3rd Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- a list of any amendments already debated;
- the text of amendments to be debated on the third day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

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**Contribution of planning and building regulation to reduction of emissions**
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Promotion of energy efficiency: general duties and targets

Iain Smith (on behalf of the Economy, Energy and Tourism Committee)  
Supported by: Lewis Macdonald

222 In section 48, page 20, line 16, leave out from second <the> to end of line 19 and insert—

< ( ) promoting energy efficiency; and

( ) improving the energy efficiency of living accommodation,
in Scotland.>

Iain Smith (on behalf of the Economy, Energy and Tourism Committee)

223 In section 48, page 20, line 19, at end insert—

<( ) The plan must set annual energy efficiency targets and describe how those targets are to
be reported on.>

Patrick Harvie

252 In section 48, page 20, line 19, at end insert—

<( ) The plan must include the following targets—

(a) by 2020, the level of energy efficiency in domestic buildings to be 20% higher
than in 2010;

(b) by the end of 2020, the level of energy used in non-domestic buildings to be at
least 10% less than the level of energy used in 2010;

(c) by the end of 2016, in so far as reasonably practicable, all domestic buildings to
be low-carbon buildings;

(d) by the end of March 2013, the number of domestic buildings with one or more
microgeneration installations to be at least eight times the number of domestic
buildings with such installations in 2007;

(e) by the end of 2016, all new buildings constructed to be net zero carbon buildings;

(f) in 2010, the following greenhouse gas emissions reductions to be achieved
compared to the level set in guidance documents issued in 2007 under section 4(1)
of the Building (Scotland) Act 2003 (asp 8)—

(i) 30% for new domestic buildings;

(ii) 50% for non-domestic buildings;

(g) in 2013, the following greenhouse gas emissions reductions to be achieved
compared to the level set in guidance documents issued in 2007 under section 4(1)
of the Building (Scotland) Act 2003 (asp 8)—

(i) 60% for new domestic buildings;

(ii) 75% for non-domestic buildings.

( ) The Scottish Ministers may, by regulations, define the terms “low carbon” and “zero
carbon”>
Iain Smith (on behalf of the Economy, Energy and Tourism Committee)
Supported by: Lewis Macdonald

In schedule 2, page 39, leave out lines 24 to 26

**Contribution of planning and building regulation to reduction of emissions**

Sarah Boyack

251* In section 48, page 20, line 19, at end insert—

<(  ) The plan must include details of how the Scottish Ministers intend to update planning and building regulations to ensure that all new buildings avoid a specified and rising proportion of their projected operational greenhouse gas emissions, calculated on the basis of the approved design and plans for the specific building, through the installation and operation of low and zero-carbon generating technologies.>

Sarah Boyack

271 After section 51, insert—

<Development plans

Development plans: inclusion of greenhouse gas emissions policies

After section 3E of the Town and Country Planning (Scotland) Act 1997 (c.8) insert—

“3F  Greenhouse gas emissions policies

A strategic development planning authority, in their strategic development plan, and a planning authority, in any local development plan for land not within a strategic development plan area, must include policies requiring all relevant developments in the strategic development plan area or (as the case may be) local development plan area to be so designed to ensure that all new buildings avoid a specified and rising proportion of their projected operational greenhouse gas emissions, calculated on the basis of the approved design and plans for the specific development, through the installation and operation of low and zero-carbon generating technologies.”.>

Sarah Boyack

272 After section 51, insert—

<Annual report on operation of section (Development plans: inclusion of greenhouse gas emissions policies)

(1) The Scottish Ministers shall—

(a) not later than one year after section (Development plans: inclusion of greenhouse gas emissions policies) comes into force; and

(b) annually thereafter,

lay before the Scottish Parliament a report on the operation of the requirement on planning authorities to include policies within development plans under that section, including an assessment of whether those requirements have contributed effectively to the reduction of greenhouse gas emissions from developments.
(2) The fourth and subsequent reports under subsection (1) shall include an assessment of the continuing need or otherwise for the requirement on planning authorities to include policies within development plans; and if the requirement is considered by the Scottish Ministers to be no longer necessary, the Scottish Ministers may by order repeal section (Development plans: inclusion of greenhouse gas emissions policies) and this section.

Promotion of renewable heat

Stewart Stevenson

154 In section 48, page 21, line 1, after <technologies> insert <(other than those used for the production of heat)>

Stewart Stevenson

155 After section 48, insert—

<Duty of Scottish Ministers to promote renewable heat

(1) The Scottish Ministers must prepare and publish a plan for the promotion of the use of heat produced from renewable sources.

(2) The plan prepared under subsection (1) must be published no later than 12 months after the day on which this section comes into force.

(3) The Scottish Ministers—

(a) may, from time to time; and

(b) must, before the end of the period mentioned in subsection (4), review the plan prepared and published under this section.

(4) The period referred to in subsection (3)(b) is the period of 2 years beginning with the date on which—

(a) the plan is first published; or

(b) the plan was last reviewed under subsection (3).

(5) Where, following a review under subsection (3), the Scottish Ministers vary the plan, they must, as soon as reasonably practicable after so doing, publish the plan as so varied.

(6) In this section, “renewable sources” has the same meaning as in section 48(8).>

Rob Gibson

155A As an amendment to amendment 155, line 5, at end insert—

<( ) The plan must, in particular—

(a) set—

(i) targets for the percentage of heat to be produced from renewable sources; and

(ii) in relation to each target, the date by which it should be met; and

(b) describe how those targets are to be reported on.>
In section 49, page 21, line 16, after <(6)> insert <or section (Duty of Scottish Ministers to promote renewable heat)(1) or (5)>.

Rob Gibson

In section 49, page 21, line 23, at end insert—

<(  ) Where the Scottish Ministers lay a plan mentioned in subsection (1) or a report mentioned in subsection (2) before the Parliament, they must, as soon as reasonably practicable after doing so, and in so far as reasonably practicable, make a statement to the Parliament relating to the plan or, as the case may be, report.>

Iain Smith (on behalf of the Economy, Energy and Tourism Committee)

In section 51, page 22, line 27, leave out <may> and insert <must>

Iain Smith (on behalf of the Economy, Energy and Tourism Committee)

In section 51, page 22, line 28, leave out <, in particular,> and insert <the preparation and publication of a plan for the promotion of heat produced from renewable sources in Scotland which includes>

Stewart Stevenson

Leave out section 51

Sarah Boyack

After section 51, insert—

<Targets for renewable heat>

(1) The Scottish Ministers must, not later than three months after this section comes into force—

(a) designate one or more renewable heat targets; and

(b) publish a statement of that fact together with a copy of the target or targets.

(2) The matters to which the Scottish Ministers must have regard in designating a renewable heat target or targets under subsection (1) include—

(a) such target or targets as may have been designated by the Secretary of State under section 4 of the Climate Change and Sustainable Energy Act 2006 (c.19) (“the 2006 Act”) in respect of electricity microgenerating systems installed in Scotland;

(b) the number of renewable heat systems installed in Scotland;

(c) the strategy published under section 82 of the Energy Act 2004 (c.20); and

(d) the results of any research carried out into the effect that designating a target under subsection (1) could be expected to have on the number of renewable heat systems that are installed in Scotland by the target date.

(3) The Scottish Ministers must take reasonable steps to secure that the designated target or targets are met, including by requiring local authorities to set objectives for promoting renewable heat in their areas.
(4) At any time before the target date, the Scottish Ministers may review the target or targets and, if they consider it appropriate, revise it or them (and subsection (2) applies in relation to revising a target as it applies in relation to designating a target under subsection (1)).

(5) If under subsection (4) the Scottish Ministers revise a target—
   (a) they must publish a statement of that fact together with a copy of the revised target; and
   (b) the revised target is treated for the purposes of subsection (3) as a target designated under subsection (1) (in place of the target which has been revised).

(6) For the purposes of this section, a “renewable heat target” is a target in respect of the number of renewable heat systems installed in Scotland as at a date specified in the target (“the target date”).

District heating

Iain Smith

253 In section 48, page 21, line 3, at end insert <and

( ) surplus heat from electricity generation or other industrial processes for district heating or other purposes;>

Lewis Macdonald

265 After section 50, insert—

<Combined heat and power district heating equipment

Rateable value of plant and distribution system associated with combined heat and power plants

(1) The Scottish Ministers must bring forward an amendment to the Valuation for Rating (Plant and Machinery) (Scotland) Regulations 2000 (SSI 2000/58).

(2) The amendment required under subsection (1) must specify the circumstances in which combined heat and power district heating equipment which meets the CHPQA standard does or does not fall within the definition of “lands and heritages” in section 42 of the Lands Valuation (Scotland) Act 1854 (c.91).

(3) Regulations making the amendment required under subsection (1) must be laid before the Scottish Parliament no later than 6 months after the day on which this section comes into force.

(4) Before bringing forward the amendment required under subsection (1), the Scottish Ministers must consult, and seek to reach agreement on the contents of the amendment, with organisations which in the opinion of the Scottish Ministers represent relevant business interests, including, in particular, organisations representing the combined heat and power industry.

(5) In this section, “CHPQA” refers to the Combined Heat and Power Quality Assurance Standard, Issue 1, November 2000 originally published by the Department for the Environment, Transport and the Regions (the “Standard”) (including the later of version Final 1.0 or 2.0 of CHPQA Guidance Notes(c) 0 to 4 (including 2(S), 3(S) and 4(S)), 10 to 28 and 30).>
Energy generating stations: efficiency guidance

After section 49, insert—

&Emissions performance standard for new or extended energy generating stations

Energy generating stations: efficiency guidance

(1) The Scottish Ministers must provide or revise existing guidance under section 36 of the Electricity Act 1989 (c.29) setting out the conditions subject to which consent will be granted for the construction of new, or for the extension of existing, energy generating stations of a capacity greater than 50 megawatts.

(2) The guidance required under subsection (1) must set out—

(a) the maximum greenhouse gas emissions permitted per megawatt hour of energy generated; and

(b) how heat energy produced from combined heat and power stations is to be included when calculating levels of emissions.

(3) The guidance required under subsection (1) may include provision for different maximum greenhouse gas emissions to be permitted in respect of—

(a) different dates;

(b) different technologies.

(4) The Scottish Ministers must comply with subsection (1) no later than 12 months after the day on which this section comes into force.

(5) The Scottish Ministers must, before providing such guidance, request advice from the advisory body regarding the total cumulative emissions budget available for electricity generation in the period 2010-2050 and, in particular—

(a) an appropriate total lifetime greenhouse gas budget per megawatt of generating capacity;

(b) the appropriate initial levels of greenhouse gas emissions per megawatt hour of energy generated.

(6) If, in relation to the matters mentioned in subsection (5), the guidance under subsection (1) differs from that which is recommended by the advisory body, the Scottish Ministers must publish a statement setting out the reasons why.

Energy efficiency finance scheme

After section 49, insert—

&Energy efficiency finance scheme for homeowners

Energy efficiency finance scheme for homeowners

(1) The Scottish Ministers must establish a scheme under which they may provide or arrange for the provision of financial assistance to a person in connection with—
(a) the improvement of the energy performance of a domestic building; or
(b) the reduction in emissions of greenhouse gases produced or otherwise associated with a domestic building.

(2) Such assistance may, in particular, take the form of—

(a) guaranteeing or joining in guaranteeing the payment of the principal of, and interest on, money borrowed by the person (including money borrowed by the issue of loan capital) or of interest on share capital issued by the person;
(b) grants;
(c) standard loans;
(d) subsidised loans.

(3) Assistance may be provided on such terms as the Scottish Ministers think fit (subject to any provision about such terms made by or under this section).

(4) The Scottish Ministers may by regulations make further provision about the provision of assistance under subsection (1).

(5) Those regulations may, in particular, make provision as to—

(a) the procedure for application for financial assistance under subsection (1);
(b) the determination of applications;
(c) the approved expense in relation to any grant or loan;
(d) the amount of any grant or loan;
(e) the terms of any grant or loan;
(f) the payment of any grant or loan;
(g) the conditions applicable to any grant or loan;
(h) any penalties in the event of any breach of conditions of any grant or loan.

Assessment and improvement of energy performance: non-domestic buildings

Liam McArthur

224 In section 50, page 21, line 26, leave out <may> and insert <must>

Stewart Stevenson

157 In section 50, page 21, line 26, leave out <make provision relating to> and insert—

< ( ) provide for>

Liam McArthur

225 In section 50, page 21, line 26, after <assessment> insert <and cost-effective improvement>

Stewart Stevenson

158 In section 50, page 21, line 30, at end insert—

< ( ) require owners of such buildings to take steps, identified by such assessments, to—>
(i) improve the energy performance of such buildings;
(ii) reduce such emissions.

Stewart Stevenson

159 In section 50, page 22, line 2, after <activities> insert <carried out in buildings>

Stewart Stevenson

160 In section 50, page 22, line 5, at end insert—

<ha) the form of any recommendations, contained in such certificates, as to the improvement of the energy performance of buildings and the reduction of emissions produced by or otherwise associated with buildings or activities carried out in buildings;
(hb) the manner in which and periods within which persons must take steps to comply with any recommendations contained in such certificates;
(hc) the registration of such certificates;
(hd) the disclosure of information which is entered in the register;>

Liam McArthur

160A As an amendment to amendment 160, line 2, after <to> insert <cost-effective measures for>

Liam McArthur

226 In section 50, page 22, line 16, at end insert—

<( ) The Scottish Ministers must, within 12 months of this Act receiving Royal Assent, publish a report setting out—
(a) what measures they intend to take to reduce emissions from non-domestic buildings; and
(b) when they intend to make provision as mentioned in paragraphs (ha) and (hb).>

Iain Smith (on behalf of the Economy, Energy and Tourism Committee)

229 In section 64, page 31, leave out lines 29 and 30

Assessment of energy performance of living accommodation

Iain Smith (on behalf of the Economy, Energy and Tourism Committee)
Supported by: Lewis Macdonald

227 After section 50, insert—

/<Energy performance of living accommodation

Living accommodation: assessment of energy performance and emissions

(1) The Scottish Ministers may, by regulations, make provision relating to the assessment of—
(a) the energy performance of living accommodation;
(b) the emission of greenhouse gases produced by living accommodation.
(2) The regulations may in particular include provision about—
(a) the circumstances in which the regulations apply;
(b) the living accommodation to which the regulations apply;
(c) the persons who may be required to have assessments carried out;
(d) the periods within which such assessments must be carried out;
(e) the procedure and methodology for assessing the energy performance of living accommodation;
(f) the procedure and methodology for assessing the greenhouse gas emissions produced by the living accommodation;
(g) the persons who may carry out such assessments;
(h) the issuing of certificates, following such assessments, including the form, manner and content of such certificates;
(i) subject to subsection (3), the enforcement authority in relation to the regulations;
(j) subject to subsection (4), the functions of that authority;
(k) the keeping of information and its production to the enforcement authority;
(l) the enforcement of the duties imposed by the regulations;
(m) offences in relation to failures to comply with requirements of the regulations.

(3) The enforcement authority provided for in the regulations is to be such person or body as the Scottish Ministers consider appropriate.

(4) The functions of the enforcement authority may include power to levy charges to recover the reasonable costs incurred by it in exercising its functions under the regulations.

Patrick Harvie

227A As an amendment to amendment 227, line 4, after <assessment> insert <and improvement>

Patrick Harvie

227B As an amendment to amendment 227, leave out line 24

Alterations to buildings: impact on energy performance

Lewis Macdonald

257 After section 50, insert—

<Alterations to buildings: impact on energy performance

Alterations to buildings: impact on energy performance

(1) The Scottish Ministers must, by regulations, make provision relating to the impact on the energy performance of buildings of building work being carried out, where such work consists of—
(a) an extension of the building;
(b) the provision of any fixed building services;
(c) any increase in the capacity of any fixed building services.

(2) Regulations under subsection (1) must—

(a) include provisions to encourage compliance with relevant guidance documents issued under section 4(1) of the Building (Scotland) Act 2003 (asp 8); and

(b) be laid before the Scottish Parliament no later than 12 months after the day on which this section comes into force.>

**Council tax and non-domestic rates: energy efficiency discounts**

Alex Johnstone

238 After section 50, insert—

<Energy efficiency discounts

**Council tax and non-domestic rates: discounts for energy efficiency etc.**

(1) In section 79 (council tax discounts) of the Local Government Finance Act 1992 (c.14), after subsection (2), insert—

“(2A) The Scottish Ministers may by regulations prescribe—

(a) categories which chargeable dwellings may fall into, based on the levels of energy efficiency and greenhouse gas emissions achieved by those dwellings;

(b) a percentage in relation to each such category.

(2B) Where subsection (2C) applies, the amount of council tax payable in respect of a chargeable dwelling and any day shall be subject to a discount equal to the percentage prescribed in relation to the category of chargeable dwellings into which the chargeable dwelling falls.

(2C) This subsection applies where a resident of a chargeable dwelling shows that the dwelling falls into a category prescribed under subsection (2A)(a).

(2D) Regulations under subsection (2A) may also make provision in relation to how residents may show that a chargeable dwelling falls into a category prescribed under paragraph (a) of that subsection.”.

(2) In section 153 (power to prescribe amount of non-domestic rate) of the Local Government etc. (Scotland) Act 1994 (c.39), in subsection (3)—

(a) the words “whose rateable value exceeds, and those whose rateable value does not exceed, a prescribed figure” become paragraph (a), and

(b) at the end insert—

“(b) whose energy efficiency and greenhouse gas emissions fall into different categories prescribed for the purpose of this paragraph in rules under subsection (1).

(3A) Regulations under this section may make provision in relation to how lands and heritages are to be determined to fall within a category prescribed for the purpose of subsection (3)(b) in rules under subsection (1).”.
After section 50, insert—

<Local authority’s power to reduce amount of tax payable>

After section 80 (reduced amounts) of the Local Government Finance Act 1992 (c.14), there is inserted—

“80A Local authority’s power to reduce amount of tax payable

(1) Subject to subsection (3), where a person is liable to pay council tax in respect of any chargeable dwelling and any day, the local authority for the area in which the dwelling is situated may reduce the amount which the person is liable to pay as respects the dwelling and the day to such extent as it thinks fit.

(2) The power under subsection (1) above includes power to reduce an amount to nil.

(3) The power under subsection (1) may only be exercised where the local authority is satisfied, by reference to guidance set out in regulations under subsection (4), that investment has been made in the chargeable dwelling for the purpose of improving the energy efficiency of the dwelling.

(4) The Scottish Ministers may, by regulations, set out guidance on how investment in a chargeable dwelling for the purposes of improving energy efficiency under subsection (3) may be demonstrated.”.

>Energy efficiency discounts

Council tax reductions to promote energy efficiency

(1) The Scottish Ministers must make regulations under section 80 of the Local Government Finance Act 1992 (c.14) to provide that, in respect of a person who—

(a) can demonstrate to a local authority that an energy efficiency improvement has been made, during any qualifying financial year, to a dwelling; and

(b) is liable to pay an amount to that authority in respect of council tax for that dwelling in the next financial year,

the amount that the person is liable to pay for that next financial year shall be reduced (from the amount it would be otherwise than by virtue of this subsection) in accordance with section (Amounts of reductions in council tax).

(2) The regulations made by virtue of subsection (1) must further provide that, in respect of a person who—

(a) is liable to pay an amount to a local authority in respect of council tax for a dwelling;

(b) can demonstrate to that local authority that the dwelling meets a reasonable standard of energy efficiency; and

(c) can demonstrate to that local authority that a system using technologies reliant on renewable sources of energy or heat has been installed in or on the dwelling during any qualifying financial year,
the amount that the person is liable to pay for the next financial year must be reduced (from the amount it would be otherwise than by virtue of this subsection) in accordance with section (*Amounts of reductions in council tax*)..

(3) Subject to subsection (4)—

(a) any reduction made by virtue of either subsection (1) or (2) is without prejudice to any reduction made by virtue of the other of those subsections, whether those reductions apply in the same financial year or in different financial years; and

(b) any reduction made by virtue of subsection (1) is without prejudice to any further reduction made by virtue of that subsection, whether those reductions apply in the same financial year or in different financial years.

(4) The regulations made by virtue of subsection (1) may specify a maximum number of reductions, or a maximum total reduction, in the amount of council tax payable in respect of any one dwelling in any one financial year.

(5) The regulations made by virtue of subsection (1) must include provision for the sort of evidence that a local authority is to accept as demonstrating that—

(a) an energy efficiency improvement has been made to a dwelling;

(b) a dwelling meets a reasonable standard of energy efficiency,

and shall provide that evidence sufficient to demonstrate that specified energy efficiency improvements, or specified combinations of such improvements, have been made to a dwelling is sufficient to demonstrate that the dwelling meets a reasonable standard of energy efficiency.

(6) A draft of a statutory instrument containing the first regulations under subsection (1) must be laid before the Scottish Parliament no later than 31 December 2009.

(7) In this section—

“cogeneration unit” has the same meaning as in the Electricity and Gas (Carbon Emissions Reduction) Order 2008 (S.I. 2008/188);

“energy efficiency improvement” means a significant improvement to the energy efficiency of a dwelling by means of substantially all of one (and only one) of the following measures—

(a) the provision of insulation in any accessible roof space in the dwelling, including the insulation of any cold water tank and any water supply, overflow and expansion pipes in such a space;

(b) the provision of insulation between the internal and external leaves of cavity walls of the dwelling;

(c) improvements to the energy efficiency of any space or water heating system installed in the dwelling;

(d) the provision of draught proofing to or in the dwelling together with additional means of ventilation for any rooms which would otherwise be inadequately ventilated after such provision;

(e) connection to a cogeneration unit or district heating system;

“qualifying financial year” means the financial year beginning on 1 April 2010 or any subsequent financial year.

(8) The Scottish Ministers may, by regulations, amend subsection (7) by adding to the list of measures in the definition of “energy efficiency improvement”.
<Non-domestic rates reductions to promote energy efficiency>

After section 25A of the Local Government (Scotland) Act 1966 (c.51), insert—

“25B Reduction in rates for energy efficiency improvements or installation of technologies reliant on renewable sources of energy or heat

(1) Where a rating authority is satisfied that an energy efficiency improvement has been made during any qualifying financial year to qualifying lands or heritages, the rates payable in respect of those lands and heritages in the next financial year shall be reduced (from the amount they would be otherwise than by virtue of this subsection) in accordance with section (Amounts of reductions in non-domestic rates) of the Climate Change (Scotland) Act 2009 (asp 00) (“the 2009 Act”).

(2) Where a rating authority is satisfied that—

(a) qualifying lands and heritages meet a reasonable standard of energy efficiency; and

(b) a qualifying technology reliant on renewable sources of energy or heat system has been installed in or on the lands and heritages during any qualifying financial year,

the rates payable for the next financial year shall be reduced (from the amount they would be otherwise than by virtue of this subsection) in accordance with section (Amounts of reductions in non-domestic rates) of the 2009 Act.

(3) Subject to subsection (4)—

(a) any reduction made by virtue of either subsection (1) or (2) is without prejudice to any reduction made by virtue of the other of those subsections, whether those reductions apply in the same financial year, or in different financial years; and

(b) any reduction made by virtue of subsection (1) is without prejudice to any further reduction made by virtue of that subsection, whether those reductions apply in the same financial year, or in different financial years.

(4) The Scottish Ministers must by regulations specify a maximum number of reductions, or a maximum total reduction, in the amount of rates payable in respect of the same lands and heritages in any one financial year.

(5) The Scottish Ministers must by regulations make provision specifying the sort of evidence that a rating authority is to accept as demonstrating that—

(a) an energy efficiency improvement has been made to qualifying lands and heritages;

(b) qualifying lands and heritages meet a reasonable standard of energy efficiency;

and may provide that evidence sufficient to demonstrate that specified energy efficiency improvements, or specified combinations of such improvements, have been made to lands and heritages is sufficient to demonstrate that the lands and heritages meet a reasonable standard of energy efficiency.
(6) A statutory instrument containing regulations made under this section shall be subject to annulment pursuant to a resolution of the Scottish Parliament.

(7) In this section—

“energy efficiency improvement” and “technologies reliant on renewable sources of energy” have the same meanings given by section (Council tax reductions to promote energy efficiency) of the 2009 Act;

“qualifying financial year” means the financial year beginning on 1 April 2010 or any subsequent financial year;

“qualifying lands and heritages” means such lands and heritages, or such classes of lands and heritages, as are specified in regulations made under this section.”

Sarah Boyack

261 After section 50, insert—

<Amounts of reductions in council tax

(1) For the purposes of regulations made by virtue of section (Council tax reductions to promote energy efficiency) the reduction in council tax is to be—

(a) in the circumstances referred to in subsection (2)(a), £100; and

(b) in the circumstances referred to in subsection (2)(b), £250.

(2) The circumstances are that the local authority assess the relevant cost of the energy efficiency improvement or the installation of technologies reliant on renewable sources of energy or heat, as the case may be, to be—

(a) at least £250 but less than £1,000;

(b) £1,000 or more.

(3) In this section, “relevant cost of energy efficiency improvements” means the amount paid for securing those improvements, minus the amount of any grant received (including a grant made under the Home Energy Efficiency Scheme (Scotland) Regulations 2006 (S.S.I. 2006/570)).>

Sarah Boyack

262 After section 50, insert—

<Amounts of reductions in non-domestic rates

(1) For the purposes of section 25B of the Local Government (Scotland) Act 1966 (c.51), the reduction in non-domestic rates is to be—

(a) in the circumstances referred to in subsection (2)(a), £100; and

(b) in the circumstances referred to in subsection (2)(b), £250.

(2) The circumstances are that the local authority assess the relevant cost of the energy efficiency improvement or the installation of technologies reliant on renewable sources of energy or heat, as the case may be, to be—

(a) at least £250 but less than £1,000;

(b) £1,000 or more.
(3) In this section, “relevant cost of energy efficiency improvements” means the amount paid for securing those improvements, minus the amount of any grant received (including a grant made under the Home Energy Efficiency Scheme (Scotland) Regulations 2006 (S.S.I. 2006/570)).

Sarah Boyack
263 After section 50, insert—

<Review of provision made by virtue of or under sections (Amounts of reductions in council tax) and (Amounts of reductions in non-domestic rates)

(1) The Scottish Ministers must, as soon as practicable after 31 March 2012 and annually thereafter, lay before the Scottish Parliament a report on the operation of—

(a) the regulations made by virtue of section (Council tax reductions to promote energy efficiency); and

(b) section 25B of the Local Government (Scotland) Act 1966 (c.51), (“the 1966 Act”),

including an assessment of whether the reductions in council tax or in non-domestic rates, as the case may be, thereby provided for have contributed effectively to promoting energy efficiency improvements and technologies reliant on renewable sources of energy or heat.

(2) Where the Scottish Ministers conclude in a report made under subsection (1) that the provisions referred to in paragraphs (a) and (b) of that subsection would contribute more effectively to energy efficiency improvements and technologies reliant on renewable sources of energy or heat if—

(a) one or both of the amounts referred to in section (Amounts of reductions in council tax)(1) or section (Amounts of reductions in non-domestic rates)(1) were greater;

(b) one or both of the amounts referred to in section (Amounts of reductions in council tax)(2) or section (Amounts of reductions in non-domestic rates)(2) were varied,

they may by regulations increase or, as the case may be, vary the amounts in question.

(3) Where the Scottish Ministers conclude in a report made under subsection (1) that the regulations referred to in that subsection and section 25B of the 1966 Act would contribute more effectively to promoting energy efficiency improvements and technologies reliant on renewable sources of energy if the mechanism prescribed by sections (Amounts of reductions in council tax) and (Amounts of reductions in non-domestic rates) for calculating the amount of reduction in council tax or non-domestic rates, as the case may be, from the relevant cost of energy efficiency improvements or technologies reliant on renewable sources of energy was different from the mechanism for the time being prescribed, they may, by regulations, amend sections (Amounts of reductions in council tax) and (Amounts of reductions in non-domestic rates) to prescribe that different mechanism.>

Iain Smith (on behalf of the Economy, Energy and Tourism Committee)
264 After section 50, insert—
Use of local and national tax incentives to reward investments in energy efficiency or microgeneration

(1) The Scottish Ministers may, by regulations, establish a scheme under which the amount of council tax or non-domestic rates payable in respect of a chargeable dwelling or, as the case may be, any lands and heritages is reduced to take account of the installation of—
   (a) an energy efficiency measure;
   (b) a microgeneration system.

(2) Regulations under subsection (1) may make such modifications of enactments as are necessary in consequence of or for the purpose of giving full effect to a scheme established under that subsection.

(3) In subsection (1)—
   (a) an “energy efficiency measure” is a measure to improve efficiency in the use of energy in the property;
   (b) “microgeneration system” has the same meaning as in section 4(9) of the Climate Change and Sustainable Energy Act 2006 (c.19).

Climate change burdens

Sarah Boyack

266 After section 50, insert—

Climate change burdens

After section 46 (health care burdens) of the Title Conditions (Scotland) Act 2003 (asp 9), insert—

Climate change burdens

46A Climate change burdens

(1) On and after the day on which this section comes into force, it shall be competent to create a real burden in favour of a public body, or of the Scottish Ministers, for the purpose of reducing greenhouse gas emissions; and any such burden shall be known as a “climate change burden”.

(2) A climate change burden may only consist of an obligation, in the event of the burdened property being developed, for the property to meet specified energy efficiency and sustainability standards.

(3) A climate change burden may not be created after land which would, but for this subsection, be the burdened property has been advertised for sale.

(4) For the purposes of this section, a “public body” means a person or body with functions of a public nature.”.
Promotion of energy efficiency: housing-related measures

Lewis Macdonald

267 After section 50, insert—

<Repairing standard
Tenanted housing: inclusion of energy efficiency in the repairing standard
In section 13 (the repairing standard) of the Housing (Scotland) Act 2006 (asp 1)—
(a) in subsection (1)—
   (i) the word “and” immediately following paragraph (e) is repealed; and
   (ii) after paragraph (f), insert “, and
   (g) the house achieves a satisfactory standard of energy efficiency”.
(b) after subsection (5), insert—
   “(6) The Scottish Ministers must, by regulations, define what constitutes a satisfactory standard of energy efficiency for the purposes of subsection (1)(g).
   (7) In drawing up the regulations under subsection (6), the Scottish Ministers must have regard to any guidance they have issued on the energy efficiency of living accommodation.
   (8) The regulations mentioned in subsection (6) must, in particular, include provision about—
      (a) the procedure and methodology for assessing the energy performance of the house, and
      (b) the minimum energy performance standard that must be achieved in relation to the house.”.>

Cathy Peattie

268 After section 50, insert—

<Tolerable standard
Amendment of the tolerable standard
In section 86 (definition of house meeting the tolerable standard) of the Housing (Scotland) Act 1987 (c.26), in subsection (1)(ca), after “thermal” insert “roof and wall”.

Lewis Macdonald

269 After section 50, insert—

<Tenement Management Scheme
Tenement Management Scheme: definition of “maintenance”
In schedule 1 (Tenement Management Scheme) to the Tenements (Scotland Act 2004 (asp 11), in the definition of “maintenance” in rule 1.5, after “replacement,” insert “the installation of insulation,”.
Permitted development rights: microgeneration equipment

Sarah Boyack

After section 51, insert—

<Permitted development rights

Air source heat pumps and micro wind turbines in domestic properties: permitted development rights

(1) The Scottish Ministers must bring forward an amendment to the Town and Country Planning (General Permitted Development) (Domestic Microgeneration) (Scotland) Amendment Order 2009 (SSI 2009/34).

(2) The amendment required under subsection (1) is to specify the circumstances under which the installation, alteration or replacement of—

(a) air source heat pump microgeneration equipment; or

(b) wind turbine microgeneration equipment,

within the curtilage of a dwellinghouse or building containing a flat is considered a permitted development under the meaning of sections 30 and 31 of the Town and Country Planning (Scotland) Act 1997 (c.8).

(3) An order making the amendment required under subsection (1) must be laid in the Scottish Parliament no later than six months after the day on which this section comes into force.

(4) Before making the amendment required under subsection (1), the Scottish Ministers must consult with organisations which, in the opinion of the Scottish Ministers, have relevant business interests and, in particular, organisations representing—

(a) the energy efficiency industry;

(b) the renewables industry; and

(c) the microgeneration industry.

(5) In this section, “microgeneration” has the meaning given in section 82(6) of the Energy Act 2004 (c.20).>

Liam McArthur

After section 51, insert—

<Permitted development rights

Microgeneration in non-domestic buildings: permitted development rights

(1) The Scottish Ministers must exercise their powers under sections 30 and 31 of the Town and Country Planning (Scotland) Act 1997 (c.8) so as to make provision of the kind specified in subsection (2).

(2) That provision is provision specifying the circumstances in which the installation, alteration or replacement of microgeneration equipment within the curtilage of a non-domestic building is considered a permitted development within the meaning of those sections of that Act.

(3) The Scottish Ministers must comply with subsection (1) no later than 12 months after the day on which this section comes into force.
(4) Before complying with subsection (1), the Scottish Ministers must consult and seek to reach agreement about the provision to be made by virtue of that subsection with organisations which, in the opinion of the Scottish Ministers, have relevant business interests and, in particular, organisations representing—

(a) the energy efficiency industry;
(b) the renewables industry; and
(c) the microgeneration industry.

(5) In this section—

“microgeneration” has the meaning given in section 82(6) of the Energy Act 2004 (c.20);
“non-domestic building” has the meaning given in section 50(5).

Energy performance: public sector buildings

Shirley-Anne Somerville

275 After section 51, insert—

CHAPTER
THE SCOTTISH CIVIL ESTATE

Energy performance of new buildings procured for the Scottish civil estate

(1) The Scottish Ministers must, in so far as reasonably practicable, ensure that the energy performance of any newly constructed building that becomes part of the civil estate in Scotland falls within the top quartile of energy performance.

(2) For the purposes of subsection (1), a building becomes part of the civil estate if it is procured or constructed by or on behalf of the Scottish Ministers.

Shirley-Anne Somerville

276 After section 51, insert—

Report on the Scottish civil estate

(1) The Scottish Ministers must, in respect of each financial year beginning with 2010-2011, lay before the Scottish Parliament a report containing an assessment of the progress made in the year towards improving—

(a) the efficiency; and
(b) the contribution to sustainability,
of buildings that are part of the civil estate in Scotland.

(2) If the energy performance of a building mentioned in subsection (3) does not fall within the top quartile of energy performance, the report must state the reasons why the building has become part of the civil estate.

(3) That building is a building—

(a) to which section (Energy performance of new buildings procured for the Scottish civil estate) applies; and
(b) which becomes part of the civil estate in the financial year to which the report relates.

(4) The report under this section must be laid before the Parliament no later than 31 October next following the end of the financial year to which the report relates.

Shirley-Anne Somerville

277 After section 51, insert—

<Scottish civil estate: supplementary

(1) For the purposes of this section and sections (Energy performance of new buildings procured for the Scottish civil estate) and (Report on the Scottish civil estate)—

(a) “building” means a building that uses energy for heating or cooling the whole or any part of its interior; and

(b) a building is part of the civil estate in Scotland if it—

(i) is used for the purposes of Scottish central government administration; and

(ii) is of a description of buildings for which the Scottish Ministers have responsibilities in relation to efficiency and sustainability.

(2) The Scottish Ministers may, by order, provide—

(a) for buildings of a description specified in the order to be treated as being, or as not being, part of the civil estate;

(b) for uses specified in the order to be treated as being, or as not being, uses for the purposes of Scottish central government administration.

Cathy Peattie

278 After section 51, insert—

<Procurement of public sector buildings

Procurement of public sector buildings

(1) The Scottish Ministers must, when procuring a building for use as an office by—

(a) the Scottish Administration; or

(b) any executive agency or non-departmental public body for which the Scottish Ministers are responsible,

ensure that the building has an energy efficiency rating of A or B, calculated on the basis of information obtained within the previous 12 months, and in accordance with the energy rating system used for the purposes of an energy performance certificate.

(2) In this section—

“energy performance certificate” means a certificate issued in accordance with Regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008 (SSI 2008/309);

“procure” means rent, lease, purchase or acquire through a private developer scheme, a public private partnership, private finance initiative or similar arrangement.
Disposal of waste

Elaine Murray

242 After section 52, insert—

<Disposal of waste

Disposal of waste

(1) The Scottish Ministers may, by regulations, require persons responsible for the management of waste disposal facilities to comply with specified rules about the disposal of waste.

(2) The regulations under subsection (1) must—

(a) prohibit the disposal to landfill of—

(i) unsorted household and industrial waste;
(ii) wastes that were selectively collected for the purpose of recovery;
(iii) wastes that can be recovered because of their nature, quantity and homogeneity;
(iv) combustible residues from the sorting of household waste or comparable commercial or industrial waste;
(v) waste pharmaceuticals;

(b) prohibit the disposal to, or treatment by incineration of—

(i) selectively collected wastes that can be recycled;
(ii) unsorted commercial or industrial wastes;
(iii) unsorted household wastes.

(3) The regulations under subsection (1) may in particular also include provision about—

(a) the kinds of waste covered by the regulations;
(b) the kinds of facility covered by the regulations;
(c) the criteria for acceptance of different kinds of waste at different kinds of facility;
(d) derogations from the criteria for waste volumes below specified levels;
(e) temporary derogations from the criteria based on the availability of appropriate alternative treatment capacity;
(f) exemptions from the criteria for high calorific wastes for renewable energy purposes;
(g) the testing of wastes required to establish compliance with the criteria;
(h) the enforcement of the duties imposed by the regulations;
(i) offences in relation to failures to comply with the requirements of the regulations.

(4) The enforcement authority must have regard to any guidance given by the Scottish Ministers to it in relation to the functions conferred on it by the regulations.>

Elaine Murray

242A As an amendment to amendment 242, line 33, at end insert—

<( ) A draft of a statutory instrument containing the first regulations under subsection (1) must be laid before the Scottish Parliament no later than one year after this Act receives Royal Assent.>

Waste reduction scheme

Elaine Murray

279 After section 52, insert—

<Waste reduction schemes

Waste reduction schemes

(1) The Scottish Ministers may, by regulations, establish a waste reduction scheme.

(2) A “waste reduction scheme” is a scheme to reduce the amount of residual domestic waste by providing a financial incentive to—

(a) produce less domestic waste; and
(b) recycle more of what is produced.

(3) The scheme may provide for the financial incentive to be provided—

(a) by means of rebates from council tax or by other payments; or
(b) by means of charges under subsection (4),
or by any combination of those means.

(4) The scheme may include provision for charging by reference to—

(a) the amount of residual domestic waste collected from premises;
(b) the size of receptacles used for the purposes of the collection of residual domestic waste from premises;
(c) the number of receptacles used for such purposes;
(d) the frequency with which residual domestic waste is collected from premises, or by reference to any combination of those factors.

(5) The regulations must include provision about—

(a) the areas in which the scheme is to operate;
(b) the person or persons by whom any charge is payable;
(c) the manner in which any charge or rebate may be calculated or levied;
(d) the extent and means of notification to persons regarding the implementation, amendment or revocation of such a waste reduction scheme;
(e) the process by which appeals by persons regarding any liabilities for charge or entitlements to rebates under the scheme may be made;
(f) the maintenance of a separate public account of any charges or rebates made under the scheme;
(g) the standards of recycling service which must be provided in areas covered by the scheme;
(h) the measures that must be in place in such areas to prevent, minimise or otherwise deal with the unauthorised deposit or disposal of waste;
(i) the measures to be put in place to ensure that specific groups are not disadvantaged by the scheme.

(6) Regulations may also include provision for—

(a) the type of domestic premises to which the scheme applies;
(b) the nature and identification of specified containers for the collection of waste;
(c) any charges that may be made for the provision or identification of specified containers;
(d) the payment arrangements for any charge, including whether charges can be paid on account or in instalments;
(e) any limit that might be imposed on the charge for any premises;
(f) the means by which unpaid charges may be recovered.

(7) The first regulations under subsection (1) must provide for the scheme to be piloted in one or more specified area for a specified period; and the scheme must be reviewed at the end of that period.

(8) After the review mentioned in subsection (7) has taken place, the Scottish Ministers must—

(a) revoke the scheme; or
(b) extend the scheme—

(i) to such further areas as may be specified; or
(ii) across Scotland.

(9) In this section—
“domestic premises” means any building, self-contained part of a building, caravan or moored vessel used wholly for the purposes of providing living accommodation;
“domestic waste” means household waste from domestic premises;
“residual domestic waste” means domestic waste that is not waste meeting any conditions in a particular local authority area for collection by the authority as recyclable waste.

**Deposit and return schemes**

**Stewart Stevenson**

162 In section 58, page 28, line 3, after <return> insert—

<(  ) such articles;

(  )>

**Stewart Stevenson**

163 In section 58, page 28, line 3, after <articles> insert <(“returnable packaging”); or

(  ) both such articles and such packaging,>

**Stewart Stevenson**

164 In section 58, page 28, line 6, at end insert—

<(  ) accept the return to them of—

(i) such articles;

(ii) returnable packaging; or

(iii) both such articles and such packaging;>

**Stewart Stevenson**

165 In section 58, page 28, line 7, leave out from <packaging> to end of line 8 and insert <to them—

(i) such articles;

(ii) returnable packaging; or

(iii) both such articles and such packaging;

(  ) return such articles to the producers of them;>

**Stewart Stevenson**

166 In section 58, page 28, line 9, leave out <such> and insert <returnable>

**Stewart Stevenson**

167 In section 58, page 28, line 12, at end insert—

<(  ) accept the return to them of—

(i) such articles;

(ii) returnable packaging; or
Stewart Stevenson

168 In section 58, page 28, line 13, leave out <packaging to them> and insert <to them—

(i) such articles;
(ii) returnable packaging; or
(iii) both such articles and such packaging>

Stewart Stevenson

169 In section 58, page 28, leave out line 14 and insert—

<(  ) recycle, or have recycled—
(i) such articles;
(ii) returnable packaging; or
(iii) both such articles and such packaging.>

Stewart Stevenson

170 In section 58, page 28, line 15, leave out from <in> to <producers> in line 16 and insert <a “scheme administrator”>

Stewart Stevenson

171 In section 58, page 28, leave out line 18 and insert—

<(  ) accept the return of—
(i) such articles;
(ii) returnable packaging; or
(iii) both such articles and such packaging;>

Stewart Stevenson

172 In section 58, page 28, line 19, leave out <such packaging> and insert—

<(i) such articles;
(ii) returnable packaging; or
(iii) both such articles and such packaging>

Stewart Stevenson

173 In section 58, page 28, line 19, at end insert—

<(  ) return such articles to the producers of them;>

Stewart Stevenson

174 In section 58, page 28, line 20, leave out <such> and insert <returnable>

Stewart Stevenson

175 In section 58, page 28, leave out line 23 and insert—

<(  ) recycle, or have recycled—
(i) such articles;
(ii) returnable packaging; or
(iii) both such articles and such packaging.>

Elaine Murray
245 In section 58, page 28, line 26, after <recycling> insert <or reuse>

Stewart Stevenson
176 In section 58, page 28, line 31, at end insert—

<(  ) the inclusion, in the sale price of articles, of a non-returnable element to cover the reasonable costs incurred by retailers, producers or a scheme administrator in administering such schemes;
(  ) the articles the return of which entitles persons to payment of sums equal to deposits;
(  ) the methods by which such articles are to be identified;>

Stewart Stevenson
177 In section 58, page 28, line 32, leave out from <associated> to <deposits> in line 33 and insert <which is returnable packaging for the purposes of such schemes>

Stewart Stevenson
178 In section 58, page 28, line 34, leave out <such> and insert <returnable>

Stewart Stevenson
179 In section 58, page 28, line 36, at end insert—

<(  ) the places to which articles can be returned;>

Stewart Stevenson
180 In section 58, page 28, line 37, after <which> insert <returnable>

Stewart Stevenson
181 In section 58, page 28, line 39, at end insert—

<(  ) the scheme administrator;>

Alex Johnstone
185 Leave out section 58

Stewart Stevenson
182 After section 58, insert—

<Deposit and return schemes: designation of scheme administrator

(1) The Scottish Ministers may, by order, designate—

(a) a body established under section (Power to establish scheme administrator)(1); or
(b) such other person or body as they consider appropriate (an “existing body”),
as a scheme administrator of a deposit and return scheme established by virtue of section 58.

(2) An order under subsection (1)(b) may, in so far as the Scottish Ministers consider it necessary or expedient to do so, modify the functions of an existing body by—
   (a) conferring functions on;
   (b) removing functions from; or
   (c) otherwise varying the functions of,
the body.

(3) That order may in particular include provision about—
   (a) borrowing by the existing body (with the approval of the Scottish Ministers);
   (b) the charging by the body, in respect of the exercise of its functions in relation to a deposit and return scheme, of such reasonable amounts as the Scottish Ministers consider appropriate.

(4) In exercising functions in relation to a deposit and return scheme, a scheme administrator must comply with any written directions of a general or specific nature as the Scottish Ministers may from time to time give to it in relation to those functions.>

Stewart Stevenson

183 After section 58, insert—

<Power to establish scheme administrator

(1) The Scottish Ministers may, by order, establish a body to be a scheme administrator of a deposit and return scheme established by virtue of section 58(1).

(2) A body established under subsection (1) is to be a body corporate.

(3) The body may do anything which appears to it—
   (a) to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions in relation to a deposit and return scheme;
   (b) to be conducive to the exercise of those functions.

(4) In particular, the body may—
   (a) enter into contracts;
   (b) with the agreement of the Scottish Ministers, borrow money;
   (c) charge, in respect of the exercise of its functions in relation to a deposit and return scheme, such reasonable amounts as the Scottish Ministers consider appropriate.

(5) An order under subsection (1) may in particular include provision about—
   (a) the status and constitution of the body;
   (b) the status of the members and any employees of the body;
   (c) the remuneration, allowances and pensions of such members and such employees;
   (d) the conferral of functions on the body;
   (e) the keeping by the body of accounts and accounting records.>
Stewart Stevenson

184 After section 58, insert—

<Finance of scheme administrator

(1) The Scottish Ministers may, for the purpose of or in connection with the exercise by a scheme administrator of functions in relation to a deposit and return scheme—

(a) pay grants;
(b) make loans,

to the administrator of such amounts as Ministers may determine.

(2) Any such grant or loan may be paid or, as the case may be, made, on such terms and subject to such conditions (including, in the case of a loan, conditions as to repayment) as the Scottish Ministers consider appropriate.

(3) The Scottish Ministers may, from time to time after any grant or loan is paid or, as the case may be, made, vary the terms and conditions on which it was paid or made.

(4) The Scottish Ministers may guarantee, in such manner and on such conditions as they consider appropriate, the discharge of any financial obligation in connection with any sums borrowed by a scheme administrator for the purpose of, or in connection with, the exercise of its functions in relation to a deposit and return scheme.>

Alex Johnstone

186 In section 64, page 31, leave out lines 31 to 35

Charges for single-use or disposable products

Elaine Murray

246 After section 58, insert—

<Charges for single-use or disposable products

Charges for single-use or disposable products

(1) The Scottish Ministers may, by regulations, require persons of the kinds specified—

(a) to impose, at the point of sale, a charge under this section for single-use or disposable products of the kinds specified;

(b) to apply the net proceeds raised by such charges to the advancement of environmental protection or improvement or to any other purposes that may be reasonably regarded as analogous.

(2) The regulations may in particular include provision about—

(a) the circumstances in which the requirement applies;

(b) the minimum amount to be charged for each specified single-use or disposable product;

(c) how the net proceeds raised by the charge are to be ascertained;

(d) the purposes to which those net proceeds are to be applied;

(e) subject to section 60—
(i) the enforcement authority in relation to the regulations; and
(ii) the functions of that authority;
(f) the keeping of records and their production to the enforcement authority;
(g) the enforcement of the duties imposed by the regulations;
(h) offences in relation to failures to comply with requirements of the regulations.
(3) The enforcement authority must have regard to any guidance given by the Scottish Ministers to it in relation to the functions conferred on it by the regulations.

Charges for carrier bags

Des McNulty
Supported by: Angela Constance, Elaine Murray

74 Leave out section 59

Civil penalties for waste offences

Elaine Murray

247 After section 61, insert—

<Civil penalties for waste offences

(1) The Scottish Ministers may, by regulations, make provision for or in connection with—

(a) the imposition by the enforcement authority of penalty charges in respect of such offences under this Chapter as are specified;
(b) the payment of such charges.

(2) The regulations must include provision specifying the person or persons by whom a penalty charge in respect of an offence is to be paid (who may be or, as the case may be, include a person other than the person who committed the offence).

(3) The regulations must include provision—

(a) prohibiting criminal proceedings in respect of any description of conduct for which a penalty charge may be imposed; or
(b) securing that a penalty charge is not payable or is refunded where the conduct is the subject of criminal proceedings.

(4) The regulations must include provision about the standard of proof required to establish the commission of an offence in respect of which a penalty charge may be imposed and may include other provision for or in connection with evidence and procedure.

(5) The regulations may set different levels of penalty charges in respect of different offences and in respect of the same offences committed in different circumstances.

(6) The regulations may provide for the level of penalty charge to be determined, in specified circumstances, by reference to the turnover of any business involved in the offence in a specified way or to the costs avoided, or income gained, by any such business as a result of the commission of the offence.
(7) The regulations may include provision for and in connection with—
(a) the notification of penalty charges to persons appearing to be liable to pay them;
(b) the enabling and effect of the making of representations to the enforcement authority by persons who are or may be liable to pay those charges;
(c) appeals by those persons against the imposition of those charges.

(8) Before laying a draft of a statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must carry out such consultation with the public on a draft of the regulations as they consider appropriate.

Judicial review

Alison McInnes

248 Before section 62, insert—

Judicial review

(1) In any application for judicial review relating to or arising out of the provisions of this Act, it will be enough for any party to show sufficient interest in order to satisfy the common law tests of title and interest.

(2) “Sufficient interest” is to be interpreted in accordance with the criteria laid out in Article 9 of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters signed at Aarhus on 25 June 1998 (“the Aarhus Convention”).

(3) In relation to the expenses associated with any judicial review proceedings under this Act, the court may impose a cap on, or otherwise regulate, the extent of liability for expenses between the parties; and such applications may be competently made at any stage of the proceedings.

(4) When determining an application made under subsection (3) above, the court is to have regard to the need to remove or reduce financial or other barriers to access to justice, in accordance with the principles laid out in Article 9 of the Aarhus Convention.

(5) In any application for judicial review under this Act, the court may competently consider both the substantive and the procedural legality of the decision, act or omission under review.

Sustainable development

Des McNulty

249 Before section 62, insert—

Sustainable development

(1) The persons mentioned in subsection (2) must, in exercising functions conferred on them by virtue of this Act, take into account the need to do so in a way that contributes to the achievement of sustainable development.

(2) Those persons are—
(a) the Scottish Ministers;
(b) each relevant public body.

Alison McInnes

249B As an amendment to amendment 249, leave out line 8

Shirley-Anne Somerville

249A As an amendment to amendment 249, line 8, at end insert—
<(  ) the advisory body>

Scottish Executive budget: impact on greenhouse gases

Patrick Harvie

280 Before section 62, insert—

<Scottish Executive budget: impact on greenhouse gases

The Scottish Ministers must, at the same time as laying before the Scottish Parliament any document setting out preliminary draft budgets of public expenditure in any financial year, lay before the Scottish Parliament a document describing the impact of that expenditure on greenhouse gas emissions.>

Waste regulations: procedure

Maureen Watt (on behalf of the Rural Affairs and Environment Committee)

250 In section 64, page 31, line 39, at end insert—

<(9) Before laying a draft of any regulations under sections 52 to 59 (other than regulations mentioned in subsection (7)(d) or (e)) before the Scottish Parliament, the Scottish Ministers must—
(a) lay before the Scottish Parliament—
   (i) a copy of the proposed regulations, and
   (ii) a statement of their reasons for proposing to make the draft regulations,
(b) publicise the proposed draft regulations in such manner as they consider appropriate, and
(c) have regard to—
   (i) any representations about the proposed draft regulations,
   (ii) any resolution of the Scottish Parliament about the proposed draft regulations, and
   (iii) any report by a committee of the Scottish Parliament about the proposed draft regulations,
made during such period as the Scottish Ministers may specify when laying the proposed draft regulations.
(10) The period so specified must—
   (a) be no shorter than 60 days, and
   (b) include at least 30 days during which the Scottish Parliament is not dissolved or in recess.

(11) When laying a draft of any regulations to which subsection (9) applies before the Scottish Parliament, the Scottish Ministers must also lay a statement giving details of—
   (a) any representations, resolution or report falling within paragraph (c) of that subsection; and
   (b) the changes (if any) which in the light of any such representations, resolution or report, the Scottish Ministers have made to what was laid under paragraph (a)(i) of that subsection.