



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government and Communities Committee

**Wednesday 22 February 2017**

**Session 5**



The Scottish Parliament  
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - [www.parliament.scot](http://www.parliament.scot) or by contacting Public Information on 0131 348 5000

---

**Wednesday 22 February 2017**

**CONTENTS**

	<b>Col.</b>
<b>DECISION ON TAKING BUSINESS IN PRIVATE .....</b>	<b>1</b>
<b>SUBORDINATE LEGISLATION.....</b>	<b>2</b>
Non-Domestic Rate (Scotland) Order 2017 (SSI 2017/8).....	2
Non-Domestic Rates (Levying) (Scotland) Regulations 2017 (SSI 2017/9).....	28
Non-Domestic Rates (Rural Areas) (Scotland) Regulations 2017 (SSI 2017/22).....	28
<b>“DRAFT CLIMATE CHANGE PLAN: THE DRAFT THIRD REPORT ON POLICIES AND PROPOSALS 2017-2032” .....</b>	<b>29</b>

---

**LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE**  
**6<sup>th</sup> Meeting 2017, Session 5**

**CONVENER**

\*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

**DEPUTY CONVENER**

\*Elaine Smith (Central Scotland) (Lab)

**COMMITTEE MEMBERS**

\*Kenneth Gibson (Cunninghame North) (SNP)

\*Ruth Maguire (Cunninghame South) (SNP)

\*Graham Simpson (Central Scotland) (Con)

\*Alexander Stewart (Mid Scotland and Fife) (Con)

\*Andy Wightman (Lothian) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Stephen Garland (Scottish Government)

Derek Mackay (Cabinet Secretary for Finance and the Constitution)

Douglas McLaren (Scottish Government)

Graham Owenson (Scottish Government)

Kevin Stewart (Minister for Local Government and Housing)

**CLERK TO THE COMMITTEE**

Clare Hawthorne

**LOCATION**

The James Clerk Maxwell Room (CR4)



## Scottish Parliament

### Local Government and Communities Committee

Wednesday 22 February 2017

[The Convener opened the meeting at 10:01]

### Decision on Taking Business in Private

**The Convener (Bob Doris):** Good morning everyone and welcome to the sixth meeting in 2017 of the Local Government and Communities Committee. As always, I remind everyone present to turn off mobile phones. Meeting papers are provided in digital format, so members might use tablets during the meeting; I promise that that is why they might be seen using a tablet.

We have a full house and no apologies have been received.

Agenda item 1 is to make a decision on taking business in private. The committee is invited to agree to consider its draft report on the “Draft Climate Change Plan: The draft third report on policies and proposals 2017-2032”, or RPP3, in private at future meetings. Are we agreed?

**Members** *indicated agreement.*

## Subordinate Legislation

### Non-Domestic Rate (Scotland) Order 2017 (SSI 2017/8)

10:02

**The Convener:** Under agenda item 2, the committee will take evidence from the Cabinet Secretary for Finance and the Constitution on the Non-Domestic Rate (Scotland) Order 2017. Andy Wightman has lodged a motion to annul this negative instrument, which will be formally considered at agenda item 3.

I welcome Derek Mackay, the Cabinet Secretary for Finance and the Constitution—good morning, Mr Mackay. I also welcome from the Scottish Government’s local government finance, local taxation policy and business rates unit, Graham Owenson, team leader, and Douglas McLaren, unit head—good morning and thank you both for coming along.

I understand that the cabinet secretary has some opening remarks to make.

**The Cabinet Secretary for Finance and the Constitution (Derek Mackay):** Thank you for the opportunity to discuss with the committee Mr Wightman’s motion to annul the Non-Domestic Rate (Scotland) Order 2017. This is a very simple instrument, which is required annually to set the non-domestic rate, or poundage, for the coming financial year. The instrument will set the poundage at 46.6p for 2017-18, which is a reduction of 3.7 per cent compared with the rate of 48.4p that applied in 2016-17.

Although the instrument is simple, the implications of it not coming into force would have a profound impact on our budget, which is due to complete its final parliamentary stage in the stage 3 Budget (Scotland) Bill debate tomorrow; in particular, if the order were not to be approved, that would not support the resource to be provided to local government. We should all be absolutely clear that a decision to annul the instrument would leave a hole of more than £2.6 billion in our public spending and would specifically affect the funding that goes to local government.

I wish to maintain a competitive rates regime, and I have engaged directly with business and retail groups and responded to their concerns, which is why the draft budget recognises the business rates revaluation and proposes a competitive package of measures to reduce rates across Scotland by £155 million. That will give small and medium-sized enterprises the security and confidence to grow in tough economic times.

Next year, across Scotland, more than half of premises will pay no rates and 70 per cent will pay either no rates or less rates than they do now; the total package of reliefs that we offer will increase to more than £600 million. Additionally, this year we have increased the threshold for the large business supplement, which means that 8,000 fewer premises will pay it. As members are aware, we have also increased the small business bonus threshold to ensure that 100,000 properties will no longer pay business rates.

As I announced to Parliament yesterday, in light of the revaluation of non-domestic premises, we will ensure that no restaurant, pub, hotel or cafe in Scotland will have its bill increased by more than 12.5 per cent on 1 April. Additional support is injected into the north-east economy to recognise the impact of the oil and gas downturn. We are also supporting our renewables sector with a further package. The estimated cost of the additional support package that was announced yesterday is £44.6 million. That takes the total package of support to businesses in 2017-18 through rates relief to more than £660 million.

Mr Wightman is looking for further debate on non-domestic rates. I suggest that the strategic time to do that would be following the external review led by Ken Barclay. That review is due to conclude this summer.

In light of all those comments and my undertaking to engage fully in further discussions on the wider scrutiny of non-domestic rates, I hope that Mr Wightman will withdraw his motion.

**Andy Wightman (Lothian) (Green):** The policy note on the order says, under "Background":

"the 2017-18 business rate multiplier for England"

was set

"at 46.6 pence. This instrument will result in the poundage rate"

in Scotland

"being 46.6 pence."

In other words, the only explanation that we have for the poundage rate is that it is the same as the rate in England. I am well aware that, in the previous session of the Parliament, the Scottish National Party had a manifesto commitment to maintain parity with the English rate for the duration of the session but it has made no such commitment for this session.

Yesterday, in the Parliament, you said that, back in December, you had

"announced a range of actions that the Government will take from 1 April".

You also said:

"to reduce the impact of bills overall, I confirmed plans to reduce the poundage"—[*Official Report*, 21 February 2017; c 18.]

It seems explicit that you chose the rate

"to reduce the impact of bills"

but, from the policy note, it appears that you chose it to bring the rate into line with that in England. Will you explain something about the background to that decision and the criteria that you use to decide what the poundage rate should be in any financial year?

**Derek Mackay:** In essence, it matches the poundage in England. It is also correct to say that the Government had a manifesto commitment to do that in the past. It did not feature in the 2016 manifesto on which we were elected, but we still believe that matching the poundage in England puts us in a strong competitive position.

I also did not insist on a revenue-neutral revaluation. The range of actions that I have been able to take will mean that bills for 70 per cent of companies will be the same or lower. I also refer you to all the other key points that I outlined to the committee and in the chamber yesterday.

Reducing the poundage results in a reduction in the tax through non-domestic rates but the general poundage is matched to that in England. When determining that, any finance secretary would take into account the overall budget position, the support for local government and the right balance of measures to support business, which include setting the poundage and the other reliefs that the Government has decided to provide.

**Andy Wightman:** In other words, the desire

"to reduce the impact of bills overall"

and the desire to maintain parity with England bring you to the same number by coincidence.

**Derek Mackay:** Both have been achieved.

**Andy Wightman:** I understand that. You said in answer to my previous question that you did not insist on a revenue-neutral revaluation.

**Derek Mackay:** That is right.

**Andy Wightman:** Will you amplify what you mean by that? What were your other choices?

**Derek Mackay:** The Government considers the range of reliefs that it has and what support it wants to give to businesses. That comes at a cost. The rateable values in England will be different because they have gone up more than in Scotland. The decisions that we have taken on the poundage, the small business bonus and the large business supplement represent £155 million of reliefs or change to the poundage.

We have determined what is right for our budget—as set out in the draft budget and beyond—matching the poundage but being more generous with reliefs. We have taken decisions in the context of the wider budget, the business environment and what has happened south of the border. In principle, we are matching the poundage in England, but we have taken decisions that have amounted to Government using our resources to ensure that there is a competitive environment for Scottish businesses. That is why we have arrived at our decisions.

**Andy Wightman:** When you published the draft budget back in December and first indicated that the new rate would be 46.6p, were you fully sighted on the possible new tax base that would be the result of the revaluation?

**Derek Mackay:** We would have had some preliminary evidence at that point, but by no means all the detail. Evidence has emerged over the past few months and we now have more information about what revaluation means. Some of that will continue to change as businesses take appeals to panels, if they have reason to appeal. Those figures are still fluid but, as time goes on, we have more certainty about estimates and forecasts, and about the decisions that we can take. It was important to give certainty when I outlined the draft budget and the local government settlement on 15 December. That was an early action knowing some of the impacts from revaluation, but more has emerged over the past number of weeks.

**Andy Wightman:** When you set the rate, what consideration is given to regional variations in land and property values around Scotland? For example, values in one part of the country might be rising very fast, but values in another part might be dropping very fast, yet you have only one rate to set.

**Derek Mackay:** There is a wider debate to be had about whether we should have a nationally set rate, or locally set rates. I understand that, before the Scottish Parliament was able to set the poundage in Scotland through the recommendation of Government, the secretary of state used to set it, so the process that is going through Parliament is far more democratic. When I have arrived at the decisions, I will look at impact, forecasts and estimates. I have described how the revaluation and the decisions that the Government is able to take on poundage and the reliefs that are being put into place will make a difference for people.

It is true that there is a difference from area to area in how the economy has performed, not least in the north-east, which is why I have taken specific measures on the reliefs and the support there. That is also why, when I was taking forward

the Community Empowerment (Scotland) Bill as Minister for Local Government and Planning, we gave empowerment and enablement to local authorities to create local rates relief schemes that were right for them. It gave them a sense of empowerment to design systems that can adapt to local circumstances.

The national poundage rate is set by Government and by Parliament and there is room for flexibility around that with reliefs at a local level. It is a nationally set rate in which I take into account the national budget position and the business environment that we are trying to create, and the reliefs can be designed as appropriate.

**Graham Simpson (Central Scotland) (Con):** In all that, was your starting point matching whatever the poundage in England was?

**Derek Mackay:** The starting point is to look at all the information and evidence that we have in terms of the budget and the principles that we want to pursue. In general, having a good, competitive regime for business rates is absolutely worth pursuing. Although it is not a 2016 manifesto commitment, I would like to maintain and match the poundage in England. However, the Government has done a range of things to make Scotland more competitive, particularly for small businesses.

To answer Mr Simpson's question fairly, I support matching the poundage in general but I have to look at the total budget position, the income forecasts and what that means for local government, and take that all in the round. That is important, but it is one of many factors that any finance secretary would have to take into account when determining the rate.

**Graham Simpson:** I get all that. The question is about the poundage—you seem to be saying that you are keen to match the English poundage in order to make Scottish businesses competitive. Is that correct?

10:15

**Derek Mackay:** Yes. I am keen to do that, but many other factors come into play in determining the budget. In principle, that is something that I have pursued.

**Graham Simpson:** Have you done any work on the effect that it would have on Scottish businesses if you were not to reduce the poundage?

**Derek Mackay:** It is self-evident that, if I had not reduced the poundage, businesses would be paying more. The decision that I have taken comes at a cost of £108 million, in terms of the revaluation, to reduce the poundage.

**Graham Simpson:** Have we got a figure on what that would mean for Scottish businesses?

**Derek Mackay:** The reduction is 3.7 per cent.

**Graham Simpson:** What would the cost be to Scottish businesses if we did not reduce the poundage?

**Derek Mackay:** £108 million.

**Graham Simpson:** £108 million.

**Derek Mackay:** That is the figure that I have reduced the poundage by—£108 million that, as a consequence, businesses will not need to pay. That is every business that pays business rates in the country. Their poundage will be reduced as a consequence of this order.

**Graham Simpson:** Right; thank you. Clearly, if we were to agree with Mr Wightman, and not with you, that would have a major impact on Scottish businesses.

**Derek Mackay:** First, if the order is not agreed to, the biggest loser would be public services because I would not be in a position to raise that tax to invest in public services. If we then had an argument over the rate being right or wrong, that is almost a separate debate.

The order is a technical instrument to raise the revenue to invest in our public services; the rate at which I have set it is reduced.

**Graham Simpson:** Okay. I think that that is very clear.

I agree with your earlier point that, if we were to go down Mr Wightman's route, we ought to wait for the Barclay review if we want to look at how to reform things. Do you agree that that would be the way to proceed?

**Derek Mackay:** I have said that I am open-minded on further debate and discussion. The Barclay review will be very helpful on the subject of business rates. I am happy to have further cross-party engagement and to continue to engage with business—as I have been doing—to study that further.

**Graham Simpson:** Thank you.

**The Convener:** Cabinet secretary, I am sure that you are aware that this committee will also take evidence on non-domestic rates and will ask Ken Barclay, or someone from his team, to give the committee information ahead of publishing the review. We will do a piece of work on that. There is a feeling that non-domestic rates have perhaps never had so much scrutiny in the Scottish Parliament. I think that that is a good thing.

Following the publication of the Barclay review, will you come to the committee in short order and give evidence? We have to consider that review,

and we would be quite keen to get you back to get your initial thoughts on it.

**Derek Mackay:** Of course I am happy to engage with the committee in further discussion and further evidence. In any event, I do not think that it is in ministers' gift to refuse to attend a committee, but I would happily and proactively come to do that. It is not exactly the same proactivity that the committee enjoys from United Kingdom ministers; I would be happy to engage with the committee.

**The Convener:** I would not dream of making that political point, cabinet secretary. We would always politely ask cabinet secretaries to come to the committee, before we went down the road of insisting. I appreciate that.

I made some notes during your opening statement. Can you repeat, for the record, the specific financial cost to public services—the revenue that would be forgone—if the motion were to be annulled today? That weighs heavily on every member at this meeting.

**Derek Mackay:** It is £2.6 billion.

**Graham Owenson (Scottish Government):** It is just over £2.6 billion.

**The Convener:** By and large, that is money that will go into the pockets of local authorities across Scotland.

**Derek Mackay:** Yes, entirely. The non-domestic rates are kept within the local authority area. It is the same as council tax; the difference with non-domestic rates is the multi-year budgeting, but it all goes to local government.

**The Convener:** I suspect that, if the motion to annul is moved, that figure of £2.6 billion, which would be forgone by local authorities, will be repeated by several members as a very negative and dangerous thing. I have no further questions on that.

**Elaine Smith (Central Scotland) (Lab):** I want to ask about the process, in line with what the convener has just been asking about.

However, I will ask first about the cap, which you mentioned in your opening statement and in the announcement that you made yesterday. There is a rates cap for certain businesses such as hotels and so on, as well as a further advantage for the north-east of Scotland to offset the problems with the oil and gas industry. Could you tell me a bit more about how that will impact on businesses?

**Derek Mackay:** The national action that I have taken in the draft budget includes measures on the small business bonus and the large business supplement, and lowering the poundage. Those were the early actions that I was able to take.



Then we come on to understanding the impacts of the independent revaluation. Of course, companies can still appeal if they think that they have information with which to challenge the assessor's assessment. There is still an appeals process.

The extra action that I am taking is around specific sensitivity in the hospitality sector. There are two reasons for that: first, the highest rates increases seemed to be in the hospitality sector; and, secondly, the methodology that was used relies on turnover—it takes into account turnover at a specific point in time, rather than profitability. That made a justifiable case for our looking at that sector, which includes hotels, pubs, cafes and restaurants. That is why I felt that a cap of 12.5 per cent—within state-aid rules—was appropriate.

The downturn in the industries around the North Sea has had an impact on the economy in the north-east of the country. Hospitality in that area, as well as hospitality nationwide, will have issues, but in Aberdeen and Aberdeenshire, the rental values of offices, for example, have also had an impact. Looking at the evidence, the circumstances and the exceptional case that the area has been able to make, it is appropriate to take a regional approach.

At the same time as acting on the national reliefs and the nationally targeted reliefs, I have been working with local authorities, which are important because they have the power to create appropriate local rates relief schemes. Perth and Kinross Council has been a trailblazer in that regard, having previously targeted support at retail. Any council could have done that using its own resources—the legislation is very flexible and empowering.

Aberdeenshire Council's administration had already agreed a business rates relief package. It can now shape a local package of reliefs around what the Scottish Government is proposing. It might augment schemes or cover other sectors—whatever it chooses to do, it can take that forward. Similarly, Aberdeen City Council will have a local rates relief package, and I understand that Perth and Kinross Council is looking again at how to augment its scheme.

Any other local authority in the country can design local rates reliefs that suit local circumstances. Councils should be encouraged to do that. Addressing outstanding local issues is the right thing to do.

I recognise that, in any revaluation, there will still be hard cases, and local authorities should have the flexibility to look at them. That is why I have done a national scheme around hospitality and targeted the north-east. In addition, local

authorities are empowered to look at further support.

**Elaine Smith:** That brings us back to something that Andy Wightman said about local circumstances. Perhaps that issue is better looked at in the review, and I am sure that the committee will look at some of that when we take evidence.

Can I pin this down slightly more? Reading some of the stories about what small and medium-sized enterprises, local publicans and little cafes, for example, were going to face, I can understand the problem. You mentioned hotels. Are big chain hotels included? I will give you an example that has sprung to my mind. President Trump has premises in the north-east. Will those premises benefit twice—from the cap and then from relief in the north-east?

**Derek Mackay:** Elaine Smith would fully expect me to say this: I cannot design a tax policy to suit individual owners. The tax system should not be designed to target individuals; it must be based on fairness and an approach that takes into account different sectors and different geographies.

The scheme for the hospitality sector that I have described will benefit premises across the whole country. As I said, 70 per cent will enjoy no rates or reduced rates as a consequence of our actions. I cannot itemise the rateable values of individual premises; I do not think that Elaine Smith would seriously expect me to do that. However, I can say that our relief scheme has been designed in light of the evidence that has been presented to me by the sector, and it has been warmly welcomed by the sector's business representatives, whom I will meet later today.

As far as the 12.5 per cent cap is concerned, small hotels would have paid no business rates anyway, because of the small business bonus. We have targeted our support at smaller and medium-sized companies. When it comes to the larger hotels that Elaine Smith mentioned, state-aid rules would apply. State-aid rules mean that only a certain amount of support can be provided. That works out at £170,000 over a three-year period. Some of that support might be consumed in the first year, but that cap applies to the amount of support that can be provided. There is only so much support that any individual company can get.

It feels right to target our support at small and medium-sized enterprises, but to have a balance. Many hotels made a legitimate case with regard to how their business might be affected. I heard about big hotels that faced the threat of a huge increase. That is why it is right to take a balanced approach that provides as competitive a regime as possible and relief for as many businesses as

possible. Businesses in every council area will receive support in a fair and proportionate way.

**Elaine Smith:** Before I turn to the process, I want to clarify something. Will keeping the poundage at the same level as in England through the reduction that we are talking about result in a loss to the public services that you say would lose out if we annulled the order? I suppose that I am asking the opposite of Graham Simpson's question.

**Derek Mackay:** There is the view that if we did not lower the poundage and raised more money from businesses, we could invest more money in public services, but I take the view—I hope that the committee agrees with me on this—that we have struck the right balance. We are matching the poundage in England. That represents a reduction in the tax rate for businesses, but an adequate amount of money will still be raised. All the reliefs and support measures that I have described, including the small business bonus, will be applied, supporting 100,000 businesses. From the regional support to the capping, it is a comprehensive package, and I think that it is the right one.

However, public services will still be adequately funded, because Government is using other resources, and has taken other tax decisions and other measures, to ensure that we invest in our public services and in our local services. On 15 December, I published the local government settlement and the circular. Since then, as a consequence of the budget negotiations with the Greens—I give credit where it is due—I have allowed further resources to go to local government. There is huge investment in local services, which, alongside the council tax changes that we have made, represents a substantial increase of well over £300 million for our local services. It is also an appropriate tax decision.

**Elaine Smith:** We have already had that debate, so I will not go down that road again. There are differing points of view on whether we are talking about an increase in funding for local government.

**Derek Mackay:** That is a fact.

**Elaine Smith:** What is a fact is that if you did not decrease the poundage, more funding would be available. However, whether you want to do that is a different point.

I will move on to the process. You have said that, if the instrument were to be annulled today, local government would lose—what is the figure?

**Members:** It is £2.6 billion.

**Elaine Smith:** You have said that £2.6 billion would be lost to local government.

**The Convener:** I should point out that, if a member asks about a figure, the other members should not answer—they should leave that to the cabinet secretary.

**Derek Mackay:** I have given the figure three times.

**The Convener:** For clarity, the member was asking what the loss to public services might be if the instrument were to be annulled today.

10:30

**Elaine Smith:** If the instrument were annulled today, would that money simply be lost, or would processes be put in place? What would happen to the budget process? It is clearly not an option not to take the matter forward in some way. We do not know what is going to happen under item 3, but let us suppose that the committee were minded to annul the instrument. What would be the process then?

**Derek Mackay:** I do not think that the committee would be so reckless as to risk losing more than £2.6 billion for public services in Scotland. I do not believe that any member would let that happen. Although the Government could produce a new statutory instrument or the matter could go before the full Parliament, I know that the members of this committee are reasonable and sensible people who would not jeopardise more than £2.6 billion for public services.

**Elaine Smith:** That is not what I am asking. What would the process be?

**Derek Mackay:** In terms of the process—

**The Convener:** I am sorry to interject, but I feel that we are drifting into a debate that we should have under agenda item 3. I apologise for stifling that debate, but if we could have questions and answers that would be quite helpful.

**Elaine Smith:** Because we have discussed the money that would be lost to local government under this item and because we have discussed the consequences of a motion to annul the instrument—which you pointed out, convener—I need to know what the process would be. Whether the committee members will decide to go down that road is conjecture at the moment. Whether the committee members are sensible is also conjecture. I would like to know what would happen if the committee were to agree to annul the instrument. The motion is on the table—someone has lodged it. What would be the consequences of annulling the instrument? What would be the timetable? This is the only opportunity that I will get to ask those questions, because we will not be allowed to ask questions under the next item.

I would like to clarify the timetable that would be set if the motion to annul were agreed to. When would the matter go to the chamber? When would another instrument be produced by the Government?

**Derek Mackay:** In fairness, you are asking me questions that are more about parliamentary business. What would happen next? The matter would go before the whole Parliament, and it would be for parliamentary business managers to determine the timetable for that. Ideally, however, I would like that to happen before stage 3 of the budget, as I do not think that it would be appropriate to proceed with the budget without certainty about non-domestic rates income.

I point out that the process is not a new one. It is the same annual process by which we set non-domestic rates—there is no change—and I have outlined the Government's position on the poundage. That is what the statutory instrument is about; everything else is peripheral to that. The key issue is the poundage, which is what we are setting through the statutory instrument. If the instrument is approved, that sum of more than £2.6 billion can be raised and distributed to local government, as set out in the Government's draft budget and circular. If the instrument is not approved, the matter will go to the full Parliament for a vote, in a timescale that Parliament will determine. That is the process, and it has not changed. The poundage will be set by Parliament and people will have the certainty to get on with things.

I want to make a point about scrutiny. It would be wrong to say that there has been no scrutiny of business rates since 15 December, when I outlined the draft budget. I covered rates issues in the draft budget and, on the very same day, I sent out the local government settlement and the circular. Therefore, from that point, there has been awareness of and engagement on business rates in the local government settlement. That has been augmented by the budget negotiation process, in which there have been many opportunities to engage through the debates at stages 1 and 2 and my appearance at committees, and there will be a further opportunity to engage through the stage 3 debate and scrutiny of any further statutory instrument that may be required for further reliefs—all subject to established parliamentary processes.

That is the process. I hope that that helps. The timescale would be in the hands of the parliamentary business managers. However, realistically, I do not think that the committee would put at risk the £2.6 billion of non-domestic rates that will be used to support our local services.

**The Convener:** Anything additional on that point from the deputy convener can be left for the debate under agenda item 3.

We will move on to questions from Alexander Stewart.

**Alexander Stewart (Mid Scotland and Fife) (Con):** Thank you, cabinet secretary, for outlining where you are in the process and why you made the decisions that you made on some of the reliefs to industries and to locations.

For those who are in those categories, you have talked about an appeal process, with a panel, that can take place. Is it anticipated that the majority of people who find themselves with rates that are in excess of those that they faced previously will appeal? The appeal panels will take time to make progress and go through the process to point of making decisions. Have you factored into your process how that will happen?

There could be thousands of businesses that feel aggrieved, want to appeal and have to go through that process. There is a knock-on effect on what will happen with their rates, depending on whether their appeal succeeds or the decision stands. Have you factored that in?

**Derek Mackay:** Mr Stewart asks a very good question, recognising that both the revaluation process and the appeals are independent of Government. I cannot direct them.

We factor in assumptions on appeals as part of the budgeting process. I cannot predict how many will appeal. Experience tells us that most do. In some sectors, there is evidence that some businesses withhold information and present it at appeal. That means that there is a different outcome for their rateable value and therefore what they pay.

The experience of the past is that most appeal and have to work through the system. I see no reason why that would not be the case this time round.

**Alexander Stewart:** My second question takes us back to local government. You commented on what Perth and Kinross, my own council, had achieved in trying to support local schemes. Are you disappointed that other local authorities have not gone down that route? Are you surprised, or did you expect that?

**Derek Mackay:** I do not want to criticise local authorities. I have taken appropriate action on the issue in the draft budget and since then, as information has emerged.

I welcome the fact that Perth and Kinross took action. It was the first council to use the powers. In view of the revaluation, Aberdeenshire has moved

quickly to produce a scheme and has engaged with Aberdeen City as well.

I had a very constructive meeting with Aberdeen and Grampian Chamber of Commerce, where I met businesses, discussed the way forward and set out the range of actions that I have taken, which that chamber of commerce has welcomed. I have been true to my word on how I would engage and what I would do on business rates. The chamber of commerce has also asked the councils—Aberdeen City and Aberdeenshire—to take action and I think will continue to lobby the councils to provide an appropriate local rates relief scheme.

I would encourage every local authority in Scotland to look at their local circumstances and decide what would be appropriate. Some councils might conclude that a scheme is not appropriate, but some might conclude that it is. The legal powers are there, and there are extra resources in the system as a consequence of the budget negotiations. Local authorities should feel empowered to build in any augmentation or additional support that they feel is appropriate and should engage with local business in arriving at that decision. That is a matter for them.

There is encouragement from the Government, and my officials will provide whatever support is necessary, as we have done with Aberdeen and Aberdeenshire.

**Kenneth Gibson (Cunninghame North) (SNP):** I will follow on from what Elaine Smith asked. The implication was that the £108 million that you are putting in to cut the rates poundage is money lost to local authorities, but is it not the case that, without competitive business rates, some businesses could be lost, so no money whatever would be collected from them? The Federation of Small Businesses said at the peak of the recession that, without the small business bonus scheme, one in six small businesses would have gone bust. If that had happened, it would not have been possible to collect any rates from those businesses and there would therefore have been less money for local government. A balance has to be struck.

**Derek Mackay:** Kenneth Gibson raises a fair point. Elaine Smith was saying that, if I had taken another decision and put business rates up far more, that would—in theory—have generated more income for the public sector.

The budget already delivers £900 million more for the public sector and public services in Scotland, including a substantial increase for local services. I am already doing the public sector investment bit, but what I am not doing is undermining business. That is why I have set business rates at the appropriate level.

Kenneth Gibson is also right to say that business could be damaged if the rates were not set appropriately. If there were inappropriate decisions about the tax rate, or an absence of reliefs, some businesses would be stressed.

I know that Kenneth Gibson is fond of Paisley, as am I—I launched the business rates policy there. The business that I visited there was one of many that, for the first time, will be eligible to enjoy the small business bonus. It will use that new resource to employ new staff and grow the business. That shows specifically how the small business bonus is supporting businesses, helping them to grow and helping to sustain our high streets at this difficult time.

I think that we have got the balance right, while not jeopardising income.

**Kenneth Gibson:** I will ask about something that is completely unrelated to the issue that we have just discussed. Rural rates relief is worth about £5 million per year, so it is less than 1 per cent of the total support that the Scottish Government provides to business through rates relief. How does that tie in with the small business bonus, given that rural relief has a rateable value threshold as low as £8,500, compared with £15,000 for the small business bonus? How does rural relief fit into the big picture? Rural Scotland is a lot bigger than the £5 million of rural rate relief suggests. That relief seems to be fairly small beer relative to other reliefs that the Scottish Government implements.

**Derek Mackay:** That is a good question. A lot of our national reliefs, such as the small business bonus, help a lot of rural businesses. They catch a lot of rural businesses and are concentrated in certain areas. Rural rates relief is a further safeguard or catch-all to support businesses that might not benefit from the other rates reliefs that support urban and rural businesses. Dougie McLaren can give a bit more detail on how the additional rural relief does that.

**Douglas McLaren (Scottish Government):** The small business bonus scheme has the higher eligibility threshold of a £15,000 rateable value but, as the committee may be aware, if an occupier has multiple premises, the cumulative rateable value can take them over that threshold. Irrespective of whether there are multiple premises, the rural relief catches premises up to an individual rateable value of £X as set for a store, pub, hotel, restaurant or filling station. I accept that there is a case for adjusting that value. The rateable value threshold has been the same for a number of years but, because so many of those properties are caught by the small business bonus, in practice very few rely on the extra safety net of the rural relief.

**Kenneth Gibson:** That is what I thought, given the amount of money that is involved. One of the concerns about the system is its complexity, which the Barclay review will look at. Recipients of rural relief will take the view that it has a role to play, but I wonder whether the system can operate more efficiently and effectively, given the huge amount of support that has gone into the small business bonus scheme relative to rural relief.

**Douglas McLaren:** Administratively, the system is complex. I will not dwell on this, but some of the reliefs have a hierarchy in the legislation—councils have to apply one before the other. However, in the case of the small business bonus and rural relief, the council just makes sure that the business gets the best benefit across the two reliefs. I accept that there is a case for a bit of administrative streamlining.

**The Convener:** There are no further questions from members but, before I give the cabinet secretary the opportunity to make closing remarks and before we move to the next agenda item, I have one brief question.

Politicians being politicians, politics often comes into play in relation to things such as rates. The next time that we consider any revaluations or changes to non-domestic rates, should we look at this kind of dynamic as a normal part of the political process? Is it not reasonable for a Government to collect data, hypothesise about what a rates poundage and a rates relief scheme might look like, take the temperature on that in wider Scotland and make amendments as appropriate? Should we see that as part of the normal process and embrace it, rather than getting into the adversarial position that we have got into as a Parliament?

10:45

**Derek Mackay:** That ideal world—where the approach is not adversarial and everyone is happy at the outset—sounds good to me. I am happy to engage with you if you can help me to design a process that achieves that.

In all seriousness, in answer to Andy Wightman's question in the chamber yesterday, I said that the budget process review group is looking at how the Parliament delivers its tax and budget powers and that the issue is worthy of further consideration. As I have said, the process that we have inherited and traditionally used is being used for setting non-domestic rates. We are happy to engage on the issue through the budget process review group, which has experts on it.

I again make the really important point that revaluation is independent of Government. As we and representatives of businesses get the evidence, we respond. I took early actions in the

draft budget, as I have described, and I have taken further actions as the evidence has emerged.

Parliament has had the opportunity to discuss the issue at the stages that I have described. The first stage is the issuing of the local government settlement. There is time to debate the matter further at the second stage, if that is what people want to do. The third stage involves committee appearances, as well as appearances in other places. The issue has had a good airing. Is there a better way to do that? Let us engage in that discussion.

**The Convener:** I was not being naive in asking the question. Politics always comes into things, but the process should be normalised. From what I can see, it is reasonable for the independent assessors to do their job, it is reasonable for the Government to make a first cut at whatever a rates relief scheme might look like and it is reasonable for business in Scotland to take views on that. That is an entirely normal part of the process. It is reasonable to expect a cabinet secretary to react and act appropriately on the basis of those concerns. Should we find a better way of normalising that process?

**Derek Mackay:** As I said, I am happy to engage if you think that there is another—or better—way of operating. I reassure the committee that, when the Government gets evidence, we consider it. The Government then presents its proposals. Opposition parties can present alternative proposals if they think that we have got the wrong poundage, balance of reliefs or budget decisions. That can happen in Parliament—that is normal. There are also the budget negotiations. If Parliament does not like the package that the Government has offered, it can vote against that and alternatives can be suggested.

It would be interesting if, after the Government had engaged with the business community, looked at the evidence, delivered a budget to invest in our public services to the tune of more than £900 million and set fair and balanced tax rates, any Opposition party dared to vote against all those progressive, proactive and pro-enterprise measures.

**The Convener:** I fear that we have moved to the debate, which was not my intention. Does Mr Wightman want back in?

**Andy Wightman:** No.

**The Convener:** That might have been your closing statement, cabinet secretary.

**Derek Mackay:** It feels as though it was.

**The Convener:** In that case, I thank you for taking part in that fairly robust evidence session. It was longer than we expected it to be, but I did not

want to stifle debate on such an important matter. I also thank your officials for their attendance.

Under agenda item 3, the committee will consider S5M-03997, in the name of Andy Wightman, which asks the committee to recommend that the Non-Domestic Rate (Scotland) Order 2017 be annulled.

I will set out the procedure. Andy Wightman will first speak to and move the motion. There will then be an opportunity for members to debate the motion and for the cabinet secretary to respond, for up to 90 minutes. I will not be devastated if that does not take 90 minutes. Following that, Andy Wightman will be invited to wind up the debate and, finally, he will be asked whether he wishes to press or withdraw his motion.

**Andy Wightman:** First, I will clarify why I lodged the motion to annul the order. Since 1989, the tax rate—the poundage—has been set by central Government under secondary legislation. Prior to 1989 and prior to the Conservatives centralising this local tax, it was set by individual local authorities.

Since the order is considered under the negative procedure, the only means of scrutinising the decision of ministers about the rate that is to be set is through a motion to annul the relevant Scottish statutory instrument. I therefore lodged the motion to allow a modest degree of scrutiny. It is not and has never been my intention to deny local government these important resources, and I add that I decided to lodge my motion before the recent publicity about revaluations. My intention was solely to provide an opportunity for some scrutiny and not to introduce a Trojan horse for any wider political goals of other parties.

Originally, I intended also to lodge a motion to annul SSI 2017/9, which concerns the small business bonus scheme, but I decided to take things one at a time. However, I will illustrate why that, too, would benefit from greater scrutiny. I am engaged with constituents in Edinburgh to reform the planning regime for short-term lets because of concerns about residential amenity and the accelerating clearance of the residential population in central Edinburgh. I mention that because the holiday let properties that declare themselves to be liable for non-domestic rates—not all of them do so—and which I have looked at so far have been eligible for 100 per cent rates relief, despite having tens of thousands of pounds in turnover.

Because of the regulations that we will consider under another agenda item, the owners of those holiday let properties, who are often outside Scotland, will pay absolutely nothing to the City of Edinburgh Council to contribute to the costs of maintaining the city that provides their income.

Instead, the Parliament subsidises those—in my view—undeserving proprietors by compensating councils with public funds. That is just one example of how the small business bonus scheme is flawed. However, I reiterate that, notwithstanding the merits of any criticism of that, there is no easy means of scrutinising the detail of such policy that arises from the legislative regime for non-domestic rates.

I hope that the cabinet secretary will agree that Parliament should be able to scrutinise relief schemes that involve the expenditure of hundreds of millions of pounds. Under the previous agenda item, I heard him talking about the opportunities at stages 1, 2 and 3 of the budget process but, with respect, those are debates and not opportunities for detailed scrutiny. It is scrutiny that I am concerned about.

I am aware that the Barclay review is examining non-domestic rates and I expect Parliament to debate its findings, but I want Parliament also to be given an opportunity for more fundamental examination of the non-domestic rates regime. There are much more fundamental questions of tax design to consider that go well beyond the Barclay review's terms of reference and, indeed, bring into question the very existence of the non-domestic rates regime. One of the Scottish Government's economic advisers, James Mirrlees, has argued that we should scrap the business rates system.

The public consultation for the Barclay review asked one question, which was:

"How would you re-design the business rates system to better support business and incentivise investment?"

It said nothing about the degree of central control versus more local control and nothing about the range of exemptions that have historically existed for things such as agriculture. The Barclay review will not be looking at those important things, and that is why, in this place, we need to consider deeper questions about the future of the non-domestic rates regime.

As I mentioned, the Barclay review says nothing about local government per se, but non-domestic rates are an important part of local government finance and they should be part of any future review of local taxation. I know that the cabinet secretary is keen to talk to other parties about how we take forward further reforms to local taxation, and I look forward to those discussions, which I hope can take place once the Budget (Scotland) Bill is safely on the statute book.

In the meantime, first, will the cabinet secretary assure me that he recognises that there is a case for better on-going scrutiny of all the variety of secondary legislation that comes to Parliament? We should not have to lodge motions to annul to

get that scrutiny. Secondly, does he recognise that there is a case, whether he agrees with it or not, for returning at least part of the rate setting and tax design to local authorities so that they can take decisions on their tax bases to suit circumstances in their different areas?

I move,

That the Local Government and Regeneration Committee recommends that the Non-Domestic Rate (Scotland) Order 2017 (SSI 2017/8) be annulled.

**The Convener:** Do not answer those questions now, cabinet secretary. You will have an opportunity to respond to all the points that have been made in the debate. Does any other member wish to participate?

**Elaine Smith:** Yes—I will probably not speak for 90 minutes.

There is probably a better way to do such things. The only option to allow the committee to debate the order was via a motion to annul, so that is what we have in front of us. In a way, it is disrespectful to the committee to assume that it will not press forward with recommending annulment because of the possible loss of revenue to local government. I say that because it assumes that the Parliament would not be willing to schedule a chamber debate in good time.

The cabinet secretary said that it would be difficult for the budget to be debated or voted on this Thursday without the order, but it would not be impossible. I have confidence that the Parliamentary Bureau would manage to get a motion to the chamber in time for it to be debated and voted on. We might want that to happen so that there could be further scrutiny.

I accept what the cabinet secretary said about the process that is being followed being the normal way to operate, but that does not mean that it is always the right way to do it. There can be some commitment to better scrutiny than just having a negative instrument, where the only option is for a committee member to lodge a motion to annul. That is not ideal at all, and that has to be taken on board.

It is rather dramatic to say that there would be a complete loss if we recommended annulling the order because, as part of the process, the business managers could get a motion into the chamber for debate and scrutiny. However, given the points that have been made, if Andy Wightman were to withdraw his motion, I would not be inclined to argue with that, although if he decided to press it, I might well be inclined to vote for it.

In the future, proposals on non-domestic rates undoubtedly need to have much greater scrutiny. We know that rates are the second-largest single source of revenue under the Scottish

Government's control, so it seems wrong simply to dispose of them through secondary legislation and the negative procedure. There has to be more discussion and scrutiny of them and, like Andy Wightman, I think that that should not be just during budget debates in the chamber, because not all members can participate in them. We know that there is limited time for debates—just as we have only 90 minutes for the committee's debate this morning, if we want to use it.

The whole point is scrutiny. It is good that we have had a debate. Perhaps the committee could have delved a bit more into the issue during its own budget scrutiny—we need to think about that for the future.

The engagement has been positive this morning, and I will wait to see how Mr Wightman sums up and what he decides.

**Graham Simpson:** I will not speak for long. I take Andy Wightman's point about scrutiny in general; he is right that there is not enough. It is a shame that he felt that he had to go down this route to get some scrutiny.

To cut to the chase, what is before us is an issue about poundage—pure and simple. I cannot sit here and vote to recommend annulment when I know that that would cost Scottish businesses £108 million. To be frank, that would be irresponsible. As the cabinet secretary said, there is also a threat to local government finances, which we have to be aware of.

As I said earlier, the right process to follow is to wait for the results of the Barclay review. We know that it is under way and that the results will come before the committee. I hope that there will be a great deal of scrutiny as a result of that review, and that will be the opportunity for people such as Andy Wightman and all the committee members to have their say on a future system of business rates. On that basis, if Andy Wightman wishes to press the motion, I am afraid that I will not vote with him.

11:00

**Kenneth Gibson:** I want to follow up on what Graham Simpson has just said. I do not think that local government would thank us for throwing a spanner in the works at a time when councils are setting their budgets. I know that businesses would certainly not thank us for the potential loss of the £108 million, so I will not support the motion. Scrutiny is important, but we do not want to kill the goose that lays the golden eggs for our businesses, which rely a lot on the reductions in the poundage and other reliefs that the cabinet secretary is introducing. I therefore do not think that we should support the motion to annul the order.

**Ruth Maguire (Cunninghame South) (SNP):** I recognise that there is probably a wider debate to be had on rate setting and I welcome the cabinet secretary's comments on whether it should be national or regional setting. However, I agree with colleagues that we have to allow the external review process to move forward and explore how business rates can best reflect economic conditions and support growth. The big issue for me today—it should not be minimised—is the profound impact that agreeing the motion would have on the budget-setting process and that £2.6 billion of public spending.

**Alexander Stewart:** I acknowledge that the committee has the opportunity today to debate the issue of non-domestic rates, and it is right that we have that opportunity. However, I have to take on board that there will be an external review, and it is right and proper that that should take its course. Following that process, we can become involved with regard to any actions that are recommended or opportunities that are presented. Like other committee members, I firmly believe that we should wait to see what comes from the external review at the end of the summer and give ourselves the opportunity at that stage to agree or disagree with the review's conclusions.

**The Convener:** I will also make a brief contribution to the debate. I suppose that a defence of where we are is that things have always been done this way. However, I think that Mr Wightman is trying to say that it would be good to develop and modernise our scrutiny of non-domestic rates. It is fair to put it on the record that the Scottish Government commissioned an independent review of non-domestic rates before the issue received all this political attention and that must be commended. Perhaps there is a meeting of minds in the Parliament in relation to modernising how we look at the process.

Given how close we are to the final budget debate on Thursday, I asked the clerks what the earliest date was on which a motion to annul the order could have been lodged for discussion at committee and I understand from them that it was 8 February, which is not that long ago. The timescale for taking the motion to the chamber for full parliamentary debate and consideration of alternative proposals would have been tight—it is the result of the pipeline from the Delegated Powers and Law Reform Committee. I know that there is an independent review of the Parliament's budget process but, even if there is no change to the process, we should perhaps think about its timing.

That said, the committee is undertaking a significant piece of scrutiny today. Had we done it a number of weeks ago, it might have been pretty good. We had the option of looking at the issue in

some detail during our budget process, but the committee chose not to do that. We therefore have to look at our working practices, too. It is not just a matter of asking what level of scrutiny the Government or the Parliament affords non-domestic rates. It is only fair to put it on the record that we have to look at the role of the committee system, too.

Again, I put it on the record that the committee will now do a piece of work on non-domestic rates. As part of our on-going work on that, we will hear from the Barclay review and will get feedback from the Government after the Barclay review is published. To me, that sounds like a heck of a lot of scrutiny. Given that scrutiny, I therefore feel that there is no reason to support the motion to annul the order. However, even if I thought that there was such a reason, the issue of the £2.6 billion for public services would be more relevant for me.

The question whether there is a potential risk or a direct threat does not really matter to me, and I would say to other MSPs that I do not think that we can afford to have any uncertainty as councils across the country set their budgets. We are talking about social work and education departments in my city and in other MSPs' constituencies and regions. For that reason, I, too, would certainly not be minded to annul this instrument.

That is my final contribution to the debate. I want to give the cabinet secretary the opportunity to respond to the comments that have been made and then give Mr Wightman the chance to come back in.

**Derek Mackay:** Thank you, convener. First, I genuinely appreciate the comments that have been made and the discussion that we have had. I have not objected and do not object to the scrutiny. As you have said, convener, I could have answered questions on this issue at my appearances at this committee, the Finance and Constitution Committee or any other place where I have talked about the budget. The Government published its budget proposals on 15 December and from that point, any party, business or other interested stakeholder was able to engage with the Government on its draft proposals, all of which are subject to due parliamentary and political process, concluding with stage 3 of the Budget (Scotland) Bill. Of course, further statutory instruments will, where appropriate, be laid on any other relevant matter.

On a consensual point, I note my comment yesterday that I am open to the budget review group, in which Government, Parliament and experts are working in agreement and are looking at how the Scottish Parliament's scrutiny and legislative process should adapt to our new powers. We can, of course, look at our existing



powers, of which the setting of non-domestic rates is a very substantial one. I have said that I have been open to and, indeed, have been very proactive about engaging with the budget review group on how we can adapt our parliamentary processes. Of course, all that has been made even more significant as a result of the chancellor's decision to change his budget-setting timetable from spring to autumn—although I note that, this year, we will still have two budgets.

Members will also want to reflect on the fact that the UK chancellor can essentially propose his budget one day, with the scrutiny largely coming thereafter, whereas under our process a lot of the scrutiny is done in advance of the budget being set. We have to get the balance right. I hope that that covers some of the points about engagement and normalisation.

I think that, as the convener has described, it is impossible to take the politics out of this issue, given that tax is a very sensitive matter. However, I want to make any decisions in a research-based, methodical and orderly fashion, and that is the approach that I have taken. Indeed, that is essentially the question before us: if this process is wrong now, has it actually been wrong for the years in which it has been in use? As I said, I am open-minded about how we can improve things, but I think that members who are new to the Parliament and therefore new to the process—and I, too, am a relatively new finance secretary—have turned a fresh pair of eyes on things, and I have no objection to that as part of the overall approach. The Barclay review has a very specific and self-defined remit with a key purpose, but further consideration can be allowed. However, I must point out that if these revenues are not able to be raised and then distributed, there will be a local impact.

Going back to a key point that members have raised, I think that this is all about certainty. There is an administrative element to all this, in that councils need to get on with issuing bills and businesses need to be able to appeal if they want to. We need certainty in the system in order to get on with things.

Actually, the question before us relates not to those other matters of great interest but the poundage, and since the day and hour I published the Government's position on it, I have heard no variance from anyone in that respect. The question before us is all about the poundage, but I have heard no party saying "Put it up" or "Bring it down". We seem to have general consensus and agreement on reducing the poundage by 3.7 per cent, which, for all the reasons that I have given, feels like the appropriate balance to strike. Members therefore need to reflect on the fact that that—and not anything else—is the question

before us, and the setting of the poundage and therefore the raising of revenue for distribution could be put at risk if we do not proceed with this instrument. I do not want to be too negative—indeed, I have tried to be consensual and constructive—but I find it a bit strange for some members to say, "Tell me what I'm voting against and tell me what you're going to do to fix things" if they are going to be so reckless and proceed along such lines.

As I said, I have conducted myself in an orderly fashion from 15 December, when I published the poundage, and it feels that some members are making an 11th hour bid to look at the issue again when in fact there seems to be no disagreement on the actual poundage that the Government is proposing. For all those reasons, I suggest that we approve the instrument and continue with the budget as it works its way through Parliament and is subjected to the appropriate scrutiny.

**The Convener:** Thank you for that contribution, cabinet secretary. I now ask Andy Wightman to respond to the debate and to indicate whether he intends to press or withdraw motion S5M-03997.

**Andy Wightman:** Thank you, convener, and thank you, cabinet secretary.

I have heard what the cabinet secretary has said, and I want to put it on the record that I have no criticism of any of the actions that he has taken or the processes that he has adopted, which have been strictly in line with our legislative requirements. To be perfectly frank, I do not know whether the rate that he is proposing or last year's rate is the best; I am not in a position to know that, because I cannot avail myself of all the evidence and analysis that the cabinet secretary was able to examine last year in order to arrive at this particular rate. My sole motive in lodging the motion is to try to have a bit of scrutiny of the process of setting the poundage, the considerations that come into play and how he has arrived at the figure. Once the figure is arrived at, I might or might not agree.

Secondly, on the Barclay review, I repeat what I said in my opening remarks, which is that the remit of the review is limited. I do not actually agree with it—it is not the kind of remit that I would have given a review of non-domestic rates. It is not looking at some of the issues that I, for example, am interested in, and I hope that we can return to some of those issues in Parliament.

Again, as I said in my opening remarks, it has never been my intention to put these revenues at risk. However, because the rate is set by a negative instrument, the only way of having any formal scrutiny is by lodging a motion to annul.

I realise that all this has come very late in the day. Stage 3 of the Budget (Scotland) Bill is

tomorrow. I have heard what the cabinet secretary has had to say and, in those circumstances, I seek to withdraw my motion.

*Motion, by agreement, withdrawn.*

**The Convener:** As the motion has been withdrawn, that concludes our consideration of agenda item 3. I thank the cabinet secretary and his officials for their attendance, and I briefly suspend the meeting to allow the witnesses to leave.

11:12

*Meeting suspended.*

11:21

*On resuming—*

### **Non-Domestic Rates (Levy) (Scotland) Regulations 2017 (SSI 2017/9)**

#### **Non-Domestic Rates (Rural Areas) (Scotland) Regulations 2017 (SSI 2017/22)**

**The Convener:** Welcome back, everyone. We move to agenda item 4, which is consideration of subordinate legislation. The committee will consider two instruments. The instruments have been laid under the negative procedure, which means that their provisions will come into force unless the Parliament votes to annul them, and no motions to annul have been lodged. I invite members' comments.

**Andy Wightman:** I have quite a lot to say about the Non-Domestic (Levy) (Scotland) Regulations 2017, but I do not intend to say it. I merely want to draw committee members' attention what I said under the previous agenda item and the comments made by the Scottish Trades Union Congress, as reflected in the Finance and Constitution Committee's report on the draft budget. Given the limited opportunity for detailed scrutiny of the regulations, I will not go into detail. I merely note that there are issues that need proper scrutiny in future.

**The Convener:** Thank you. As there are no further comments, do committee members agree that they do not wish to make any recommendations in relation to either of the instruments?

**Members indicated agreement.**

## “Draft Climate Change Plan: The draft third report on policies and proposals 2017-2032”

11:22

**The Convener:** A little bit later than scheduled, we move to agenda item 5, which is evidence from the Minister for Local Government and Housing on the Scottish Government’s draft climate change plan, RPP3—the third report on proposals and policies. It follows two evidence sessions with key stakeholders at our two previous meetings. I welcome Kevin Stewart, the Minister for Local Government and Housing, and the Scottish Government officials who join him today. They are Stephen Garland, head of the sustainable housing unit in the better homes division, and Gareth Fenney, who is a policy manager in the same unit. Do you have an opening statement, minister?

**The Minister for Local Government and Housing (Kevin Stewart):** Yes, convener. Thank you for inviting me here today to talk about the draft climate change plan, which sets out the Scottish Government’s policies and proposals for meeting Scotland’s climate change targets.

My portfolio includes responsibility for domestic energy efficiency in all tenures, for local government, for planning and for standards for new buildings. Mr Wheelhouse’s portfolio leads on renewable and low-carbon heat. However, it is important to see energy efficiency and low-carbon heat as a single package, which is why we have brought the action together under Scotland’s energy efficiency programme.

Climate change is one of the most important issues that the world faces today. The Parliament voted unanimously to pass the Climate Change (Scotland) Act 2009 and, since 2009, we have been working together to reduce emissions and to meet the very challenging targets that are set by the act.

We are making good progress. We have already massively reduced emissions in Scotland—they are down 45.8 per cent since 1990. That progress is reflected in the residential sector, where the share of homes with the top three energy efficiency ratings—energy performance certificate band C or better—has increased by 74 per cent since 2010.

Since 2009, we have allocated more than £650 million to domestic energy efficiency, and we set out in the programme for government that we will make available £0.5 billion over the next four years to tackle fuel poverty and improve energy efficiency.

As we go forward, Scotland’s energy efficiency programme—SEEP—will be the cornerstone of our approach to reducing emissions in the residential sector. Once fully operational, it will be a programme of sticks and carrots, bringing together grants and loans with advice and information, backed up by standards and regulation to help to create demand and drive improvement. The programme is being developed, and we are consulting on policy options until 30 May.

In addition, on a visit to Dalmarnock last week, the First Minister announced that we are making available a further £11 million of funding for councils to make homes, public buildings and businesses more energy efficient. The second wave of the SEEP pilot fund will help local authorities test new and innovative energy-saving approaches.

The consultation and the pilots will inform our long-term approach to the delivery of SEEP, which will commence in 2018.

I welcome the committee’s scrutiny of the draft climate change plan and look forward to members’ questions.

**The Convener:** Thank you, minister. Our opening question is from Graham Simpson.

**Graham Simpson:** Thank you for attending, minister. We have had a number of submissions and heard from witnesses last week about the perceived—well, not even perceived—lack of actual policy in the climate change plan. The plan has emissions reducing at twice the current rate over the next four years, but there does not seem to be any new policy or money to deliver that reduction. To me, that does not seem to stack up. Will you introduce new policy or funding, or will we just make do with existing policy?

**Kevin Stewart:** As I said in my opening remarks, we are currently looking at the situation. Beyond that, in very short course—next month—we will embark on a consultation on how to deal with energy efficiency in the private rented sector. That will also outline what we are going to do in terms of owner-occupied properties.

For real transformation, we need to integrate tools such as the use of new incentives, with standards and regulation. Probably the most important thing is behavioural change, supported with advice and information services and underpinned by strong supply chains with the right skills. We are about to embark on decarbonising Scotland’s housing stock, and the cornerstone is Scotland’s energy efficiency programme. We have set out the strategic vision for SEEP: that Scotland’s buildings are near zero carbon by 2050. We want to ensure that that is dealt with and achieved in a way that is socially and economically

sustainable, and we have adopted the challenging policy objectives that are set out in the climate change plan. We recognise that those are, without doubt, challenging targets, and we have been very clear that we do not have a preferred option at this stage. The approach will likely vary across elements of the programme. We are, therefore, now asking stakeholders what the best way is to deliver the vision and the objectives. While we develop SEEP, our existing programmes will continue to deliver measures on the ground to help folks make their homes warmer and cheaper to heat.

11:30

**Graham Simpson:** That kind of backs up what I was saying, which is that although the document is called a plan, it is really a vision. A plan would be backed up by specific actions that would enable us to get to the targets that have been set, such as the desire for buildings to be almost zero emitters of carbon, but you have not said how you think that that could be achieved.

**Kevin Stewart:** I reiterate that a number of activities on energy efficiency are under way right across Scotland, and I encourage the committee to go and see some of the work that is being done on the ground, whether that be the delivery of home energy efficiency programmes for Scotland at a local level or the work that warmer homes Scotland is undertaking.

A key factor to bear in mind is that it would be a mistake for the plan to rush to a single solution, or a limited number of solutions, at this point in time, because technologies will change as we progress. As we embark on this journey, we are taking an extremely pragmatic approach. We will continue with the existing energy efficiency programmes, which have already resulted in a huge number of interventions in homes across Scotland. Although some interventions have been made in private housing, the roll-out of energy efficiency as a whole has been concentrated largely in the social sector. We want to make sure that we get the private rented sector scenario right. That is why we are about to engage in the consultation on that, after which we will move on to deal with owner-occupiers.

It would be very wrong of us to lay out a complete plan of every action that is likely to be taken in the next couple of decades, given the changes in technology that are taking place. Rushing into one technology change would be completely the wrong thing to do. I think that we are taking a pragmatic approach that involves the application of logic and common sense. We want to ensure that we consult all stakeholders so that we can make the plan's ambitious targets a reality.

**The Convener:** Have you finished your questions for the time being, Mr Simpson?

**Graham Simpson:** Absolutely. There are other specific areas that we will delve into.

**The Convener:** I reassure the minister that the committee has been out and about across the country looking at various initiatives. Let me give a good example of a biofuel community heating solution in Glasgow that I went to see. The people at Cube Housing Association told me that the lifespan of that solution was 15 years or so. When I asked them about using rental income to sustain its replacement in 15 years' time, they made the point that they had no idea what the technology would look like then. They said that they had to be flexible in their approach to the future.

I know that we are tight for time, but this might be an opportune point for Graham Simpson to say a few words about the visit that he made.

**Graham Simpson:** Andy Wightman and I went on a visit to Ayr, where we saw one of the area-based schemes. Basically, insulation is being applied to the outside of buildings. It was a highly informative visit. I had not realised how many buildings in Scotland require such treatment—I think that the figure is about 500,000, which is a massive number. It was good to see that. Area-based schemes are the way forward.

**The Convener:** We will certainly come on to the details of that.

**Kevin Stewart:** Convener, can I just come back in?

**The Convener:** Can we just leave that hanging? You mentioned that the committee should go out and about and see what is happening in the country, and I wanted to reassure you that we are actually doing that.

We will move on to the next question, which is from Ruth Maguire.

**Ruth Maguire:** Good morning, minister. In its written submission to the committee, Food for Life Scotland highlighted the role that local government procurement can play in supporting low-carbon food systems. To what extent does the Scottish Government expect the public sector to maximise opportunities to reduce climate emissions as part of procurement?

**Kevin Stewart:** To hark back a little to my time in local government, when Aberdeen city and shire established a joint procurement unit, there was a great fear from many folks that the emphasis would be on buying the cheapest possible product from wherever, but a real bit of common sense came into play. Local suppliers are key. Many local authorities, including in Ayrshire, if I remember rightly, are careful about that and

procure food from local sources. Although it is not for me to dictate, it would be wise for every local authority to look carefully at where it sources such products.

Beyond that, in terms of some of the recent policy that the Government has put forward, the committee will be well aware of the emphasis that was put on allotments in the Community Empowerment (Scotland) Bill—the issue took up an entire section of that bill, and there was probably more debate about aspects of that than there was about many other aspects of the bill. The conversations that were had then were not only about allotments but about sourcing food from local sources in general. That is a really good thing.

I encourage local authorities to look at the procurement best practice that is out there in certain places, and I will certainly do everything possible to facilitate the exporting of information about that best practice.

**The Convener:** Obviously, you cannot compel local authorities to follow best practice, but is there procurement guidance to ensure that, if local authorities follow that guidance closely, the output will be best practice anyway, even if they are not compelled to follow it?

**Kevin Stewart:** On energy efficiency, in March 2016, the Government launched the non-domestic energy efficiency framework, which is designed to support public and third sector organisations to procure things such as the retrofit work that Mr Simpson and Mr Wightman saw in Ayr. The economies of scale and the standardised approach that are offered by that pan-public sector framework are attractive to the public and private sectors and offer better solutions and better value for money.

I have seen on the ground that, in the initial stages of procurement of energy efficiency measures, some local authorities have found it difficult to find contractors. For example, Orkney had great difficulty bringing in folk to deal with external cladding.

Government has been pretty flexible about that. Normally, if the money is not spent, it is clawed back, but we recognised the circumstances and allowed those councils to keep the money that was available to them. They eventually managed to find contractors and, of course, are building up local skills to continue their projects.

We have a framework, but we have to allow a level of flexibility. We understand that, although it might be easy to get workers and contractors to do certain things in certain parts of the country, it is not so easy to do so in other areas. There are also huge opportunities, because the framework offers

the possibility of skills levels being raised in places where that has not happened before.

**The Convener:** It might help the committee if you could write to us about that. You said that you have a desire to see best practice, so how do you promote the exchange of information on that best practice between local authorities, and what part does guidance and the ability to improve or enhance it play within that? It would be helpful for the committee to hear about that.

**Alexander Stewart:** Some concern has been expressed about the lack of engagement with communities during the development of the draft plan. How will the Scottish Government develop further engagement with communities as the plan is finalised?

**Kevin Stewart:** I am not trying to be awkward, but could Alexander Stewart give us examples of where he thinks engagement has not been at its best?

**Alexander Stewart:** As other committee members have, I have been on visits; there are projects that we can all visit to see what happens. There are locations and organisations across Scotland that we might have expected to be part of the process that have not perhaps engaged—there is a feeling that that has been lacking. We have an opportunity before the draft plan becomes the final plan to go back and engage with some of those organisations. We have also heard evidence from individuals who felt that they have not been engaged. There is a feeling that there has not been enough done so far, and that needs to be developed as we go forward.

**The Convener:** Mr Stewart, the briefing that the Scottish Parliament information centre prepared for today's evidence session says:

"In their written submission to the LGC Committee the Scottish Community Alliance highlighted their concerns at the limited community engagement in developing the plan:

"To date, active engagement with communities on this agenda has been limited. We see this as a missed opportunity to capture the energy, enthusiasm and ingenuity that is inherent in all of the places we live."

That is only one submission, minister, but it is an example.

I am sorry to have interrupted you, Mr Stewart.

**Alexander Stewart:** That is okay.

**Kevin Stewart:** I am keen, as is the Government, to consult as much as possible and to hear what communities and stakeholders have to say. As I said earlier, one of the things that we will have to do is ensure that there is massive behavioural change out there. To facilitate that, we will have to have as much communication as possible with everyone about this extremely important agenda.

I will have a look at what those folks have said. However, a number of things are going on at the moment, even down to household level, at which we are funding the home energy Scotland network, which provides advice and support to households, including about energy-saving behaviours.

11:45

I have gone out a fair bit to look at what is going on on the ground and to hear what folks are saying, and I think that that is helping. We all have a job to do in relation to that behavioural change. We are also running a pilot with the Energy Saving Trust to find new ways of embedding that behavioural change, which is extremely important. However, I will take on board what Alexander Stewart said: I will have a look at what communication is going on and at how we are dealing with that.

One of the key things is that, as always, it is the job of all of us in this place and beyond to try to persuade folk to respond to consultations. I know that they are sometimes not the easiest documents to deal with, but the online consultations that we have been carrying out on various subjects in recent years are quite easy to navigate. We should probably say more that folk do not have to answer every question and that, if something is not mentioned, they can still have their say on it.

We held stakeholder events before Christmas on the draft plan and on SEEP 2. I will see who attended those and will consider what we can do to encourage more people to become involved. It is vital that we get as many folk as possible—all the folk out there, in fact—involved in the agenda so that we can move forward with the ambitious plan and get the behavioural change that we need.

**Alexander Stewart:** Thank you.

**The Convener:** Elaine Smith has a supplementary question. I will then bring in Andy Wightman.

**Elaine Smith:** Welcome to the committee, minister. You mentioned individual actions. We have a submission from Smart Energy GB about smart meters. I wonder whether this is an appropriate point for you to say something about that. My further question is that I recall reading—*[Interruption.]*

Is this someone else's question?

**The Convener:** No. Please continue, deputy convener.

**Elaine Smith:** I thought that I had stolen someone's question.

I read somewhere about a seven-year window of opportunity for changing boilers. Does that mean that households have to replace their boilers and, if so, what are the incentives for them to do that? Those are specific questions, but they are about the individual actions that you mentioned when you responded on communities.

**Kevin Stewart:** If you do not mind, convener, I will bring in Mr Garland to comment on smart meters.

**Stephen Garland (Scottish Government):** I will see what I can do. There is definitely an opportunity with the roll-out of smart meters. Given that there are going to be interventions and people will be going to every home, there is an opportunity to link that to the work that we are doing on energy efficiency and, more widely, on climate change. We are considering what that opportunity is. The energy companies are dealing with smart meters at different rates, but the Government is aware of the issue. Mr Wheelhouse has looked into it and discussed it with the energy companies. I do not have specific details of what is planned, but it is on our agenda.

I am not so sure about a seven-year window for boilers, I am afraid.

**Kevin Stewart:** I will deal with that. We have to recognise that our future energy mix will likely be different from what we are familiar with today. Working with partners, we will consider what the most appropriate solution is. It will include district heating, electric heat pumps, biomass and repurposing of the gas network to supply biogas or hydrogen. We will put forward much more detailed proposals on how we will realise significant heat decarbonisation in a subsequent climate change plan.

Ms Smith mentioned a "seven-year window". We are continuing to develop delivery mechanisms. For example, the most recent call on SEEP delivery programme pilots is for projects that will help us to deliver those kinds of options. That includes projects that take an area-based approach to renewable heat technologies and off-gas-grid areas. As part of the SEEP development, we will carry out a high-level policy-scoping consultation on district heating regulation and on a potential duty on local authorities to develop local heat and energy efficiency strategies. That will give us a solid foundation from which to decarbonise the heat supply of our buildings.

It is worth remembering that around half of non-domestic buildings are already heated using electricity, which means that there will be little or no change there. However, as with every other procurement in our homes or wherever, we have to look at the lifetime costs, which is one of the things that the convener picked up on in relation to

his visit to a housing association in Glasgow. During the course of the plan, there may be technology advances, as those folks rightly pointed out. I hope that that answer is helpful to Ms Smith.

**Andy Wightman:** I have two or three questions on domestic heat. Policy outcome 1 in the climate change plan envisages that

“Improvements to the fabric of Scotland’s domestic buildings results in a 6% reduction in their heat demand by 2032.”

I have been seeking to understand that figure a bit better, to know whether the 6 per cent is a reduction from the aggregate demand now, from the aggregate forecast demand in 2032 or in the per square foot or m<sup>2</sup> of residential unit heat demand. Can you help me?

**Kevin Stewart:** That is a complex question from Mr Wightman, as I would expect. I understand that he asked similar questions at the Economy, Jobs and Fair Work Committee yesterday. On demand—I am looking at Mr Garland to make sure that I get this absolutely right—it is the demand in 2030. Am I correct, Mr Garland?

**Stephen Garland:** The reduction is based on what we expect demand to be in 2032. I think that Mr Wightman has also asked what the position will be in 2032. We have undertaken to write to him on that in response to written questions from the Economy, Jobs and Fair Work Committee. Obviously, we will share that with this committee as well.

**Kevin Stewart:** I have a list of questions that Mr Wightman asked at the Economy, Jobs and Fair Work Committee and I understand that officials who were there agreed to write to that committee with more detailed responses. If it is okay with you, convener, I will ask that this committee also gets those detailed responses so that you have the same information as the Economy, Jobs and Fair Work Committee on the areas that are of interest to Mr Wightman and others.

**The Convener:** That would be helpful. Mr Wightman is nodding his head in agreement, although I cannot prevent Mr Wightman from re-asking the questions if he chooses to do so.

**Kevin Stewart:** I would not expect you to.

**The Convener:** Are you content with that, Mr Wightman?

**Andy Wightman:** Yes. We are short of time, so I intend to move on. Thank you very much for that.

We have heard evidence from organisations including the Existing Homes Alliance, which says that there are “credibility gaps” in the near term in relation to the goal of decarbonising and increasing the energy efficiency of domestic

buildings. A reason for that credibility gap is the lack of specific and clearly targeted policies, with numbers attached about carbon, and with timescales and budgets.

I hear what the minister says about maintaining flexibility, which is perfectly reasonable, but one of the most straightforward ways to build in targets would be to adopt one that seeks to get the vast majority of homes to EPC band C by 2025. That would be a specific and time-limited standard. Are you open to reflect on including that in the final plan?

**Kevin Stewart:** I have looked with interest at the things that have been said by stakeholders, including Elizabeth Leighton of the Existing Homes Alliance Scotland. She said:

“The ambitious targets for the residential sector on energy efficiency and renewable heat are welcome”.

She also talked of “ramping up” what we are doing. That takes me back to my earlier point about looking at what solutions are available. Obviously, there are things that we are going to do anyway—for example, the insulation work that Mr Wightman and Mr Simpson saw in Ayr. We will continue with that work.

I have said that we have an ambitious programme that will help to transform the built environment. It will cut emissions, as well as making it easier and cheaper to heat buildings. We will see a reduction in emissions from the residential sector by 75 per cent on 2014 levels. At the same time, we have to ensure that poor housing is no longer a cause of fuel poverty.

On the EPC band C scenario, a one-size-fits-all target might not be appropriate for housing stock that is as diverse as ours is. We are seeking views on target setting on SEEP. As I have said, the consultation is open until 30 May. We have to be completely realistic: this is not all as simple as we might think. I was struck by that in my visit to Orkney, when I was told about the housing stock there. As I said, there has been a slow start in some regards, but they have done very well. The people were quite honest about the housing stock in the council’s control and told me that it would be impossible ever to get it all up to EPC band C. Some of the housing stock is from the Napoleonic era, so getting that stock up to that level would not be worth while, given the interventions that would be required.

We have to be realistic about generalising about that rating target. We will look at what comes back from the consultation, but we must be aware that there are many buildings with anomalies, so to say that we should aim for uniform EPC band C is probably unrealistic.

**Andy Wightman:** I understand that. I do not think that anyone is arguing that we should have that measure for absolutely every building, given that, as you say, some of them predate the Napoleonic war, but it is a question of doing it for the vast majority. Your response is helpful, nonetheless.

My next question is about owner-occupied and private rented housing. You have indicated that you will be consulting on private rented housing, but you were not as clear about the precise nature of the consultation on the owner-occupied sector. Regulation of the private rented and owner-occupied sectors has been long promised. The powers are in the Climate Change (Scotland) Act 2009; it featured as a potential enabling measure in RPP1; it was included as a concrete proposal in RPP2; and it was developed with stakeholders to detailed pre-consultation through the regulation of energy efficiency in private sector homes working group in the previous session of Parliament. Given all of that work and where we are and how ready we are, I am concerned that the forthcoming consultation will kick that can further down the road.

12:00

**Kevin Stewart:** The consultation on the private rented sector will be published next month. We will give a timescale at that point about owner-occupiers as well.

Some of that could have happened before but, due to UK Government changes to the funding landscape in 2015, the Scottish ministers reluctantly took the decision to postpone the consultation about minimal standards because the funding situation was so uncertain at that point. We will publish the private rented sector consultation next month and we will give timescales about owner-occupiers at that point—that is not kicking it into the long grass but dealing with it next month.

**Andy Wightman:** Next month, you will produce a consultation on the private rented sector. Are you saying that you will have a timescale in that document for future consultation on the owner-occupied sector?

**Kevin Stewart:** We will give timescales on what we intend to do in owner-occupier situations at the same time.

**Andy Wightman:** I look forward to it—thank you.

**The Convener:** A couple of members have supplementaries.

**Elaine Smith:** On the question that Andy Wightman asked, what specific policies will result in the doubling of insulation measures in 2018?

Also, we have had evidence—I have been frantically looking through my papers to try to find it—to suggest that the materials that are used for insulation might not be environmentally friendly. Do you or your officials have any comment on that?

**Kevin Stewart:** Let me bring in Mr Garland on the materials, as I am not exactly sure about that.

**Stephen Garland:** I have not heard of that directly, either, but we will be pleased to get further information on it and respond to you directly.

**Elaine Smith:** Okay. There is also the question on the target to double insulation measures in 2018.

**Kevin Stewart:** We currently deliver more than 80,000 measures per annum. The plan sets out that 90,000 measures will be installed per annum from 2018. The measures that have been modelled are limited to loft, cavity and solid-wall insulation but, in reality, we deliver a much broader set of measures, including heating systems and controls, floor insulation and glazing in certain parts.

Currently, across the schemes, in the region of 80,000 to 90,000 measures are delivered per annum, and about half of those are wall and loft insulation. It is therefore true that the efforts in loft and wall insulation will need to double under the plan. A huge amount of the interventions that have taken place have been in the public sector and not so many have been in the private rented or owner-occupied sectors, so that is where we will have to move on.

SEEP will be the delivery mechanism for all of our efforts on energy efficiency and, although it is no small undertaking, we have the ability to make those situations become reality. We will work up all that needs to be done through SEEP. The consultation on that is open until the end of May—I cannot advertise that enough—and we are keen to hear from all stakeholders about what they think of the proposals.

**Graham Simpson:** Minister, you mentioned EPCs. Last week, we heard some evidence that the whole EPC system is flawed. EPCs are not particularly accurate—two people assessing a property can come up with two different results—and I have heard that the system discriminates against home owners in off-gas-grid rural areas. Do you have any plans to reform the EPC system?

**Kevin Stewart:** I ask Mr Garland to answer that question.

**Stephen Garland:** There is a process of looking at issues that have been raised about EPCs and the standard assessment procedure—SAP—that is involved. The Scottish Government has been



doing that over a number of years and has collated issues including those that Graham Simpson has just raised. We also engage with the UK Government to ensure that those issues are picked up.

Among the issues that we are looking at in the development of SEEP is the need to ensure that we have an assessment procedure that is fit for purpose. We are taking into account any issues that there may be with our assessment procedure and building that into the programme. The matter will also be raised in the consultations on regulation that we will develop.

**Kevin Stewart:** Assessment methodologies are included in the consultation on SEEP. As I go out and about, I hear different opinions about whether things are good or bad and about whether assessments are right. I encourage folk to respond to the consultation.

I also feed back to officials the things that I hear when I am out and about. I was in Shetland on Monday, and one of the construction firms there talked in some depth about the failings of the SAP. When I hear such things and when folk give me examples of how things are not quite right for their particular area—for various reasons, including geography and access to the grid—I always feed them back. I have been telling folk to feed into the consultation. The more folk who bring up the anomalies that often exist, the easier it is to deal with them.

**Graham Simpson:** Am I right in thinking that we could have a Scottish system of EPCs? The system does not have to be UK wide, does it?

**Stephen Garland:** It is to do with European directive compliance. At the moment, the EPC system works on a UK basis. We would need to take a view on whether there should be a Scottish version; we do not have a view on that at the moment. The process is understood as a way of assessing a building's performance, although it has flaws and we are looking at how we might improve it.

**Graham Simpson:** Given that we all seem to accept that the EPC system has flaws, maybe it is worth considering whether we could have a Scottish solution to a system that we know is not working.

**Kevin Stewart:** I would not go so far as to say that it is not working. I am not averse to looking at change where change is required, but if we put in another universal system, it is likely that there would be some anomalies because of particular circumstances.

Obviously, whenever I hear of any difficulties—there are pretty few, it has to be said—I feed that in to officials. It would be wrong of us to say that

the system is flawed; although there may be some anomalies, I do not think that we could go so far as to say that the system is completely flawed.

**Kenneth Gibson:** It is heartening to see that Graham Simpson supports independence for EPCs—it is a start.

**Graham Simpson:** Devolution.

**Kenneth Gibson:** I thought that you would say that. *[Laughter.]*

Good afternoon, minister. The Scottish Federation of Housing Associations submission states:

“Funding for low carbon heating should be concentrated in off gas areas, with a target to have renewable and low carbon heating in all off gas areas by 2025.”

In my constituency, I have two islands—Cumbrae and Arran—and both are off-gas-grid areas. What does the Scottish Government propose to do to address that aim?

**Kevin Stewart:** David Stewart of the SFHA said that. I am very aware of the difficulties faced by off-gas-grid areas, and I take cognisance particularly of the fact that for some areas that are off-gas-grid—*island communities*—the cost of electricity is much higher.

We are keen to use other technologies to ensure that we do our best. On Shetland and Orkney, the use of low-carbon heat options, using heat pumps in particular, is quite something. On Monday, I visited a new scheme by the Hjaltland Housing Association at the old Met Office site outside Lerwick and asked about the heat pumps that it is using. The cost of the technology that is being used there now, compared with what it was, and the outcome for home owners means that it is the right way to go. Those technologies will improve as we go on; for off-gas-grid areas, that is the way forward, unless there is a mass. Lerwick has a district heating scheme that works well for large parts of Lerwick but not for folks outside it.

Folks who are off-gas-grid have huge opportunities now that did not exist before. We have to recognise that fact and we will build on it in the SEEP framework.

**Kenneth Gibson:** Some of the fuel that is used on our islands includes oil-based solutions, which we want to get away from. You talk about innovative technology and the opportunities that are available, but it sounds a bit piecemeal, to be frank.

Is there no strategy to deliver comprehensively in such communities, as the SFA—that is, the SFHA—is suggesting could be done by 2025, which is eight years away, and to try to harness the opportunities? Obviously there will be economies of scale if that is being done on a more

strategic level, rather than just hoping that some individuals will do it. We could find that it is still a major issue a decade from now.

12:15

**Kevin Stewart:** One of the key issues in all this is getting all our partners to come on board to help to deliver. The experts in what goes on in island and rural communities are local people and local councils.

On working out plans to deliver, I expect local authorities such as North Ayrshire Council to come up with innovative plans to deliver solutions.

The bulk of the SEEP pilots that we have announced—I have talked about the second pilot that the First Minister announced last week in Dalmarnock—are being led by local authorities, which are receiving the cash and driving forward projects.

I am keen to see all authorities bidding for a share of funding, with the right schemes. I see no reason why the likes of North Ayrshire Council should not put forward some kind of innovative plan for the Cumraes, for example.

**The Convener:** Mr Wightman was going to explore the theme of policy outcomes some more before we move on to planning. Do you want to do that now?

**Andy Wightman:** No.

**The Convener:** Okay. I have one more point to raise. There is a concern that low-carbon technologies can be expensive to run and maintain, such that there can be a relationship between low-carbon technologies and fuel poverty unless we also use other measures, including energy efficiency, in properties. The SFHA raised concerns in relation to that; I am interested to hear your reflections on that, minister.

**Kevin Stewart:** I go back to what I said in response to Mr Gibson. New technologies are often expensive to start with, but costs do go down. There is also a volume aspect.

As we move on with our ambitions to decarbonise even more, we will have to use more new technologies. I ask folk to look at the lifetime costs of new technology and think about whether it will be worth their while putting in something new as opposed to old technology. The old technology might be inexpensive at this moment in time, but what will its lifetime cost be compared with a new piece of kit that might last that much longer through the changes that we will see?

The plan itself is pretty good in relation to a lot of the new technologies that we hope will come into play; there might even be different technologies by the time we get to that point.

Technology will advance as we go on. There are things that we are not doing in the UK at the moment that are being done elsewhere, and there is a level of testing that is only just starting here. Hydrogen technology, for example, is not moving fast enough.

The UK Government controls the gas networks. The H21 project in Leeds has not moved far at all. Other places are considering putting biogas and hydrogen into their gas networks, but we are behind on that. We do not have the power to deal with it ourselves and are reliant on others to develop it. We will continue to encourage it but hydrogen technology and biogas use are not likely to happen in the first phase of the plan. That is why we have laid out the plan in the way that we have.

Your initial point related to the cost—

**The Convener:** It was a specific point—I do not know whether you have addressed it.

The SFA—I think that is the second time that has been said. I meant the SFHA. The SFHA has said that, because of the expense of low-carbon technologies,

“the plan could be strengthened in relation to improving energy efficiency and reducing fuel poverty”.

I do not expect you to say now how it could be strengthened, but will you reflect on that? We have to report on the plan.

**Kevin Stewart:** I hope that the Scottish Football Association will be just as interested in decarbonisation as everyone else. I hope that everyone is interested.

I will put it simply. We are focusing on energy efficiency in the early years of the plan because people may be uncomfortable with the technologies, which we can deal with later. Dealing with energy efficiency also means that properties will be ready to be converted to low-carbon heat, so as well as helping to reduce bills now, it will help to mitigate future energy price rises.

It is important that we decarbonise our built environment in a way that is socially and economically sustainable. As you know, convener, I am responsible for fuel poverty, too. All the policies have to interlink—it is absolutely right that they do—so that we can do our very best to ensure that people can live in warm homes and a good environment.

**The Convener:** I want to leave time for the questions on planning, and Mr Wightman also wants to come in. However, your last comment was helpful. It would be helpful if we could get something later on the link that you have just mentioned between energy efficiency measures

and tackling fuel poverty, in relation to which the SFHA has said

“the plan could be strengthened”,

because we have to respond to all the evidence that we receive and I think that you were hinting at that.

**Kevin Stewart:** I am more than willing to come back to the committee after the consultation on SEEP has finished and the analysis has been done. The consultation will have to take cognizance of stakeholder views and other views that are submitted. The key thing—I am parroting again—is that we get as many views in the consultation as possible so that we can create the best possible plan and the best possible means of delivering its aims.

**The Convener:** Thank you, minister. We will move on with Mr Wightman.

**Andy Wightman:** The next topic is planning. The draft climate change plan contains just one page on the planning system. It starts by saying:

“Ensuring the planning system supports decarbonisation is another essential element of the Scottish Government’s approach to meeting the statutory climate change targets.”

However, it does not say anything about how the planning system could do that. At present, the objectives for decarbonisation and mitigating climate change are contained in the national planning framework. Are you open to the prospect of the forthcoming planning bill embedding the need to decarbonise and move to a low-carbon society as a principal purpose of planning, given the role that it plays in designing places, standards and transport modes across Scotland?

**Kevin Stewart:** Planning already has an important role to play in reducing emissions and adapting to future climate change. First, we have to locate development in the right places to provide opportunities for folk to make sustainable choices and improve their quality of life. We also have to aid the transition to a low-carbon economy, including by supporting diversification of energy infrastructure, as we are doing. Before I came in to the committee room this morning, I was reading a tweet about the Cabinet Secretary for Economy, Jobs and Fair Work, Keith Brown, addressing a conference this morning and talking about cities taking the lead in decarbonisation. Planning also has to set the environmental limits, and we have to ensure that transport and digital infrastructure are delivered by the planning system.

However, planning focuses largely on new developments, change of use and strategic plans. It does not concentrate on existing buildings, but a lot of the work that we have to undertake and what we seek to deliver is about what currently exists. As Mr Wightman knows well, we published our

planning consultation earlier this year, and it goes on until 4 April. I am keen to show that planning can guide sustainable communities to support the development of low-carbon infrastructure. The document also confirms that the national planning framework should continue to bring together Scottish Government policies, including on climate change.

I understand where Mr Wightman is coming from on planning as a tool to achieve a number of goals, and I do not disagree that it has a great part to play. However, a huge amount of what we have to achieve is about changing existing buildings and places to get to where we need to be in decarbonisation.

**The Convener:** Do you have a follow-up question on that?

**Andy Wightman:** No. I will leave it at that. That was helpful; it is obvious that the conversation on planning still has some way to run.

**The Convener:** Elaine Smith has a supplementary question. Is it on planning?

**Elaine Smith:** It is—but if Andy Wightman is going to stay on planning, I can ask it after that.

**Andy Wightman:** I have another question specifically on planning.

The planning white paper proposes repeal of section 72 of the Climate Change (Scotland) Act 2009, which is about local government powers regarding low-carbon and zero-carbon projects in local development plans, yet the Scottish Government’s “Sixth Annual Report on the Operation of Section 72 of the Climate Change (Scotland) Act 2009”, which was published in March 2016, says that the Scottish Government has concluded that the legislation should remain in force. What is your view?

12:30

**Kevin Stewart:** Mr Wightman is right: we want to remove planning procedures that do not add value. The climate change plan makes it clear that there is a further role for reducing building-based emissions—significantly, in energy use for space heating. Section 72 of the 2009 act, which inserted new section 3F into the Town and Country Planning (Scotland) Act 1997, has the potential to work against the delivery of community network-based heating schemes, because the legislation promotes individual building-based technologies. Obviously, we will welcome comments on the proposals by 4 April, but I am sure that Mr Wightman and others will want to remove impediments to community or network-based heating schemes. If the committee wants further detail on that, I am more than willing to write with it.

**Andy Wightman:** I find it interesting that on 22 March the Government thought that the legislation

should remain in force. I am very open to amending legislation, but I am concerned to ensure that legislation that we already have to encourage and give powers to local government to deliver low-carbon and zero-carbon technologies is not in any way diluted. If the legislation is getting in the way, however, that is another matter. I am content to leave the issue at that.

**Kevin Stewart:** I will write to Mr Wightman and the committee in some depth on the matter. Obviously we want zero-carbon-generating technology to be the best it can be. Perhaps section 72 is not quite right; we will provide the committee with more detail, including on building standards.

**The Convener:** Thank you very much. Elaine Smith will ask the final question.

**Elaine Smith:** We have received a lot of submissions on and had a lot of interest in this matter, but I want to focus on two submissions in particular. On planning, RSPB Scotland says at the start of its submission that it

“considers planning to be central to the delivery of the Climate Change Plan”

Further on, though, it points out that

“The role of planning in supporting modal shift in travel from private car to public and active travel is not covered in the draft Climate Change Plan. Indeed, there is very little on managing demand for travel or promoting sustainable modes”

and it suggests that, in that respect, local authorities could use

“their support for buses and active travel routes.”

Secondly, Sustaining Dunbar says in its submission that, in its experience,

“people would be ... happy to make many of the lifestyle changes required to reduce their household carbon footprint.”

However, it thinks that they still “face ... barriers” and “perverse incentives”, one of which is

“flights being cheaper than trains”

while the Scottish Government sends out “mixed messages” on sustainable economic growth.

I just wanted to put those views to you for your comments. I appreciate your point about the consultation, and it might well be that the views of these two organisations would form part of that.

**Kevin Stewart:** I will not go into too much depth on transport because it is not in my portfolio, but I will deal with the planning aspects of Ms Smith’s question.

As the committee is probably well aware, the document “Scottish Planning Policy” from 2014 makes it clear that the planning system should

“apply a town centre first policy”

and should take cognisance of that

“when planning for uses which attract significant numbers of people”.

It also suggests

“a mix of uses in town centres to support their vibrancy, vitality and viability”,

which is not the easiest thing to say. Perhaps we should have rethought that sentence when we wrote it into planning policy.

Of course, “Scotland’s Third National Planning Framework” sets out a strategy that reinforces the role of key settlements and towns in rural areas. It is clear that development plans should promote opportunities for travel by more sustainable modes. Indeed, the policy itself sets out an order of priority or a hierarchy: walking, cycling, public transport and cars.

The SPP also makes it clear that

“Planning permission should not be granted for significant travel-generating uses at locations which would increase reliance on the”

private

“car and where ... direct links to local facilities via walking and cycling networks are not available or cannot be made available”.

It then goes into great depth about travel to local facilities and into even greater depth about transport assessments. All that is already built into planning policy.

I cannot comment on the individual submissions that you have received, particularly from Sustaining Dunbar, because I have not seen them. However, as I have outlined, “Scottish Planning Policy” itself puts real emphasis on transport, so I hope that planning authorities are taking cognisance of all that in developing their local plans and strategies.

**The Convener:** Time is upon us. Do you wish to make any final comments before we move into private session, minister?

**Kevin Stewart:** I am fine, convener.

**The Convener:** I should put on record that the committee has to finalise its report by 8 March. That is the timescale that we are working to, minister, if you or your team wish to feed in additional information. I thank you and your officials for coming along today for what has been a very helpful session.

12:37

*Meeting continued in private until 12:42.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

---

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

---

All documents are available on  
the Scottish Parliament website at:

[www.parliament.scot](http://www.parliament.scot)

Information on non-endorsed print suppliers  
is available here:

[www.parliament.scot/documents](http://www.parliament.scot/documents)

For information on the Scottish Parliament contact  
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

---



The Scottish Parliament  
Pàrlamaid na h-Alba