HEALTH AND SPORT COMMITTEE

AGENDA

11th Meeting, 2010 (Session 3)

Wednesday 24 March 2010

The Committee will meet at 10.00 am in Committee Room 1.

1. **Decision on taking business in private:** The Committee will decide whether to take item 6 in private.

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

   - The Food Hygiene (Scotland) Amendment Regulations 2010 (SSI/2010/69);
   - The Recovery of Expenditure for the Provision of Social Care Services (Scotland) Regulations 2010 (SSI/2010/72);
   - The National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2010 (SSI/2010/73);
   - The National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2010 (SSI/2010/74), and

3. **Alcohol etc. (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

   Nicola Sturgeon MSP, Cabinet Secretary for Health and Wellbeing, Gary Cox, Head of Alcohol Licensing Team, Mike Palmer, Deputy Director for Public Health, and Rachel Rayner, Senior Principal Legal Officer, Scottish Government.

4. **Alcohol etc. (Scotland) Bill (in private):** The Committee will consider the contents of a draft Stage 1 report.
5. **Inquiry into out-of-hours healthcare provision in rural areas (in private):** The Committee will consider a draft report.

6. **Work programme:** The Committee will consider its approach to its forward work programme.

Douglas Thornton  
Clerk to the Health and Sport Committee  
Room T3.60  
The Scottish Parliament  
Edinburgh  
Tel: 0131 348 5247  
Email: Douglas.Thornton@scottish.parliament.uk
The papers for this meeting are as follows—

**Agenda Item 2**
Note by the clerk  
HS/S3/10/11/1

**Agenda Item 5**
PRIVATE PAPER  
HS/S3/10/11/2 (P)

**Agenda Item 6**
PRIVATE PAPER  
HS/S3/10/11/3 (P)
**Negavite Instruments**

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<tr>
<th>Name</th>
<th>Deadline</th>
<th>Motion to Annul</th>
<th>Purpose</th>
<th>Drawn to attention by Subordinate Legislation Committee (SLC)?</th>
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<tr>
<td><strong>The Food Hygiene (Scotland) Amendment Regulations 2010 (SSI/2010/69)</strong></td>
<td>19 April</td>
<td>No</td>
<td>These Regulations amend the Food Hygiene (Scotland) Regulations 2006 by updating the definitions of certain EU instruments that are referred to in those Regulations and by providing that when certain requirements are complied with a person shall be considered not to have contravened or failed to comply with specified provisions of Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin.</td>
<td>The SLC raised a question with the Scottish Government as to whether Ministers had fulfilled the EU requirements necessary to permit them to make the national measures set out in schedules 3A to 3D. The SLC was content with the Government’s response. The SLC also reports that it noted an omission in the instrument in that it failed to state that the standards imposed have been made in compliance with notification arrangements under the EU Technical Standards Directive. The SLC was content with the response of the Government that they would correct this in the final published version of the instrument.</td>
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<td><strong>The Recovery of Expenditure for the Provision of Social Care Services (Scotland) Regulations 2010 (SSI/2010/72)</strong></td>
<td>19 April</td>
<td>No</td>
<td>Section 86 of the Social Work (Scotland) Act 1968 provides for adjustments of expenditure to be made between local authorities in the provision of accommodation and services provided under the 1968 Act, the Children (Scotland) Act 1995 or the Mental Health (Care and Treatment) (Scotland) Act 2003. These Regulations provide that expenditure incurred by an authority providing services or facilities under arrangements made under</td>
<td>The SLC had no comments to make on this instrument.</td>
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<td><strong>The National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2010 (SSI/2010/73)</strong></td>
<td>19 April</td>
<td>No</td>
<td>These Regulations amend the National Assistance (Assessment of Resources) Regulations 1992 which concern the assessment of a person’s liability to pay for accommodation provided under the Social Work (Scotland) Act 1968. These regulations amend the capital limit set out in the 1992 regulation.</td>
<td>The SLC had no comments to make on this instrument.</td>
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<td><strong>The National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2010 (SSI/2010/74)</strong></td>
<td>19 April</td>
<td>No</td>
<td>Section 22(4) of the National Assistance Act 1948 as applied by section 87(3) and (4) of the Social Work (Scotland) Act 1968 requires a local authority to assume in assessing a person’s liability to pay for accommodation provided under the 1968 Act or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 that they will need for their personal requirements such sum per week as may be prescribed by regulations. These Regulations prescribe that from 6th April 2010 that sum will be £22.30 per week. These Regulations revoke the National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2009 which previously prescribed £21.90 as the sum persons were assumed to need for personal requirements per week.</td>
<td>The SLC draws the following issues to the attention of the Committee: It appears that regulation 3 is defectively drafted, in respect that the regulation revokes the 2008 Regulations (SSI 2008/14) rather than the 2009 Regulations (SSI 2009/73), and There is a drafting error in paragraph 2 of the Explanatory Note (which is not part of the Regulations), and which refers to 6 April rather than the correct coming into force date of 12 April 2010.</td>
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<td><strong>The Tobacco and Primary Medical Services (Scotland) Act 2010 (Ancillary Provisions) Order 2010 (SSI/2010/77)</strong></td>
<td>19 April</td>
<td>No</td>
<td>This Order is made under section 42 of the Tobacco and Primary Medical Services (Scotland) Act 2010 (“the 2010 Act”) which received Royal Assent on 3rd March 2010. Section 42 gives the Scottish Ministers power to make ancillary provision in connection with any</td>
<td>The SLC draws the following issues to the attention of the Committee: The instrument failed to comply with requirements of the Transitional Order on negative instruments in that they should be laid</td>
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provisions of the 2010 Act. The purpose of the Order is to deal with the unintended consequences of schedule 2 to the Tobacco and Primary Medical Services (Scotland) Act 2010 ("the 2010 Act") coming into force immediately on Royal Assent. 

As the Scottish Ministers do not intend to bring the main provisions of the Act into force immediately, action was required to reinstate the repeals and modifications to the existing law made by schedule 2 until such time as the new law is in force. 

This order therefore reinstates the provisions modified by schedule 2 until such time as the relevant provision of the 2010 Act comes into force. 

before the Parliament before they come into force and also comply with the 21 day rule (article 10(1) and (2) of the Transitional Order SI 1999/1096) and draws to the attention of the Committee the circumstances which gave rise to the need for this order to be made.

The SLC was content with the explanation provided for this

Where instruments have been drawn to the Committee’s attention, the relevant extract from the SLC report is given as an annex to this paper. If members have any queries or points of clarification on the instrument which they wish to have raised with the Scottish Government in advance of the meeting, please could these be passed to the Clerk to the Committee as soon as possible.