EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE

AGENDA

29th Meeting, 2009 (Session 3)

Wednesday 4 November 2009

The Committee will meet at 10.00 am in Committee Room 5.

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

   the Protection of Children (Scotland) Act 2003 (The Meaning of Disqualified from Working with Children: Corresponding Qualifications in Northern Ireland (No. 2) Order 2009 (SSI 2009/316).

2. **Work programme (in private):** The Committee will consider its work programme.

3. **Draft Budget Scrutiny 2010-11 (in private):** The Committee will consider a draft report to the Finance Committee on the Scottish Government's Draft Budget 2010-11.

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The papers for this meeting are as follows—

**Agenda item 1**

Paper by the Clerk

**Agenda item 2**

Paper by the Clerk

**Agenda item 3**

Draft report
Subordinate legislation

Introduction

1. This paper seeks to inform members’ consideration of the Protection of Children (Scotland) Act 2003 (The Meaning of Disqualification from Working with Children: Corresponding Disqualifications in Northern Ireland) (No. 2) Order 2009 (SSI 2009/316).

2. Copies of the SSI, explanatory notes and Executive Note are provided to members in hard copy only.

Protection of Children (Scotland) Act 2003 (The Meaning of Disqualification from Working with Children: Corresponding Disqualifications in Northern Ireland) (No. 2) Order 2009 (SSI 2009/316)

Background

3. This order was laid on 18 September 2009 and the lead committee must report by 9 November 2009. The Education, Lifelong Learning and Culture Committee has been designated the lead committee.

4. This instrument is made in exercise of powers conferred in the Protection of Children (Scotland) Act 2003.

5. The instrument is subject to the negative procedure and a procedural note on this is attached at Annex A.

Policy objectives

6. The Protection of Vulnerable Groups (Scotland) Act 2007 establishes the principle that an individual found to be unsuitable to work with vulnerable groups in one part of the UK should be barred from such work in Scotland. Corresponding legislation at UK level is the Safeguarding Vulnerable Groups Act 2006 and in Northern Ireland is the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (SVG Order).

7. The Protection of Children (Scotland) Act 2003 (The Meaning of Disqualification from Working with Children: Corresponding Disqualifications in Northern Ireland) Order 2009 (the No. 1 order) came into force on 1 April 2009. The No. 1 order barred individuals disqualified from working with children in Northern Ireland, under the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (POCVA order), from working with children in Scotland. The Committee considered the No. 1 order on 11 March 2009 and determined that it did not wish to make any recommendation to Parliament.

1 Electronic copies are available on the website of the Office of Public Sector Information. http://www.opsi.gov.uk/legislation/scotland/s-200902
8. Due to transitory provisions\textsuperscript{2}, the No. 1 order also barred those individuals who were disqualified from working with children in Northern Ireland under the SVG order. On 12 October 2009, however, these transitory provisions expired, meaning that individuals barred under the SVG order, but not under the POCVA order, were no longer barred from working with children in Scotland. The No. 2 order seeks to address this loophole and provides that those individuals who are barred under the SVG order, but not under the POCVA order, are barred from working with children in Scotland.

\textit{Issues the Committee may wish to consider}

9. The SLC considered the instrument at its meeting on 16 June 2009 and determined that it did not need to draw it to the attention of the Parliament.

\textbf{Action}

10. The Committee is invited to consider whether it has anything to report to the Parliament.

Emma Berry  
Assistant Clerk  
Education, Lifelong Learning and Culture Committee

\textsuperscript{2} The transitory provisions related to the suspension of the Northern Ireland Assembly when responsibility for the protection of children in Northern Ireland rested with the UK Government.
Procedural note

Standing Orders

1. The procedures for dealing with Scottish Statutory Instruments (SSIs) are covered by Chapter 10 of Standing Orders. SSIs are laid by being lodged with the chamber clerks and are published in the Business Bulletin. They are referred to the Subordinate Legislation Committee, the appropriate subject committee (the ‘lead committee’) and, where relevant, any other committee.

SSIs subject to annulment: ‘negative instruments’

2. Where an SSI is subject to annulment, it comes into force on a specified date and then remains in force unless it is annulled by the Parliament. Any MSP may by motion propose to the lead committee that the committee recommends that nothing further is to be done under the instrument. Such motions are lodged with the chamber clerks.

3. The lead committee debates such a motion for no more than 90 minutes.

4. The lead committee reports to the Parliament, setting out its recommendations. If it recommends annulment, the Bureau will propose to the Parliament a motion that nothing further is to be done under the instrument.

5. All the above must take place within 40 days of the instrument being laid, excluding recesses of more than 4 days.