

# **TRANSPORT AND THE ENVIRONMENT COMMITTEE**

Wednesday 6 December 2000  
*(Morning)*

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2000.

Applications for reproduction should be made in writing to the Copyright Unit,  
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ  
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate  
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The  
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now  
trading as The Stationery Office Ltd, which is responsible for printing and publishing  
Scottish Parliamentary Corporate Body publications.

---

# CONTENTS

Wednesday 6 December 2000

	Col.
<b>SUBORDINATE LEGISLATION</b> .....	1313
<b>PETITIONS</b> .....	1321

---

## TRANSPORT AND THE ENVIRONMENT COMMITTEE 30<sup>th</sup> Meeting 2000, Session 1

### CONVENER

\*Mr Andy Kerr (East Kilbride) (Lab)

### DEPUTY CONVENER

\*Nora Radcliffe (Gordon) LD)

### COMMITTEE MEMBERS

Bruce Crawford (Mid Scotland and Fife) (SNP)

\*Helen Eadie (Dunfermline East) (Lab)

Donald Gorrie (Central Scotland) (LD)

\*Robin Harper (Lothians) (Green)

Janis Hughes (Glasgow Rutherglen) (Lab)

\*Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab)

\*Fiona McLeod (West of Scotland) (SNP)

\*Des McNulty (Clydebank and Milngavie) (Lab)

\*Mr Murray Tosh (South of Scotland) (Con)

\*attended

### THE FOLLOWING ALSO ATTENDED :

Richard Arnott (Scottish Executive Rural Affairs Department)

Donald Macfarlane (Scottish Environment Protection Agency)

Allan Wilson (Deputy Minister for Sport and Culture)

### CLERK TO THE COMMITTEE

Shelagh McKinlay

### SENIOR ASSISTANT CLERK

Tracey Haw e

### ASSISTANT CLERK

Alastair Macfie

### LOCATION

Committee Room 2



## Scottish Parliament

### Transport and the Environment Committee

*Wednesday 6 December 2000*

*(Morning)*

[THE CONVENER *opened the meeting at 10:03*]

**The Convener (Mr Andy Kerr):** Good morning. I welcome the press and public to the 30<sup>th</sup> meeting this year of the Transport and the Environment Committee. I also extend a warm welcome to the Deputy Minister for Sport and Culture, Allan Wilson, and his officials, who are attending for consideration of a Scottish statutory instrument.

I have received apologies from Janis Hughes and Bruce Crawford.

### Subordinate Legislation

**The Convener:** Item 1 on the agenda is the Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations 2000 (SSI 2000/draft). It is accompanied by an Executive cover note and committee covering note TE/00/30/1. The instrument was laid on 17 November 2000. The Parliament has designated us as the lead committee for consideration of the instrument.

The draft order is laid under the affirmative procedure, which means that the Parliament must approve the order before it comes into force. The time limit for parliamentary action expires on 20 December; the committee is required to report formally by 18 December. The Subordinate Legislation Committee considered the instrument on 28 November 2000 and reported that the attention of the Parliament need not be drawn to it.

I will briefly outline the procedure for dealing with SSIs. Before the motion is moved, the minister will have an opportunity to make introductory remarks. At that stage we can allow questions to the minister and his officials; those should be technical questions to clarify any points relating to the instrument. After that period of questioning, the minister should formally move motion S1M-1402, which may be debated prior to a decision. Executive officials may not contribute to the formal debate after the minister has moved the motion; only MSPs may take part in that debate, which must last no longer than 90 minutes. I invite the minister to make introductory remarks on the instrument.

**The Deputy Minister for Sport and Culture (Allan Wilson):** The committee will be aware of European directive 94/62/EC on packaging and packaging waste. It requires member states to recover 50 per cent to 65 per cent and recycle 25 per cent to 45 per cent of packaging waste. Those requirements were transposed into UK law by the Producer Responsibility Obligations (Packaging Waste) Regulations 1997. The regulations require companies with a turnover of more than £2 million and that manufacture or use 50 tonnes of packaging materials or products a year to reprocess certain proportions of the packaging waste for which their position in the packaging chain makes them liable. That entails their registering with the Scottish Environment Protection Agency, or the Environment Agency in England and Wales, to supply data on the nature and extent of their packaging use and to demonstrate through a system of packaging recovery notes that they have ensured the recycling or recovery of the tonnage of packaging waste that is attributable to them. The regulations specified progressively increasing interim targets to be met each year in the run-up to the directive deadline of 30 June 2001.

The 1997 regulations have been under review more or less constantly since they were introduced. A review in 1998 led to amendments in 1999, which—among other things—increased the registration fees for companies and compliance schemes, reapportioned the percentages for which each sector of the packaging-using industry was responsible and increased the national recovery targets for 1999 and 2000. The 1998 review also held out the prospect of increasing the targets for 2001, but it was decided not to make any changes pending further data collection.

The draft regulations that are before the committee today are the result of that further consideration. They do two things. First, they discontinue the existing scale fee for compliance schemes and replace it with a flat rate charge of £460. Secondly, they increase the interim recovery target for 2001 from 52 per cent to 56 per cent and material-specific recycling targets from 16 per cent to 18 per cent.

The change to the registration fee for compliance schemes is being made for two reasons. First, when the packaging recovery scheme was put in place, it was anticipated that the environment agencies would benefit from economies of scale as compliance schemes grew larger and assumed the burden of collecting data from their members. The assumption was that the agencies would benefit from lower costs if they had to process only a small number of consolidated returns rather than the individual returns of each member of the scheme. To some extent, that has been the case. However, their

experience has been that savings are being achieved only in relation to the submission of data reporting—the submission of data on packaging used and waste packaging reprocessed. The system has not saved them any money on what is arguably their most important function, which is to monitor packaging use.

Irrespective of whether an obligated company is a member of a scheme or is registered direct, the agencies will inspect it and conduct an audit of its packaging use. SEPA's target is to inspect all companies that are registered with it at least once every three years, or more frequently if a visit, a company's returns or other information suggest that increased vigilance is warranted. Auditing a company is the most expensive element of the registration, as it entails a visit to the company's office.

The second reason for adopting a flat-rate fee has been a growing awareness by Government that the steep discounts that are available to very large schemes are potentially anti-competitive. The Office of Fair Trading supports that view. The existing scale fee prescribes a registration fee of £760 per member for schemes with a membership of up to 500, but only £126 per member for schemes with more than 3,000 members. Replacing the scale fee with a flat-rate fee enables smaller schemes to compete against larger ones on the basis of the level and quality of support offered by each without the distortion that is introduced into the market by a deep discount on the fee.

SEPA was involved in calculating the new fee and agrees to both the flat rate structure and the amount of £460, which is a more accurate reflection of the agencies' costs of monitoring and auditing compliance scheme members. The figure compares with a registration fee of £950 for a directly registered company. Subject to Parliament's approval, the new fee will apply to registrations and reregistrations from 1 January 2001.

The second element of the draft regulations increases the national recovery target from 52 per cent to 56 per cent and the material-specific recycling targets from 16 per cent to 18 per cent. As I indicated, increases in the national targets for 2001 were put in abeyance pending collection and analysis of more reliable data and the outturns for 1999.

The 1999 UK performance was a recovery rate of 39 per cent and an overall recycling rate of 33 per cent. Although the overall recycling rate comfortably meets the directive's targets, there is concern that increases in recovery rates are not progressing quickly enough to ensure compliance with the directive next year. There is also some concern that not all the material-specific recycling

targets will be met unless further action is taken.

In retrospect, it is clear that the original assumptions that were used to determine the UK's progression towards achievement of the directive targets were flawed. That is not surprising, as until the advent of the packaging directive there had been no need to compile data on packaging, manufacture and use. The development of more robust data collection and modelling since 1997 has shown how far off the mark those assumptions were.

The original projections overestimated the number of obligated businesses in 2000 by 65 per cent—estimates were for 19,000 compared with an actual figure of 11,500. The original projections also estimated the amount of packaging used by non-obligated companies to be about 10 per cent, whereas latest estimates put it at about 11.1 per cent. On year 2000 volumes, that equates to about 101,000 tonnes of packaging waste generated by companies below the registration threshold.

On the most recent information that is available to Government—allowing for a margin of error and variations in reporting—the proposed new recovery target of 56 per cent for obligated businesses will deliver an overall recovery rate of 51 per cent. That would just comply with the mandatory directive target of 50 per cent, with the small 1 per cent margin of error.

Members may have noticed that I have been using expressions such as “information available to Government” and “awareness within Government” and they may suppose from that that the Executive is not advancing its separate argument for making those changes. I have to concede that the package recovery scheme was established in pre-devolution days and was designed, in close collaboration with industry, to apply in a unitary way across Great Britain.

The Executive and the Department of the Environment, Transport and the Regions have attempted to disaggregate meaningful Scottish data from the UK totals, but it has not proved practicable to do so. The difficulty is that Scottish companies may be registered with the Environment Agency in England and English or Welsh companies may be registered with SEPA. Many companies will operate across the border.

As obligated companies are not required to disaggregate their packaging data by administrative jurisdiction and there is no definition of what constitutes Scottish, English or other UK packaging in a cross-border context, it is not possible accurately to quantify the extent of Scotland's obligations under the directive or to measure its compliance with it.

However, we are acutely conscious that quantifying accurately the extent of Scotland's

obligations under the directive or measuring our compliance with it will have to be addressed sooner rather than later. The European Commission is set to review the directive targets next year. We expect that much tougher targets will be set for 2006. We also expect that there will be further consultation within Government about how the new targets should be met. It seems to the Executive that that will be a good time in which to seek changes to companies' reporting requirements, which will enable SEPA and the Executive to explain the position in Scotland much more definitively than is the case at present.

The packaging regime is a far from simple system. Nevertheless, it appears to be delivering improvements in our ability to recycle packaging waste, albeit not as quickly as was originally thought and certainly not as quickly as we would have liked. The changes that the Executive is proposing will ensure that sufficient packaging waste is recovered to enable the UK to meet its European directive obligations and that the Environment Agency's monitoring and auditing costs are recovered fairly from those who give rise to those costs.

I will be happy to answer questions about the amendment regulations or to clarify any points about the packaging system.

10:15

**The Convener:** My life appears to be going full circle. I was involved with this matter in nineteen-canteen when I worked for the Institute of Wastes Management and now it comes back to me in another guise. However, that is a pleasure for me.

I understand the difficulties that the minister talks about in relation to information, particularly the projections that were made in the early days of the discussions about how to implement the directive. We need to meet our objectives and recover costs, but the bottom line is that we need to improve our environmental performance.

**Robin Harper (Lothians) (Green):** There seems to be a staggeringly large discrepancy between the original estimate of obligated companies, which was 19,000, and the actual figure of 11,000. Can that be accounted for?

**Allan Wilson:** You are right in saying that the difference is staggeringly large. As the convener suggested, it can be explained by the lack of originating data. However, data are now building up.

**Richard Arnott (Scottish Executive Rural Affairs Department):** We have learned from experience and we are still learning.

**Mr Murray Tosh (South of Scotland) (Con):** Paragraph 10 of the Executive note says that the

shortfall this year has been set at £29,250. Why was the charge not set at a level designed to balance the costs? What is intended by the final sentence in that paragraph? It says:

"The effect on SEPA's income and expenditure further into the future will be kept under review."

Does that imply that there will be a policy of balancing costs and income?

**Allan Wilson:** The short answer to the second question is yes. I anticipate that we will be monitoring and reviewing the outcome of the revised targets and that SEPA—whose representatives I will ask to respond to the question about the charges that will be levied in relation to their income and revenue needs—will assess the impact of the revised charges annually.

The original costs were set as part of the compliance scheme and have been reviewed in accordance with the first year's operation. The figures in the Executive note are a direct reflection of the original charges. The introduction of the new charge would substantially reduce the cost to business of complying with the directive and, as a consequence, reduce SEPA's income.

I have talked to SEPA about the points that you have raised. Perhaps a representative would like to respond.

**Donald Macfarlane (Scottish Environment Protection Agency):** The original charges were based on estimates as we started up in the new business area. We have worked hard to balance our costs against the work that needs to be done. Each year, as the number of companies changes, we will revise our work load planning. I cannot say whether we will change the charges each year but we will consider them on an annual basis.

**Mr Tosh:** I do not understand why the flat-rate charge of £460 has been set at a level that will make a budgeted loss. Why was it not set at £480 or whatever sum would ensure that there was no loss?

**Allan Wilson:** There was a budgeted surplus in the preceding year that would offset any budgetary impact.

**Mr Tosh:** Does SEPA have the right to carry on overspending and underspending?

**Donald Macfarlane:** The situation is not quite like that. We must ensure that, over a three-year period, we charge industry only what needs to be charged.

**Mr Tosh:** Did you say that you plan over a three-year period?

**Donald Macfarlane:** We consider whether the burden on industry during what is roughly a three-year period is broadly equal to the costs that

SEPA has incurred. We do not carry costs over.

**Mr Tosh:** Does the year-end flexibility regime that you work under permit you to do that without losing resources over the three-year cycle?

**Donald Macfarlane:** Yes. We would of course not lose resources over the three-year cycle.

**Mr Tosh:** I am sorry, I meant from year to year within the three-year cycle.

**Donald Macfarlane:** In that case, you are correct.

**Allan Wilson:** It is also worth noting that the charge would increase in line with inflation annually. It must be set in consultation with the Department of the Environment, Transport and the Regions to ensure that there is a standard charge in Scotland and England so that there is no disparity in the market.

**Mr Tosh:** That will prevent the creation of cross-border flows.

The minister touched on the matter that is contained in paragraph 15 of the Executive note when he talked about measuring the statistics for Scotland. I had not appreciated that the implementation of the directive and the achievement of targets was likely to be measured on a Scotland-wide basis rather than a UK-wide basis. Is that standard practice with any European directive that sets targets for volume, quantity and the achievement of objectives? I assume that the situation in Scotland will be a matter for separate determination assessment and possibly separate infraction proceedings.

**Richard Arnott:** The answer is not directly yes, as the European legislation applies across the UK. Within the UK, the Government has the power to split the obligations between the devolved Administrations. The implementation of environmental legislation is the Scottish Executive's responsibility. The Executive would be expected to meet its share of the UK total.

The target in the directive is 50 per cent of all the UK's packaging. There is no way of splitting that to allow Scotland to assess its share and demonstrate that it has achieved its share. Under the Scotland Act 1998, Scotland can be allocated a share of the UK total and the UK target. If Scotland did not meet a target that was set under the act, any infraction fines would fall on what I think is called the Scottish consolidation fund. At the moment, however, the target in the directive is a UK target.

**The Convener:** How do you intend to report to Parliament on performance? Will you do so through a SEPA report or Executive responses to questions? How will the information come out of the other end of the machine?

**Richard Arnott:** At the moment, the Scottish figures are joined with the Northern Ireland figures and the Environment Agency figures; an annual report, which is agreed by all the relevant parties, is produced by the DETR. We would be prepared to provide that report to the Scottish Parliament, if that is what is required.

**The Convener:** That would be useful.

I thank our witnesses for answering our questions and ask the minister formally to move the motion.

*Motion moved,*

That the Transport and the Environment Committee recommends that the draft Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations 2000 be approved.—[*Allan Wilson.*]

*Motion agreed to.*



## Petitions

**The Convener:** We have 10 petitions on our agenda this morning. The first, petition PE8, is from the Scottish Homing Union, on the impact of the number of birds of prey on the sport of pigeon racing. We will consider that petition in conjunction with petition PE187, which is from the Scottish Gamekeepers Association and calls on the Scottish Parliament to allow it to license culling of raptors under the Wildlife and Countryside Act 1981 where the population has increased beyond normal levels.

I draw the committee's attention to some additional documents that we received this morning. We have been sent material from RSPB Scotland and the Scottish Homing Union. Perhaps more important for consideration by the committee is the paper that has been produced by Helen Eadie, who is our reporter on this matter. Helen's report is comprehensive but she was unable to deliver it to us until shortly before this meeting. It might be appropriate to defer consideration of the petitions until a later meeting to allow full consideration of the report and the other submissions that we have received. I apologise to people who have attended today's meeting specifically because of this matter, but I would rather that we considered the matter fully. Is that agreed?

**Members** *indicated agreement.*

**The Convener:** Members will be notified of the meeting at which those petitions will be considered.

Petition PE65, from the National Farmers Union of Scotland, calls on the Scottish Parliament to seek action on taxation on road haulage. The petition is accompanied by a covering note that details the progress of the petition.

**Mr Tosh:** The petition touches only lightly on the responsibilities of the Scottish Parliament and the Scottish Executive. I suggest that, of the six measures that the petition addresses, five cover reserved matters. The first four may have been overtaken by events. It might be appropriate for us either to ask the Scottish Executive to draw the attention of the Government to the petition or to do so ourselves. I cannot recall whether there is a standard practice across committees when we are dealing with petitions that concern reserved matters. Whatever the procedure is, we should pass those points on, as they are not our responsibility.

In relation to the fifth item—the environmental problems of urban transport—it would be appropriate to advise the petitioner about the report on the Transport (Scotland) Bill, which

touches on the issues of road pricing and public transport.

Strictly speaking, the sixth item—the sustainability of petrol stations—concerns a reserved matter. However, I am aware that the Enterprise and Lifelong Learning Committee has been examining the problem. We might want to defer taking action on that item until that committee has completed its work. That would allow us to decide whether we want to do any more work on it.

**Fiona McLeod (West of Scotland) (SNP):** I agree with what has just been said. However, on the sixth item, the clerk has presented us with another option. We are told that we may write to the Scottish Executive to get details of the rural petrol stations grant scheme. That would be useful information to have.

**Des McNulty (Clydebank and Milngavie) (Lab):** The issues that relate to the sixth item highlight the fact that the rural development plan for Scotland includes no modulation proposals to fund fuel differentials. Should we draw the attention of the Rural Affairs Committee to that issue? That committee has been hostile to any proposal that money be diverted from farmers for any rural development purpose. I wonder whether the issue has been highlighted by the rural lobby and whether it can take action on the matter itself. It must confront that issue, rather than pretend that all rural development issues can be dealt with by channelling money from elsewhere.

**The Convener:** Thanks for that interesting comment, Des.

10:30

**Mr Tosh:** I realise that the petition comes from the National Farmers Union of Scotland, but the point about the rural petrol price differential applies more widely than to only one category of user. It would be difficult to suggest that the overall problem could be tackled by a scheme that diverted agricultural subsidies to all petrol consumers in rural areas. That might be a bit oppressive.

**Des McNulty:** I am not arguing for a maximalist arrangement. I simply highlight the fact that farmers receive substantial European funds directly. The European Union introduced the modulation scheme to allow part of that subsidy to be diverted to other rural development purposes. If a targeted rural development scheme can use modulation resources to deal with economic difficulties that people from rural communities face, it should be considered. I do not think that it should not be considered.

**Nora Radcliffe (Gordon) (LD):** The moneys

that modulation recovers are intended for diversion to environmental purposes—away from direct farming support and into environmentally friendly farming practices. I do not think that modulation money was intended to be used purely for economic development. Some of the arguments that are being made against helping rural sustainability could be applied to some of the inclusion money that is diverted in other directions. Des McNulty is on fairly shaky ground with his argument.

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** The key points are those about the elements of the petition that are within the Scottish Parliament's powers. We should pass to Westminster the points that are relevant to it. I accept that it has taken the committee some time to deal with the petition, because of our work load. Other committees have covered many of the issues, and I do not want work to be duplicated. We should obtain the available information and supply the report of the work that has been done on rural petrol stations to the petitioner. If people are not happy with that, they will take up the matter through the appropriate channels.

**The Convener:** Members of the Rural Affairs Committee may read Des McNulty's comments in the *Official Report* of this meeting, if they wish, so his points will be made.

**Helen Eadie (Dunfermline East) (Lab):** My points have already been made. I agree with Cathy Jamieson, who described a sensible approach.

**The Convener:** It has been our habit to write directly to Whitehall, when appropriate, so we will probably do that with most of the items for action. We agreed to Fiona McLeod's proposal about the rural transport fund and the role that the Scottish Executive plays. We will forward the petition to it for action on that aspect and to get information on Executive responsibilities and actions. The Transport (Scotland) Bill also deals with one of the items on the list in the petition. Bearing in mind people's comments on some aspects of the petition, I am happy to proceed with that action. Is that agreed?

*Members indicated agreement.*

**The Convener:** We will close down our actions on that petition. I thank members for their co-operation.

The next petition is PE68, which is also from the National Farmers Union of Scotland. It calls for the agriculture sector to be exempted from the proposed climate change levy and is accompanied by committee covering note TE/00/30/8, which sets out possible options for action. I seek members' advice on how they want to deal with the petition.

**Mr Tosh:** It would be consistent to deal with the petition as we dealt with the previous petition. We should pass on all the points for consideration by the relevant Government agencies.

**Fiona McLeod:** When we pass on the petitions, I would like us to ask the relevant Government agencies to explain the logic behind the exemptions that have been granted.

**The Convener:** We will pass the petition on to those with whom it belongs—those who are responsible for the levy. We will add a question about the current scheme for exemptions. Is that agreed?

*Members indicated agreement.*

**The Convener:** We come now to petition PE123, from the Scottish Warm Homes Campaign. It calls on the Scottish Parliament to identify, discuss and seek to implement measures urgently to eradicate fuel poverty. Our progress on the petition is outlined in committee covering note TE/00/30/10. I seek members' views on the petition.

I suggest that the Executive has taken fairly sizeable action through its central heating scheme.

**Des McNulty:** Yes.

**Robin Harper:** I still think that it could be productive to have another full-scale debate on the subject in Parliament. I initiated a Scottish Green party debate on energy efficiency earlier in the year. Does the committee take the view that no further action needs to be taken?

**Cathy Jamieson:** I note again the time that has passed since the petition was submitted. Several initiatives have been taken since then, to which we can draw the petitioner's attention. I do not suggest that there is nothing left to do—obviously, there are matters that we will want to take up—but I suggest that the committee should not conduct another inquiry. We should look to the Social Inclusion, Housing and Voluntary Sector Committee to take the issue forward, monitor progress and initiate a future debate, if necessary.

**Helen Eadie:** I support what Cathy Jamieson says. In response to Robin Harper's suggestion, I should say that I do not think that anyone is suggesting that nothing more will be done. If we followed the recommendation that we pass to the Social Inclusion, Housing and Voluntary Sector Committee and to the petitioners a copy of the Executive's response, we would keep the issue on the agenda of other people and other relevant committees.

The issue will undoubtedly come up because it has its tentacles in many aspects of the Parliament's work. I am happy to support the clerk's recommendation. We should also ensure

that the petitioners receive a copy of the *Official Report* of this meeting, so that they understand that we fully support the Scottish Warm Homes Campaign and that the Parliament is busy working on the issue, as is the Scottish Executive. Several major strands of progress have been made to date.

**Fiona McLeod:** I realise that the committee discussed the issue before I joined it. The clerk's note says that the committee agreed to write to the Executive to ask it to address the issues in the proposed housing bill and in building regulations. When I read the reply of the Minister for Communities—the relevant minister at the time—I see no reference to those questions.

I would like to question the new Minister for Social Justice more closely on the proposals that the Executive intends to put into the housing bill—if any—and on whether the Executive intends to review building regulations to ensure higher standards of energy efficiency in all new housing.

Towards the end of her letter, the Minister for Communities talks about the number of houses that will be built and the amount of new money that will be released to build new houses. At no point in the letter are there guarantees that the new houses will reach levels of energy efficiency that are high enough. The Social Inclusion, Housing and Voluntary Sector Committee is the lead committee on the issue, so, in our environment role, we should bring that to its attention. We should say that we hope that that committee will investigate the matter more fully in its deliberations.

**The Convener:** That is a valid point.

**Nora Radcliffe:** I was going to make similar points to those Fiona McLeod made. A good start has been made, but it will not eradicate fuel poverty. That is a long-term problem that will take a long time to solve. Matters that fall within our remit, under the planning and building regulations, will give us opportunities to advance the cause in the future.

**Mr Tosh:** I thought that we had received documentation about revised building regulations. Did not Sarah Boyack give us a talk about them? I was under the impression that they were currently the subject of consultation and that there was therefore every intention that the regulations should reflect the priorities.

The petition was directed not to the Transport and the Environment Committee, but to the Social Inclusion, Housing and Voluntary Sector Committee. It was remitted to us for our interest. The appropriate response would be that we are aware of the building regulations review and would be happy to consider any appropriate planning matters that arise. Fundamentally, we wish the

Social Inclusion, Housing and Voluntary Sector Committee to do everything that it can to advance the agenda, to treat the proposed housing bill accordingly and to consider the methods that it wishes to use to raise the profile of the issue and press it. It is up to that committee to do that, rather than us.

**Des McNulty:** I agree with Murray Tosh. We must be conscious of our role and that of other committees. The one bit of information that I would like to have—perhaps it should go to another committee rather than ours—concerns how the initiative is being spread out across Scotland. Where are the resources being spent? We have global figures, but we do not have a breakdown. That would be interesting information, but it might be more appropriate for that to be provided to another committee.

**Robin Harper:** I support Fiona McLeod's remarks. There is a general concern that the current proposals for the housing bill concentrate on management and ownership and that there is not an awful lot on housing conditions. During the bill's progress through Parliament, I would welcome an opportunity for the Transport and the Environment Committee to express a view on the environmental aspects or to have an input on environmental issues.

**The Convener:** I will try to summarise members' views. We are fairly positive about the measures that have been taken, but recognise that that is not the end of the story and that a major amount of work on fuel poverty has still to be done. We see our role as passing to the Social Inclusion, Housing and Voluntary Sector Committee our view that the central heating initiative should be combined with proper building standards through the review that the relevant minister—now Sam Galbraith, although Sarah Boyack originally presented the proposals to us—is conducting. We should draw that committee's attention to that review and find out where the review stands. We discussed it some time ago, and I am not sure what has happened since then, so we need clarification. To put it bluntly, going further than that would stray into the remits of other committees, but members made legitimate and correct points.

The committee received a response from the Minister for Communities about action that has been taken on fuel poverty, but we want to focus on further information on building standards. There is no point in the initiatives that have been taken if they are not supported by new building standards that encourage more environmentally friendly measures when building houses so that heat is retained and fuel poverty is reduced because people save money on their heating bills. There are a number of areas on which we want to focus,

but without overlapping with the job of the Social Inclusion, Housing and Voluntary Sector committee, which is to look at the broader fuel poverty issues.

In summary, we recognise that work is being done and that work remains to be done. We will keep a close eye on building standards and new regulations to ensure that they are environmentally friendly but, as far as possible, also take fuel poverty into account.

10:45

**Fiona McLeod:** With reference to the letter from the Minister for Communities, now that a new minister is responsible could we put what the convener has just said in a letter to the Minister for Social Justice, in which she is also asked how a review of the building regulations will tie in with proposals in the housing bill—if there are any—to tackle the problem of fuel poverty?

**The Convener:** We can ask that question but I think it brings together two different things. The warm homes initiative is for elderly people living in the community and social rented housing; I assume that new housing partnership homes must be built under current and new building regulations. We will seek clarification and a response on that.

**Robin Harper:** It should be drawn to the Executive's attention that in the summing up of my members' business debate on fuel poverty, what seemed to be a commitment was given to introduce, through legislation, energy audits at point of sale. I would like the Executive to be asked to consider whether that could be included in the housing bill and if not, whether and when it plans to introduce that measure in some other way.

**The Convener:** Okay—we will go back to that debate and go through it to find the relevant extract to ensure that ministers are held to account. Are those actions on the petition agreed?

**Members indicated agreement.**

**The Convener:** We will now take petition PE178, from the British Aggregates Association,

"calling for the Scottish Parliament to investigate the implications for the Scottish economy of the aggregates tax and to make representations as appropriate to the Westminster Parliament."

The petition is accompanied by the note TE/00/30/12. The Enterprise and Lifelong Learning Committee is the lead committee on the petition; it seeks our views and those of the European Committee and the Rural Affairs Committee. What are members' views?

**Mr Tosh:** I have received representations about

the matter and I am sympathetic to the case about the impact of a flat-rate tax on Scotland, but the petition is not suggesting that the tax will have significantly different environmental implications in Scotland and England and Wales; it suggests that because of the structure of the industry there will be an adverse impact on the viability of Scottish businesses. The petition is about employment and economic viability and so is a matter for the Enterprise and Lifelong Learning Committee to pursue. I do not see that there is much that we can add, other than noting it and asking the lead committee to alert us if it discovers any environmental implications that have not been drawn to our attention and which it wishes us to consider.

**Fiona McLeod:** It is worth asking for further information on the expected environmental benefits of the tax, as option B in the clerk's note suggests. It is a tax that is supposed to have an environmental benefit. What is the evidence for that? Will it work? What effect will it have?

**Robin Harper:** There may be a case for looking at the impact of the tax on smaller businesses that supply local areas and at whether we could end up with large volumes of aggregates being transported over much longer distances in consequence. A balance of environmental benefits needs to be considered so that it is got right. That follows from what Fiona McLeod said—the Government could perhaps look at it in that light.

**Nora Radcliffe:** Who will monitor the use of aggregates and whether the use of recycled aggregates increases as a consequence of the tax? Who will monitor whether, as Robin Harper suggested, the distance that aggregates are transported increases? I do not know whether that is covered by the final sentence in option B on "other competent action". Are such data being collected? Without that information, it will be difficult to make a judgment on the effectiveness of the tax.

**The Convener:** We need to be clear about how we can respond to the petition, what we need to draw to the attention of other committees and our view of matters that may concern other committees. We should stick to that.

**Cathy Jamieson:** The main matters that the petition is concerned with are reserved. However interesting it is to get into the debate, we should concentrate on what is within our remit. This committee has a particular interest in the environmental consequences of the tax and if we are going to ask for information it should be on the environmental benefits and how they would filter down to the local communities most affected by aggregate production.

**Helen Eadie:** I support what Cathy Jamieson

said. My experience bears out what Robin Harper said. From seeing some of the aggregates operations and attending a conference of aggregates companies, I think there is an acceptance by the industry that there are environmental benefits to the way the tax is structured. However, as Murray Tosh said, that needs to be weighed against the implications that the Enterprise and Lifelong Learning Committee will consider. It is right that that committee should take up that aspect and that we should get information on whether public perceptions are borne out by evidence that the environmental specialists in the Executive give us.

**Mr Tosh:** Are we seeking such information for our own benefit or, after getting the information, will we respond to the Enterprise and Lifelong Learning Committee? If we are gathering information for interest, with a view to possible pursuit of the issues, we may slow down the progress of the petition.

**The Convener:** I assume that one of the first questions that the Enterprise and Lifelong Learning Committee would ask is what the benefit of the tax is. That is the same question that we are proposing to ask. If the committee agrees, I will talk to the convener of the Enterprise and Lifelong Learning Committee about how the petition will be handled, mention the aspects that we are interested in and report to the committee on what he says. If we go ahead and seek information, we may be duplicating work the Enterprise and Lifelong Learning Committee is doing. We do not want to create more work than necessary and perhaps slow down the progress of the petition. I suggest I discuss it with Alex Neil and report back as soon as possible.

**Robin Harper:** There is no doubt in my mind about the general environmental benefits of the tax in making it far more commercially viable to recycle aggregates. My concern is that when the tax is applied it should have an environmental benefit in the way it is applied to the aggregates industry at present, although we hope it will gradually turn to recycling rather than digging holes in the ground.

**The Convener:** Indeed.

**Fiona McLeod:** With reference to the convener's proposed approach, my approach to petitions when we are not the lead committee is that our role is to ensure that the lead committee is aware of issues that are within our remit—in this case the environmental impact. I suggested that we ask for information to ensure that those issues and that information are part of the debate of the lead committee. I think that is what the convener meant. Is that the general approach of the Transport and the Environment Committee to such issues?

**The Convener:** Generally, our approach is to keep to specific targets within our remit, to ensure that the lead committee is aware of those priorities.

The aggregates tax is an environmental tax, for want of a better phrase. Therefore, there will be early discussions on it in the Enterprise and Lifelong Learning Committee, which will probably start at the same place as this committee. However, the Enterprise and Lifelong Learning Committee will consider different issues, such as the effect of the tax on smaller businesses and rural communities, as well as the various matters that members have raised this morning.

**Fiona McLeod:** We might say to the Social Inclusion, Housing and Voluntary Sector Committee, which is the lead committee for the previous petition that we discussed, that we want to raise an issue about the petition that is important from our committee's point of view. However, if the lead committee responds, "Well, that's not going to be a major consideration," would we decide, as a committee, whether to investigate that petition more fully?

**The Convener:** It would be down to us to decide what to do, although our decision might be based on the petition or on prioritising that element of work within our work programme. It is up to the lead committee to decide what it does with the information provided by other committees. We will have to monitor what it does and decide at a later date whether to take further action, should members of the committee wish to pursue the issue.

**Des McNulty:** On Murray Tosh's initial point, it is important that we do not set up endless communication loops, otherwise we will never deal with business. We have a self-denying ordinance to be careful and to avoid that situation.

**The Convener:** I will report the content of our discussion to the convener of the Enterprise and Lifelong Learning Committee and will try to ascertain the direction in which that committee is to take the petition. I will report back to this committee whether it is appropriate for us to develop our work on the petition or whether the Enterprise and Lifelong Learning Committee will deal with it. Do members agree to proceed on that basis?

*Members indicated agreement.*

**The Convener:** We now come to petition PE 196 from Dundee and Tayside Chamber of Commerce and Industry. The petition calls on the Scottish Parliament to review section 46 of the Town and Country Planning (Scotland) Act 1997, which deals with the power of the First Minister to call in planning applications that have a significant social and/or economic impact on the neighbouring local

authority area. I refer members to the covering note on the petition, paper TE/00/30/14, which outlines the work on the petition undertaken by the Public Petitions Committee and sets out various options for our consideration. I seek members' views on the petition.

**Mr Tosh:** This is an interesting petition. The letter from the Scottish Executive development department planning division, which contains more information about the review of planning policies than the committee has been told about formally in a year and a half, is particularly interesting.

I am not certain whether Dundee City Council and Angus Council have a joint structure plan arrangement, but it is clear that if they do not, they ought to. It is also clear that the Scottish Executive is able to call in and determine any difficult planning application, whatever the cause or source of the difficulty, including matters of dispute between two councils.

As I understand it, this dispute did not reach that stage because Dundee City Council accepted the planning application rather than test the procedure. I am not sure that there is anything in the petition that we can pursue, although we might wish to pursue the broad point about seeking information from the Scottish Executive about the number of representations made to it over a period of time by one council in relation to proposed planning consents by a second council. That would allow us to identify the action that the Scottish Executive has taken. For example, does it generally call in such applications? Deciding not to call in an application would sustain the decision of the relevant planning authority. There might be some professional interest among the planning industry in such information, as there may be a general point to be brought out for the Executive's future practice. Other than that, I cannot see what we can do about this petition.

**Des McNulty:** I may be wrong as I am not an expert on planning, but my understanding is that when a planning application is submitted to two authorities, one takes the lead and gets the fee that is attached to the processing of the application. That will very often have a significant bearing on the authority as the planning fees for large developments can be substantial. Such fees and whether where they go is a significant material consideration in influencing the outcome of the planning process are issues that could be highlighted when the joint arrangements between local authorities for dealing with planning applications are reviewed.

11:00

**The Convener:** Do members have any comments on the fees issue? Although the

petitioners' attention will certainly be drawn to this discussion in the *Official Report*, I am not sure that we should go into the area in any great detail as far as our work load is concerned. We could also draw the Executive's attention to this discussion. I am not sure how we can resolve such an issue with this discussion. Perhaps we should carefully consider that matter. Before I try to summarise and reach some conclusion on this issue, I will let in other members.

**Helen Eadie:** We should not get tied down too much with the fees issue, as the issue centres more on whether the two authorities have submitted conflicting reports. In such a situation, there needs to be some sort of arbitration. In light of that, the committee could choose option B which is to write

"to the Scottish Executive . . . or the Scottish Society of Directors of Planning"—

which would be better—

"asking for their views on the specific suggestion that the authorities be required to undertake additional impact assessment, including whether they agree with the petitioners' assessment that this could be done within existing legislation".

Such feedback might open up the point that Des McNulty made; however, this is a significant issue for authorities with cross-boundary responsibilities.

**Cathy Jamieson:** The Executive's response is unusually full. I would have thought that the committee would want to take any further action on this matter only if other options were not available. Several mechanisms in the system could adequately deal with the issue and I am not sure that our getting involved would add very much to the process.

**Robin Harper:** I am still very much in favour of option B and of at least gathering some more opinions on the subject. It is clear that the petitioners are strongly of the view that enabling powers are not enough. The Executive has said that

"the powers contained in Section 46 of the 1997 Act . . . enable the Scottish Ministers to intervene in the determination of any planning application".

The petitioners are looking for something stronger than "enable".

**Mr Tosh:** Enabling powers are slightly different from what is usually understood by those words. They empower Scottish ministers to call in any planning application under the sun. In practice, it is quite likely that the Scottish Executive would call in a planning application if two local authorities found themselves in serious dispute about a matter that was the responsibility of one council but which had an impact across boundaries.

If the committee wants to pursue a course of

action, perhaps it should ask the Scottish Executive to examine the pattern of potential planning application call-ins that it rejects. In fact, the piece of work would be much broader than that, as we might want to consider when and why the Executive calls in planning applications and whether we are satisfied that it deals adequately with councils' notifications of intention to develop, or developments that they propose to pass that are contrary to the approved local plan. There is a vast category of potential call-ins; the Executive usually calls in 20 to 30 applications a year. For all I know, they are called in randomly or according to a certain geographical spread, and if someone in the reporters unit is sick one year, perhaps not so many are called in.

If we wanted to consider that issue, it would be better for us to carry out an investigation into call-in procedures and how ministers use them. Anything else would mean considering the specifics of this case, which we try not to do. I am not sure that we want to get involved in such an investigation. There may be scope for a few parliamentary questions to tease out how many of these decisions ministers make over a period of time. I may pursue that, out of interest.

**Fiona McLeod:** Option B—to seek information and comment from the relevant professional bodies—would seem to be the best way of proceeding.

**Mr Tosh:** To what end?

**Fiona McLeod:** To ensure that there is nothing at work.

**Mr Tosh:** It is clear from the Executive's report that any of these things can be done under existing legislation. At issue is whether there are a lot of these problems and whether the Scottish Executive should be calling in more cases. If a difficulty is not being picked up, how can we pursue this issue in relation to inter-authority disputes without considering all the other categories of potential call-in? With respect, Fiona McLeod is suggesting that we embark on a vast piece of work.

**The Convener:** There is not much that we can do about the particular instance that has been brought to our attention. The Executive's response is appropriate—it has informed us what powers are available to it, how it uses those powers and how it may use them in the future.

I disagree with Robin Harper's point about enabling powers. They are a very important weapon in the Executive's armoury, as they allow the Executive to do anything it wants with planning applications and to call in any application. The necessary powers exist.

I am not sure whether option B would meet our

needs. If we say that we have a problem with call-ins and how the Scottish Executive deals with individual cases, a much broader investigation will be required. Members may see that as a priority in our work programme, and I would be happy to discuss that, but I am not sure how option B helps us deal with what the petition says about this particular case. If members have particular concerns about issues that can arise out of the planning process, we can conduct a separate investigation of call-ins.

**Des McNulty:** Would it be helpful to say that we have noted the general issue that has been raised through the specific points made in the petition, and that we will consider it in the context of any future investigations that we undertake in the area of planning regulations and planning law? That would mean saying to the petitioner that we cannot deal with the specific issue that they have raised, but that we will take account of it when we consider these matters more generally. That would be a perfectly legitimate response.

**The Convener:** Are you happy with that, Fiona?

**Fiona McLeod** *indicated agreement.*

**The Convener:** Do we agree to proceed on that basis?

**Members** *indicated agreement.*

**The Convener:** Thank you for your co-operation.

The next petition for consideration is PE204, from Dundee Anti Poverty Forum, which calls on the Scottish Parliament to investigate ways in which the investment that is needed to upgrade the water service can be met and whether the burden on low-income households can be reduced by extending council tax benefit to cover water and sewerage charges. The petition is accompanied by committee covering note TE/00/30/16. I suggest that the committee may wish to conclude consideration of the petition by writing to the petitioners to confirm that the committee will shortly undertake an inquiry into water and water services, and that that inquiry will address the affordability of water charges.

**Mr Tosh:** We might also usefully advise the petitioners of the statement that Sam Galbraith made recently, announcing transitional relief, and send them the relevant extract from the edition of the *Official Report* in which it appeared.

**The Convener:** Indeed.

**Helen Eadie:** If my memory serves me correctly, convener, we agreed that the voluntary sector would be represented in our inquiry into the water industry. You may want to mention that in your response to the Dundee Anti Poverty Forum, so that it can feed any points that it wishes to make

into that process.

**The Convener:** The Scottish Council for Voluntary Organisations will give evidence as part of the inquiry.

**Cathy Jamieson:** The problem of the number of people who receive council tax benefit but do not appreciate that the water and sewerage charges are separate and have found themselves in difficulties has recently been brought to my attention by one of the local authorities in my constituency. The question whether the whole process of water and sewerage charges collection should be addressed was raised. I am not arguing that we should investigate that, but it should be noted for the inquiry.

**The Convener:** I think that that will be part of our considerations.

Can we agree to proceed on the basis of the actions that were outlined by Murray Tosh, Helen Eadie and me?

*Members indicated agreement.*

**The Convener:** The next petition is PE225, in the name of Mr William Ackland, and calls on the Scottish Parliament to take steps—including legislation if necessary—to protect the human rights of residents of homes adjacent to quarrying, with regard to vibration, noise and environmental threats.

The petition is accompanied by committee covering note TE/00/30/18, which sets out background information on the petition and possible options for action. The petition and the covering note were circulated to members yesterday, as late papers. Members should bear that in mind in their consideration of the matter.

**Mr Tosh:** This is an interesting petition, which raises a number of issues with which I have great sympathy.

On the specific complaint, questions might usefully be asked somewhere about the decision to grant planning permission for the houses in 1963. It might not be fruitful for us to pursue that. However, I am clear that where, in pursuit of modern environmental standards, a local authority proposes to recondition long-standing planning consents, or indeed to revoke them in part or in whole, the compensation that would arise is likely to be considerably beyond the resources of the local authority.

I suspect that that raises a fundamental issue about people who are adversely affected by mineral workings that do not conform to modern planning standards, in that if they pursue the case with the local authority to have a consent revoked or amended—thereby creating those compensation issues—the local authority, as the

agency that would pay the compensation as well as revoke the planning consent, has a distinct conflict of interest. I suggest that, in normal circumstances, the local authority is likely not to entertain a revocation, simply because it could not afford the compensation. I wonder whether that raises European convention of human rights issues, in that it might be held materially to constrain the ability of people affected by circumstances such as these to obtain what might be seen as a just solution.

I suggest that we pursue the matter with the Scottish Executive, to clarify—as the clerks suggest in their paper—the compensation issues and to ask it to explore the human rights issues associated with the potential conflict of interests for the local authority. There is little we can do about the specific dispute in Dumbarton. There are important issues here about how mineral consents granted immediately after the war, which are still live, are handled. I have come across this before. It is clear that someone's planning consent cannot just be wiped out. It can be done, but proper compensation must be paid. That is at the heart of this: who compensates, in what circumstances and what rights people actually have, as opposed to their theoretical right to seek the amendment of a planning consent.

**Robin Harper:** To add to what Murray Tosh has said, my mailbag suggests that there may be a big problem throughout Scotland in that respect. The matter deserves to be considered in detail.

**The Convener:** If there are no other comments, do we agree to proceed as outlined by Murray Tosh?

*Members indicated agreement.*

**The Convener:** We now come to petition PE249, in the name of Mr Leon PG Cadman-Goodwin, which calls on the Scottish Parliament to seek to resolve with the UK Parliament a means to achieve an immediate stop on excise duty or tax increases on road diesel, to legislate to prevent illegal use of rebated diesel by all types of tractors, and to legislate to ensure that all tractors used on the public highway are subjected to yearly MOT testing.

The petition is accompanied by a committee covering note that contains further information on the issues that are raised by the petitioner and suggested possible actions. I invite members to comment.

**Mr Tosh:** I suggest that we deal with this petition in the same way as we dealt with another, similar, petition—by drawing the reserved matters in it to the attention of the relevant Whitehall department. The report suggests that some issues that the petition deals with are devolved, although the only one that I have identified is policing. The



committee would not want to get into the mechanics of how individual police forces allocate their manpower and other resources. Those decisions must be left to chief constables and the relevant police authorities. With the exception of policing, all the matters that the petition addresses are reserved, so we should treat it as we treated the NFU petition.

**The Convener:** That seems sensible. Thank you. Are we agreed to proceed in that way?

**Members indicated agreement.**

11:15

**The Convener:** Before we move on to the next item on the agenda, I inform members that at next week's meeting we will begin to take evidence for our water inquiry. Do members agree that we should meet in private for a short time at the start of that meeting, to discuss possible areas of questioning?

**Members indicated agreement.**

**The Convener:** At next week's meeting we will also discuss practical arrangements for that inquiry, such as possible candidates for the post of adviser. It would be appropriate for such matters to be discussed in private. Is the committee agreed?

**Members indicated agreement.**

**The Convener:** We now move into private session for the final item on the agenda, which is discussion of our draft report on genetically modified organisms. I thank everyone for their attendance.

11:16

*Meeting continued in private until 11:54.*



Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Wednesday 13 December 2000**

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

#### PRICES AND SUBSCRIPTION RATES

##### DAILY EDITIONS

*Single copies: £5*

*Meetings of the Parliament annual subscriptions: £500*

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

*Single copies: £3.75*

*Special issue price: £5*

*Annual subscriptions: £150.00*

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

**The Stationery Office Bookshop**  
71 Lothian Road  
Edinburgh EH3 9AZ  
0131 228 4181 Fax 0131 622 7017

**The Stationery Office Bookshops at:**  
123 Kingsway, London WC2B 6PQ  
Tel 020 7242 6393 Fax 020 7242 6394  
68-69 Bull Street, Birmingham B4 6AD  
Tel 0121 236 9696 Fax 0121 236 9699  
33 Wine Street, Bristol BS1 2BQ  
Tel 01179 264306 Fax 01179 294515  
9-21 Princess Street, Manchester M60 8AS  
Tel 0161 834 7201 Fax 0161 833 0634  
16 Arthur Street, Belfast BT1 4GD  
Tel 028 9023 8451 Fax 028 9023 5401  
The Stationery Office Oriel Bookshop,  
18-19 High Street, Cardiff CF1 2BZ  
Tel 029 2039 5548 Fax 029 2038 4347

**The Stationery Office Scottish Parliament Documentation**  
Helpline may be able to assist with additional information  
on publications of or about the Scottish Parliament,  
their availability and cost:

**Telephone orders and inquiries**  
**0870 606 5566**

**Fax orders**  
**0870 606 5588**

**The Scottish Parliament Shop**  
George IV Bridge  
EH99 1SP  
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers