The Committee will meet at 2.15 pm in Committee Room 6.

1. **Draft instruments subject to approval:** The Committee will consider the following—

   - the Climate Change (International Aviation and Shipping) (Scotland) Order 2010 (SSI 2010/draft);
   - the Protection of Vulnerable Groups (Scotland) Act 2007 (Automatic Listing) (Specified Criteria) Order 2010 (SSI 2010/draft);
   - the Protection of Vulnerable Groups (Scotland) Act 2007 (Modification of Regulated Work with Adults) Order 2010 (SSI 2010/draft);
   - the Protection of Vulnerable Groups (Scotland) Act 2007 (Modification of Regulated Work with Children) Order 2010 (SSI 2010/draft);

2. **Instruments subject to annulment:** The Committee will consider the following—

   - the Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2010 (SSI 2010/149);
   - the Parole Board (Scotland) Amendment Rules 2010 (SSI 2010/164);
   - the Victims’ Rights (Prescribed Bodies) (Scotland) Order 2010 (SSI 2010/165).

Irene Fleming  
Clerk to the Subordinate Legislation Committee  
Room T2.60  
The Scottish Parliament  
Edinburgh  
Tel: 0131 248 5212  
Email: irene.fleming@scottish.parliament.uk
The papers for this meeting are as follows—

Legal Brief  SL/S3/10/14/1 (P)
Summary of Recommendations  SL/S3/10/14/2

**Agenda items 1 & 2**

Instrument Responses  SL/S3/10/14/3
The Committee will be invited to consider the following recommendations at the meeting. Decisions are a matter for the Committee.

**Agenda Item 1  Draft instruments subject to approval**

**The Climate Change (International Aviation and Shipping) (Scotland) Order 2010 (SSI 2010/draft)**

The Committee may wish to report that explanations were sought and provided by the Scottish Government in relation to the meaning and effect of the words “fuel use for aircraft flights” in Schedule 1, and “the all ports traffic figure” in Schedule 2 of this Order.

The Committee may wish to be content with the explanations provided, but suggest that the typographical error in the footnote reference to where the figures for ports traffic are to be found should be corrected when the instrument is printed.

**The Protection of Vulnerable Groups (Scotland) Act 2007 (Automatic Listing) (Specified Criteria) Order 2010 (SSI 2010/draft)**

**The Protection of Vulnerable Groups (Scotland) Act 2007 (Modification of Regulated Work with Adults) Order 2010 (SSI 2010/draft)**

**The Protection of Vulnerable Groups (Scotland) Act 2007 (Modification of Regulated Work with Children) Order 2010 (SSI 2010/draft)**

**The Protection of Vulnerable Groups (Scotland) Act 2007 (Relevant Offences) (Modification) Order 2010 (SSI 2010/draft)**

The Committee may wish to consider if it is content with these instruments.
**Agenda Item 2  Instruments subject to annulment**

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**The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2010 (SSI 2010/149)**

The Committee may wish to be satisfied with the response from the Scottish Government on the matter raised concerning terminology within inserted regulation 5A, and to welcome the Scottish Government’s statement that in the interests of consistency, it will amend this instrument at the next available opportunity.

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**The Parole Board (Scotland) Amendment Rules 2010 (SSI 2010/164)**

**The Victims' Rights (Prescribed Bodies) (Scotland) Order 2010 (SSI 2010/165)**

The Committee may wish to consider if it is content with these instruments.

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DRAFT INSTRUMENTS SUBJECT TO APPROVAL

The Climate Change (International Aviation and Shipping) (Scotland) Order 2010 (SSI 2010/draft)

On 22 April 2010 the Scottish Government was asked:
(1) In relation to the meaning and effect of “the fuel use….” in Schedule 1, when read with footnote (b) on page 2 (not forming part of the instrument)-

(i) can it be confirmed that the use of the words “fuel use for aircraft flights to international destinations from airports in Scotland” and in the UK respectively, is recognised and accepted as referring to the figures as calculated and reported by AEA for the UK Department for Environment, Food and Rural Affairs and the devolved administrations as referred to in the footnote?

(ii) how do readers precisely establish the relevant published fuel use figures, given that it appears the webpage reference at footnote (b) provides a list of reports in a Reports Database which does not appear to include a report named “fuel use” or similar? As web pages may change over time, can the Scottish Government provide another reference to where the figures are published?

(2) In relation to the meaning and effect of “all ports traffic figure” in Schedule 2, when read with footnote (b) on page 3 (not forming part of the instrument)-

(i) can it be confirmed that the use of “all ports traffic figure” for Scotland and the UK respectively is recognised and accepted as referring to the figures as reported in the Department for Transport table indicated in the footnote? Given that “all ports traffic” is a general term not further defined in the instrument, could the meaning and effect of these references be made clearer?

(ii) how do readers precisely establish these relevant figures, as it appears that the webpage reference in the footnote (when typed exactly) is not correct? As web pages may change over time, can the Government provide another reference to where the figures are published?

The Scottish Government responded:
(1) (i) This is confirmed.

(ii) The Scottish Government has agreement from the AEA that the fuel use figures for Scotland will be contained in a table in the annual publication referred to in the footnote. The next publication date (which will cover 2008 emission figures) will be in September 2010 at which point a table including the information is to be included. In relation to the
second question, there is a more general webpage which is the National Atmospheric Emissions Inventory (NAEI) at http://www.naei.org.uk/reports.php on which the various devolved administrations’ inventories are all published.

(2) (i) The confirmation requested is given and the Scottish Government considers the drafting approach followed to be sufficiently clear.

(ii) The Scottish Government is grateful to the SLC for drawing this matter to their attention. There is a typing error in the reference in the footnote and this will be corrected in the final version so that the word “databases” is replaced by “datatables”. There is also now a spreadsheet form for the statistics via the Department of Transport Statistics Website (www.dft.gov.uk/pgr/statistics/ - see ‘Maritime’).

INSTRUMENTS SUBJECT TO ANNULMENT

The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2010 9SSI 2010/149

On 23 April 2010 the Scottish Government was asked: To explain the basis for, and effect upon the operation of this instrument of, the provision which is made within inserted section 5A to an education authority being obliged, where it has received a request under section 10(4) of the (2004) Act, to ‘…issue its proposal under section 11(2)(a) or (issue) its decision under section 28(2)…’, given that the obligation under sections 11(2)(a) and 28(2) is not one of issuing a proposal or issuing a decision but instead is to ‘inform persons of their (ie the education authority’s) proposal or to inform them of their decision.

In this regard it is noted that, in contrast to the reference contained within inserted section 5A, at inserted section 4A appropriate reference is made to the requirement to ‘inform’ under sections 11(2)(a) or 28(2).

The Scottish Government responded: The Scottish Government accepts that there is an inconsistency in the terminology used in the inserted regulations 4A(1) and 5A(1) and that the terminology used in the inserted regulation 4A(1) is more consistent with that used in the 2004 Act.

The Scottish Government does not consider that, in the particular circumstances, the terminology used in the inserted regulation 5A(1) has a different practical effect from that used in the inserted regulation 4(A)(1) in that the term used – “issue its proposal under section 11(2)(a) or its decision under section 28(2)….” carries the same practical effect as to “inform persons ………….. of its proposal …………..or its decision……..”. While it is unfortunate that the same terminology was not used in the two inserted regulations, it is considered that the meaning of the provisions is clear and that the validity of the instrument is not affected.

In the interests of consistency, however, the Scottish Government will amend at the next available opportunity.