



The Scottish Parliament  
Pàrlamaid na h-Alba

## LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

### AGENDA

18th Meeting, 2020 (Session 5)

Friday 21 August 2020

The Committee will meet at 10.00 am in a virtual meeting which will be broadcast on [www.scottishparliament.tv](http://www.scottishparliament.tv)

1. **Decision on taking business in private:** The Committee will decide whether to take items 5 and 6 in private.
2. **The Third Sector and COVID-19:** The Committee will take evidence from—  
  
Aileen Campbell, Cabinet Secretary for Communities and Local Government, Calum Irving, Head of Third Sector Unit, and Laura Turney, Head of Public Service Reform, Scottish Government.
3. **Subordinate legislation:** The Committee will consider the following negative instrument—  
  
Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Amendment Regulations 2020.
4. **Public petition: PE1743** The Committee will consider the following petition-PE1743 by John Foster on behalf of Govan Community Council and others, on Amend the law to protect the rights of pre-1989 Scottish Secure Tenants.
5. **The Third Sector and COVID-19:** The Committee will consider the evidence heard at today's meeting.
6. **Community Empowerment (Scotland) Act 2015:** The Committee will consider its approach to its forthcoming post-legislative scrutiny of Part 3 (participation requests) and Part 5 (asset transfer requests) of the Act.

**LGC/S5/20/18/A**

Peter McGrath  
Clerk to the Local Government and Communities Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh  
Tel: 0131 348 5232  
Email: [peter.mcgrath@parliament.scot](mailto:peter.mcgrath@parliament.scot)

The papers for this meeting are as follows—

**Agenda Item 3**

Note by the Clerk

LGC/S5/20/18/1

PRIVATE PAPER

LGC/S5/20/18/2  
(P)

**Agenda Item 4**

Note by the Clerk

LGC/S5/20/18/3

**Agenda Item 5**

Note by the Clerk

LGC/S5/20/18/4

**Agenda Item 7**

PRIVATE PAPER

LGC/S5/20/18/5  
(P)

## Local Government and Communities Committee

### 18th Meeting (Session 5), Friday 21 August 2020

#### Evidence session with the Scottish Government on the Third Sector and Covid-19: Note by the Clerk

##### Background

1. Since lockdown measures commenced in March, the Local Government and Communities Committee has focussed mainly on the impact of the Covid-19 pandemic on matters within its remit, affecting local government, housing planning, licensing and the third sector, and the support being made available. You can read relevant Official Reports and associated meeting papers [here](#).
2. All written updates sent to the Committee on Covid-19 are available on the Committee's [Covid19 page here](#).

##### *The Third Sector and Covid-19*

3. This work has included scrutinising the impact of the pandemic on the third sector and voluntary organisations, which provide many essential services to communities. The Committee has also scrutinised Scottish Government support for the sector; in particular the [Third Sector Resilience Fund](#) set up to help organisations facing financial difficulties as a direct consequence of Covid-19.
4. The Scottish Government commissioned three fund administrators to deliver the Fund - [Firstport](#), [Social Investment Scotland](#) and the [Corra Foundation](#). On [30 April 2020](#), the Committee wrote to the SCVO and fund administrators to ask for further information about the TSRF. It also sought views on the Fund from the [Scottish Council for Voluntary Organisations](#). The [SCVO](#) is the national membership organisation for the voluntary sector, with over 2000 members
5. The Committee also [wrote](#) to Scotland's network of [Third Sector Interfaces](#)<sup>1</sup>, asking for feedback from the charities they support on their experiences of applying for the TSRF and whether it is reaching organisations needing support. The Committee also asked whether demand for services the third sector provides had increased since the pandemic.
6. The Committee received 18 submissions from TSIs, which can be accessed [here](#), and a [joint submission](#) from the SCVO, Firstport, Social Investment Scotland and the Corra Foundation. The Scottish Parliament's Information Centre (SPICe) prepared a summary of all responses which can be accessed [here](#).

##### Oral evidence

---

<sup>1</sup>Third Sector Interfaces (TSIs) are people who provide a single point of access for support and advice for the third sector within local areas. There is a TSI in each local authority area in Scotland. Further information on the work of TSIs can be found at <https://www.gov.scot/policies/third-sector/third-sector-interfaces/>

7. [On 26 June 2020](#), the Committee took evidence on the issues raised in the submissions from witnesses representing the SCVO and Firstport, and from three TSIs representing [Midlothian Third Sector Interface](#), [Voluntary Action North Lanarkshire](#) and [Western Isles Third Sector Interface](#)
8. During the evidence session, the Committee explored:
  - the impact Covid 19 has had on communities and the organisations that support them and which services have seen the biggest growth in demand;
  - the third sector’s experience of the process of applying for the Fund, the difficulties some types of organisations had accessing it, and views on whether the Fund will be adequate to deal with challenges in the sector;
  - the challenge of service delivery during lockdown and how the sector has responded to it: how easy has it been to “go digital” whilst maintaining an effective service and what support is available to help organisations change and adapt as a result of Covid-19?;
  - overall concerns about the long-term financial sustainability of the third sector, the support available to protect the sector as we emerge from the crisis and further predicted demands on services.
9. On 21 August 2020, the Committee will take evidence from the Cabinet Secretary for Communities and Local Government, Aileen Campbell and officials. The Committee is likely to revisit the issues listed above and to ask how the Scottish Government plans to help the sector recover over the coming months and years, and adapt to a working environment that may have changed for the foreseeable future.

**Next steps**

10. The Committee will discuss the evidence it has heard immediately following the evidence session. Evidence heard at the meeting is likely to inform future evidence-taking this year on the Scottish Government’s 2021-22 budget as it affects local government and communities.

**Local Government and Communities Committee**

**18th Meeting, 2019 (Session 5), Friday 21 2020**

**Subordinate Legislation**

**Overview of instrument**

1. The following instrument, subject to negative procedure, is being considered at today's meeting:
  - Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Amendment Regulations 2020 (SSI 2020/230)

**Background**

2. The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2020 ("the Principal Regulations") came into force on 31 March 2020. They provided for the following nondomestic rates relief:
  - a 1.6% non-domestic rates relief for all non-domestic properties in Scotland applying to the gross rates bill (including any supplements);
  - a 100% non-domestic rates relief for properties with specified uses in the retail, hospitality and leisure (RHL) sectors; and
  - a 100% relief for airports and handling service providers, and for lands and heritages occupied by Loganair Ltd.
3. This instrument adds properties used as a soft play centre, amusement arcade or amusement centre to those properties eligible for 100% relief. Premises are not included in the definition of an eligible amusement arcade or amusement centre if they allow access to Fixed-Odds Betting Terminals. The relief is intended to counter the adverse economic impact of COVID-19 for the 2020-2021 financial year.
4. The instrument was laid before the parliament on 29 July 2020 and comes into force on 5 September 2020. It is subject to the negative procedure. The policy note for the instrument is attached at **Annexe A**.
5. An electronic copy of the instrument is available at:  
<https://www.legislation.gov.uk/ssi/2020/101/contents/made>
6. No motion to annul this instrument has been lodged.

**Delegated Powers and Law Reform Committee consideration**

7. The Delegated Powers and Law Reform Committee (DPLRC) considered the instrument at its meeting on 12 August 2020 and [determined that it did not need to draw the attention of the Parliament](#) to the instrument on any grounds within its remit.

## **Committee Consideration**

8. The Committee is not required to report on negative instruments, but should it wish to do so, the deadline for reporting on SSI 2020/230 is 7 September 2020.

## **Procedure**

9. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
10. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
11. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
12. Each negative instrument appears on the Local Government and Communities Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not always possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.
13. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

**POLICY NOTE****The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Amendment Regulations 2020****SSI 2020/230**

The above instrument is made in exercise of the powers conferred by section 153 of the Local Government etc. (Scotland) Act 1994 and by all other enabling powers. The instrument is subject to the negative procedure.

**Purpose**

The purpose of these regulations is to introduce an additional 100% non-domestic rates relief for properties with specified uses in the retail, hospitality and leisure (RHL) sectors, to non-domestic properties used wholly or mainly as a soft play centre, amusement arcade or amusement centre. Premises are not included in the definition of an eligible amusement arcade or amusement centre if they allow access to Fixed-Odds Betting Terminals (B2 gaming machine, set out in regulation 5(5) of the Categories of Gaming Machine Regulations 2007). The relief will apply for the whole 2020-2021 financial year and is backdated to 1 April 2020.

The regulations also make a change to the Non-Domestic Rates (Transitional Relief) (Scotland) Amendment Regulations 2020 to exclude soft play centres, amusement arcades and amusement centres from the definition of relevant lands and heritages for the relief granted by those regulations (since the regulations grant 100% relief, making transitional relief irrelevant for these uses).

**Policy objective**

The RHL relief was introduced to provide temporary support to counter the adverse economic impact of COVID-19 for the 2020-2021 financial year only.

The relief is already available for properties in the retail, hospitality and leisure sectors, where they are wholly or mainly used on a day for a purpose specified in the classes in schedule 1 of The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2020.

The relief is not available for properties that were unoccupied on 17 March 2020. This is in order to target relief to properties that are in difficulty in 2020-21 as a result of COVID-19 directly.



## **Consultation**

There is no statutory requirement to consult on these Regulations.

## **Business and Regulatory Impact Assessment**

No Business and Regulatory Impact Assessment has been carried out.

## **Financial Implications**

The decrease in the amount of non-domestic rates payable is in line with the policy objectives as outlined above. The RHL relief is subject to State aid *de minimis*.

Scottish Government

*Local Government and Communities Directorate*

**Local Government and Communities Committee**

**18th Meeting, 2020 (Session 5), Friday 21 August 2020**

**Petition 1743: rights of pre-1989 Scottish Secure Tenants**

**Note by the Clerk**

**Petition summary** Calls on the Parliament to urge the Scottish Government to amend the Rent (Scotland) Act 1984 to prevent disproportionate rent increases being set for Scottish Secure Tenants

**Petitioner** John Foster (on behalf of Govan Community Council)

**Webpage**

<http://external.parliament.scot/gettinginvolved/petitions/scottishsecuretenants>

**Prior consideration of petition 1743**

1. This petition was lodged on 16 September 2019. On 10 October, the Public Petitions Committee [considered the petition for the first time](#) and agreed to write to the Scottish Government, Cosla and the First-tier Tribunal for Scotland, seeking views on issues the petition raised. Responses can be found [via this link](#). (References to views of those bodies in this paper are references to their responses.<sup>1</sup>)
2. On 19 March 2020, the Committee [agreed](#) to refer the petition to the Local Government and Communities Committee, noting that this Committee was at the time considering what impact the new judicial body: the First Tier Housing Tribunal, had had on the consideration of landlord-tenant cases.
3. This Committee took evidence on the First Tier Housing Tribunal on [11 March 2020](#) before the petition was formally referred. Issues relevant to this petition were very briefly raised by one participant<sup>2</sup> but were otherwise not significant part of the discussion. This Committee has not formally agreed to undertake further work on the Tribunal, although it remains an option that the Committee will return to in future work programme discussions.
4. Immediately following referral of the petition, the Covid-19 crisis intervened, causing some initial disruption to this Committee's work and some re-ordering of priorities to consider urgent matters. The 21 August meeting is the Committee's first formal consideration of petition 1743.

---

<sup>1</sup> The request to the Tribunal led to a response from the Judicial Office for Scotland, which sits within the overall Scottish Courts and Tribunal Service

<sup>2</sup> Pauline McNeill MSP, Official Report, col 27

## Issues raised in petition 1743

5. The petitioner belongs to a category of longstanding social housing tenants whose rights under a prior legislative regime on tenancies have been partly retained.<sup>3</sup> As of November 2019, the Scottish Government stated that there were around 970 such tenancies remaining. Tenants in this category have their rent reviewed by a Rent Officer and may appeal a rent decision, formerly to the Rent Assessment Committee, now the First Tier Housing Tribunal.
6. The petitioner sets out his views in [his initial submission](#) to the Parliament and in [a follow-up submission](#) responding to correspondence solicited by the Public Petitions Committee. In summary, he contends that a 2016 rent affecting a number of tenants in this category in the Govan area of Glasgow was unfair. He says it led to large rent increases that caused real hardship to a group of mainly elderly people. The petitioner said that when the Rent Assessment Committee was asked to review the decisions, it used as comparators private rented housing across Glasgow rather than nearby comparable social housing, again leading to rent rises that were very high.
7. One affected tenant appealed the decision to the Inner House of the Court of Session.<sup>4</sup> In August 2017, the court ruled that the methodology used to arrive at the revised rent was “erroneous in law” and “fundamentally flawed” and remitted the case to the Committee. However, the petitioner contends that the Committee then declined to review the other decisions affecting the Govan tenants. The petitioner further states that these decisions are now being used to benchmark fair rents for other tenants in this category, as rents come up for revision, leading to the unfairness of the earlier decisions being amplified.
8. The petitioner’s original submission concludes:

“We believe the legal basis on which the determinations were made is flawed and tenants are being prejudiced as a result. This was rectified for one tenant following the court of session appeal but not for others. The injustice therefore continues.

We propose that the wording in Section 48 subsection (1)<sup>5</sup> be amended from “rents of comparable property in the area” to ‘rents of comparable social housing in the immediate area’.

We also believe that the small number of tenants whose rents were determined by the method condemned as ‘erroneous in law’ should be given the right to re-assessment”

---

<sup>3</sup> These are tenants who were secure tenants of a housing association whose tenancy was converted to a Scottish secure tenancy in September 2002. To have been a secure tenant with a housing association the tenancy must have started before 1989.

<sup>4</sup> <https://www.scotcourts.gov.uk/search-judgments/judgment?id=65873aa7-8980-69d2-b500-ff0000d74aa7>

<sup>5</sup> Of the Rent (Scotland) Act 1984

9. The petitioner does not discuss in detail exactly what steps the other affected Govan tenants took to try to persuade the Rents Appeals Committee (whose role now belongs to the Tribunal) to apply the Inner House judgment to their case, including whether any formally appealed. It is not clear whether these other tenants will by now have lost any right to appeal (and this would require further investigation) but it would appear likely that they may have, given the time that has now elapsed.

## Decision

10. Under Standing Orders, the Committee may take such action as it considers appropriate in relation to any petition. This may include—

(a) referring the petition to the Scottish Ministers, any other committee of the Parliament or any other person or body for them to take such action as they consider appropriate;

(b) reporting to the Parliamentary Bureau or to the Parliament;

(c) taking any other action which the Committee considers appropriate; or

(d) closing the petition. If a petition is closed, the petitioner must be notified of the reasons for this. It is good practice for the Committee to agree in its public discussion of any petition it intends to close, the reason(s) why it is being closed.

11. The First Tier Housing Tribunal is a judicial body sitting within the Scottish Courts and Tribunals Service, headed by the Lord President. In their responses, Colsa and the Scottish Government both comment on the legal independence of the Tribunal and refrained from expressing a view on it, or its predecessor's decisions. When the Public Petitions Committee solicited a view on the petition from the Tribunal,<sup>6</sup> it received a very short and factual reply. However, it is for this Committee to consider there is specific factual information that could be solicited from the SCTS that might assist in consideration of the petition.

12. The Public Petitions Committee does not appear to have expressly invited the Scottish Government to comment on the petitioner's view that the 1984 Act requires to be amended or, if it was, the Scottish Government does not provide a specific response on this. The Scottish Government could be asked to comment on this. The Scottish Government could also be asked to update the Committee on its comment that—

“Following discussions earlier this year with representatives of the Scottish Federation of Housing Associations and Glasgow West of Scotland Housing Forum we will be working with them to identify good practice on reviewing fair rents.”

---

<sup>6</sup> The response was provided by the Judicial Office which sits within the SCTS

13. The Committee could also solicit views on issues raised from organisations with an interest in social housing and fair rent, as well as from the affected housing associations themselves.

**14. The Committee is invited to take a view on the petition with reference to the options set out in paragraph 10**