based criteria (that is, predicated on when an offshore wind project is accredited under the Obligation by Ofgem), in line with other technologies.

4.19 Alternative policy options to a higher banding for supporting offshore wind, over and above the existing 1.5 ROCs/MWh level in place since April 2009, include capital grant support, tax credits, production credits and loans/credit support. These would all imply additional administrative costs in set-up and monitoring and very significant costs for the public sector in spending or foregone revenue.

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8 Ernst & Young (2009), Cost of and financial support for offshore wind
4.20 Changing the banding for offshore wind implies minimal additional administrative costs and no additional monitoring costs. It also ensures simplicity by retaining support within the existing system. Whilst capital grant support has the advantage of being more easily targeted, it may be more discounted by private investors in the assessment of project economics, given the policy risk that future administrations could divert public spending to other priorities.

4.20 Table 3 below details the resource costs and the consumer costs of the proposed option of 2 ROCs for all projects accrediting from April 2010 to March 2014, relative to the option of leaving the banding unchanged at 1.5 ROCs. A significant proportion of these costs are included in policy option 1A, minimum change, which assumes some technologies will have to ‘band-up’ to reach the 2020 renewables target.

Table 3 – Impact of offshore wind rebanding options, 2009 prices

<table>
<thead>
<tr>
<th>Option</th>
<th>NPV (resource cost net of carbon)</th>
<th>Subsidy cost</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In 2020</td>
<td>2010 to 2030</td>
</tr>
<tr>
<td>2A – 2 ROCs, if accredited April 2010 to March 2014</td>
<td>£240 million</td>
<td>£4.6 billion</td>
</tr>
<tr>
<td>Approximate additional costs of option above Minimum Change</td>
<td>£200 million</td>
<td>£3.8 billion</td>
</tr>
<tr>
<td>2 ROCs, if accredited April 2010 to March 2015</td>
<td>£410 million</td>
<td>£3.8 billion</td>
</tr>
</tbody>
</table>

4.21 The additional transfer from consumers to producers associated with the accreditation option is estimated at around £1 billion. However, there would have been potential indirect impacts on projects not receiving extra support under the contract criteria. For example, competing with other projects who receive higher levels of support could increase these projects’ operating and maintenance (O&M) costs if the supply of such services is restricted. It is also possible they would not have committed to proceed with their project had they known the O&M costs were to go up. Increasing offshore wind banding clearly for a four-year window will increase investor confidence significantly, albeit at a significant cost to UK consumers.
4.22 It has been estimated, very approximately, that around 84% of the impact of offshore wind rebanding against its counterfactual is not included in the impact of Minimum Change against its counterfactual. As such, table 3 gives the estimated costs from offshore wind banding that are additional to those of Minimum Change. This very approximate calculation gives a total NPV for minimum change policy option 1A and offshore wind rebanding policy option 2A together of £37 billion, with an annual cost in 2020 of £2.7 billion.

4.23 The re-banding of offshore wind should not increase the administration costs of the Obligation. However, if individual offshore wind projects that are built as a result of the change are deemed to have the potential to cause significant adverse environmental impacts, they are required to undertake an Environmental Impact Assessment (Directive 85/337/EEC) as part of the planning process.

4.24 The benefits of re-banding offshore wind include:

- Carbon abatement, arising from deployment of large scale offshore wind projects;
- Innovation, as the higher learning rates arising from the increased deployment and a higher domestic market share (in terms of manufacturing) could have a balancing effect in terms of the costs of support.
- Industrial benefits, as Scotland is well placed to meet the demands for construction and installation arising from a multi-GW deployment around the UK; and
- Security of supply, lessening dependence on fossil fuels and imports of gas from abroad.

3 – Transferring eligible microgenerators (up to 50 kW) from the Renewables Obligation to the Feed-in Tariff scheme, and enabling new small generators (50 kW – 5 MW) to choose between the two schemes

4.25 The main impact of transferring eligible microgenerators from the ROS to FITs, and providing new small generators with a choice between the two schemes, will be the potential change in level of subsidy cost to electricity consumers. This change could be positive or negative, since the levels of feed-in tariffs have not yet been set. It will also depend on the relative efficiency of the two schemes.

4.26 The impact of different tariff levels is considered in the Impact Assessments for Feed-in Tariffs. Any differences in the level of support relative to the ROS will ultimately feed back through to electricity consumers' bills; while the FIT, like the combined Obligations, will apply across the UK, there may be regional variations in the way in which costs are levied by suppliers from consumers.
4.27 Although there will initially be administrative costs to Ofgem in transferring microgenerators from the Obligation to FITs, it will be more cost-effective over the long term to maintain a single scheme for microgeneration rather than two schemes in parallel. There will also be benefits from allowing new small generators to choose between the ROS and FITs, because it should enable them to pick the scheme that is more appropriate for them. Smaller generators are likely to find the FITs simpler and less burdensome than the ROS.

Consumer Costs

4.28 The costs to consumers of the proposed changes to the obligation will be reflected through increases in electricity bills. The total cost passed through to consumers across the UK as a result of the minimum change option is estimated to amount to £3.1 billion in 2020 and £42 billion cumulatively to 2030. This cost will include the impact of the subsidy in addition to wholesale and balancing costs, plus the costs required for grid upgrade or reinforcement. However the net cost to the economy will be lower as these costs are offset against the net present value (social) cost per tonne of CO2e abated. The net cost to the economy is estimated at £2.5 billion in 2020 and £34 billion cumulatively to 2030.

4.29 The rebanding of offshore wind projects accrediting from April 2010 to March 2014 will increase net renewables subsidy costs by around £4.9 billion total from 2010 to 2030 (compared to not changing the banding for offshore wind). It will increase rents to electricity suppliers and renewables generators. The total cost to the economy (compared to not changing the banding) is estimated at £4.6 billion.

4.30 As pointed out above, there is an overlap in the assessment of the impacts of policy options 1A and 2A. The very approximate estimate of the consumer cost of both policies together, taking the overlap into account, is around £46 billion total from 2010 to 2030. The very approximate estimate of the total additional cost to the economy of policy options 1A and 2A together is £37 billion.

4.31 These impacts on consumer costs can also be described in terms of the impact on consumer electricity bills. This analysis has been carried out for policy option 1A only, minimum change. The table below shows the impacts on annual bills of minimum change, with an average over the period of 8% for domestic bills and 7% for industrial bills.
Table 4 – Estimated impact of minimum change on consumer bills against the status quo counterfactual

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage increase in domestic bills</th>
<th>Percentage increase in industrial bills</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>2020</td>
<td>12%</td>
<td>11%</td>
</tr>
<tr>
<td>Average 2010 to 2030</td>
<td>8%</td>
<td>7%</td>
</tr>
</tbody>
</table>

5 Small / Micro Firms Impact

5.1 The major impact of the Obligation on the large majority of small businesses is likely to continue to come from increased costs of electricity which, while affecting all electricity consumers, will represent a larger proportion of income for smaller companies.

5.2 The majority of small businesses involved in renewables generation (those with generation at 50 kW and less) are to be transferred to the new Feed-in Tariff (FIT) system being introduced in April 2010. The FIT offers a simpler and more certain income stream for such generators.

5.3 Small businesses involved in licensed electricity supply should not experience any additional burdens from the proposals.

6 Legal Aid Impact Test

6.1 This test is not considered relevant to the changes to the ROS.

7 ‘Test Run’ of Business Forms

7.1 The changes to the ROS do not involve business forms.

8 Competition Assessment

8.1 The ROS is a market-based instrument that operates in a competitive market for electricity. The rules of the ROS apply in a non-discriminatory way to all participants in the renewables industry and electricity sector. It is intended that this will remain the case. The proposed changes, coupled with the retention of the mechanism which recycles money from the buyout fund, should act as a positive incentive to competition between existing and new renewable generators, as well as licensed electricity suppliers.
9 Enforcement, Sanctions and Monitoring

9.1 The ROS, like all UK Renewable Obligations, is administered and enforced by Ofgem. Non-compliance is considered a breach of a ‘relevant requirement’ of the Electricity Act and Ofgem may impose appropriate sanctions. Ofgem reports annually on its administration of the Obligations and conducts regular audits in relation to compliance.

9.2 The changes proposed do not introduce any new powers of sanction.

10 Implementation and Delivery Plan

10.1 The Renewables Obligation (Scotland) Amendment Order 2010 will be laid before the Parliament during February 2010, and is due to come into force with effect from April 1.

11 Post-Implementation Review

11.1 The legislation requires the Scottish Government to carry out reviews of the ROS on an agreed timetable. Subject to the triggers for an early or “emergency” review set out in the ROS, it is proposed that the first review of the RO banding levels should commence in October 2010, and that subsequent reviews should operate at four yearly intervals.

11.2 The Scottish Government will continue to monitor the performance of the ROS, and will work closely with Scottish stakeholders, the other UK administrations and with Ofgem on future changes to the mechanism.

12 Summary and Recommendation

12.1 The recommendation is that the proposed changes be made to the ROS, thus supporting progress towards and the achievement of the Scottish Government’s renewable electricity targets.

13 Declaration and Publication

13.1 I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.