



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 13 March 2013



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**LOCAL GOVERNMENT AND REGENERATION COMMITTEE**  
**8<sup>th</sup> Meeting 2013, Session 4**

**CONVENER**

\*Kevin Stewart (Aberdeen Central) (SNP)

**DEPUTY CONVENER**

\*John Wilson (Central Scotland) (SNP)

**COMMITTEE MEMBERS**

\*Stuart McMillan (West Scotland) (SNP)

\*Anne McTaggart (Glasgow) (Lab)

\*Margaret Mitchell (Central Scotland) (Con)

\*John Pentland (Motherwell and Wishaw) (Lab)

\*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Colin Brown (Scottish Government)

Derek Mackay (Minister for Local Government and Planning)

Graham Owenison (Scottish Government)

**CLERK TO THE COMMITTEE**

David Cullum

**LOCATION**

Committee Room 6



## Scottish Parliament

### Local Government and Regeneration Committee

*Wednesday 13 March 2013*

[The Convener *opened the meeting at 10:00*]

### Decision on Taking Business in Private

**The Convener (Kevin Stewart):** Good morning and welcome to the eighth meeting in 2013 of the Local Government and Regeneration Committee. As usual, I ask everyone to ensure that they have switched off their mobile phones and other electronic equipment.

Agenda item 1 is to consider whether to take in private agenda item 9, which is consideration of our work programme. Are we agreed?

**Members** *indicated agreement.*

## Subordinate Legislation

### Non-Domestic Rates (Levying) (Scotland) Amendment Regulations 2013 (SSI 2013/34)

### Non-Domestic Rating (Valuation of Utilities) (Scotland) Amendment Order 2013 (SSI 2013/36)

10:00

**The Convener:** Agenda item 2 is consideration of two negative Scottish statutory instruments. Members will have received the clerk's cover paper on the purpose of the instruments. As the Subordinate Legislation Committee did not have any comments to make on either SSI, do members agree not to make any recommendations on them?

**Members** *indicated agreement.*

### Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations (SSI 2013/37)

**The Convener:** Agenda item 3 is an oral evidence-taking session on a negative instrument. Members will have received the clerk's cover paper setting out the background to the regulations, which the Subordinate Legislation Committee has drawn to the Parliament's attention in relation to the clarity of regulation 6 and proper drafting practices for SSIs. Those comments are set out in annex A in the clerk's paper. Margaret Mitchell has lodged a motion to annul the instrument, and we will consider that after this oral evidence session.

I welcome to the meeting Derek Mackay, the Minister for Local Government and Planning, who is accompanied by Graham Owenson, head of the local government finance unit, and Colin Brown, senior principal legal officer, both with the Scottish Government. Do you wish to make any remarks on the SSI, minister?

**The Minister for Local Government and Planning (Derek Mackay):** I have no remarks on either SSI we will be discussing. I think that they are both straightforward.

**The Convener:** Do you have any comments, Mrs Mitchell?

**Margaret Mitchell (Central Scotland) (Con):** Are we debating my motion to annul?

**The Convener:** No. That comes next.

**Margaret Mitchell:** Then I think that we should just move straight to that, convener.

**The Convener:** Does anyone have any questions for the minister? *[Interruption.]* Minister, the clerk has just informed me that you should address SSI 2013/37.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** It would be particularly useful to hear what, if anything, the officials have to say about the regulations. After all, they cannot make any comments during the debate on the motion to annul.

**Colin Brown (Scottish Government):** Are we still on item 2, convener?

**The Convener:** No, we are on item 3.

Minister, if you want to make a statement and if any of the officials have any comments to make, now is the time to do so.

**Derek Mackay:** I seek clarification, convener. Is item 3 not the motion to annul, in which case I would be responding to Margaret Mitchell's motion?

**The Convener:** Item 4 is on the annulment. Item 3 is an evidence-taking session on the regulations.

**Derek Mackay:** In that case, I will be speaking to rebut a motion to annul. If that is what I am doing, that is what I will proceed with.

**The Convener:** No. Minister, I will suspend the meeting for a couple of minutes to allow the clerk to speak with you.

10:04

*Meeting suspended.*

10:06

*On resuming—*

**The Convener:** I apologise to the masses watching at home. *[Laughter.]* As the deputy convener has pointed out, today is the 13th, which is probably why we are having these glitches.

I call Margaret Mitchell to speak to her motion to annul the Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2013 (SSI 2013/37).

**Margaret Mitchell:** Thank you, convener.

As the committee will be aware, the Scottish Conservatives have consistently opposed the Local Government Finance (Unoccupied Properties etc) (Scotland) Act 2012 and the policies behind it, which these regulations implement. It is the wrong policy at the wrong time, premised as it is on the fundamentally flawed notion that commercial properties are empty through choice rather than as a result of a

fundamental lack of demand and the current economic climate. Furthermore, the Government has presented neither a shred of evidence to suggest that owners of empty properties are intentionally keeping them unoccupied nor any empirical evidence to indicate the number of properties that will be brought back into use because of the cut in relief.

According to the minister, there was no formal consultation on these proposals in the legislation because of

"the scale of the issue."—*[Official Report, Local Government and Regeneration Committee, 30 May 2012; c 1058.]*

However, all the other parts of the legislation were subject to formal consultation, including an aspect that will affect only one council and will cost only £750,000 a year. It beggars belief that a measure that, according to the Government's figures, would impose an £18 million burden on businesses was not formally consulted on and that, despite the Government's own guidelines categorically stating that a business and regulatory impact assessment is required if a proposal imposes "additional cost ... on businesses", such an assessment was not carried out in this case. The minister claimed that carrying out a BRIA would not be proportionate, given the small amount that the relief cut will raise, but he failed to mention that, according to his own guidelines, proportionality is relevant only to the BRIA's content and not to the decision on whether to carry out such an assessment.

The minister has been successful only in uniting business representatives across the board in their justified opposition to this unwarranted additional tax on retail and other business property, from which unoccupied industrial property is exempt. Bizarrely, as a consequence—and as the Scottish business ratepayers group has highlighted—internet retailers who are in direct competition with the retail sector on the high street and who are often located in industrial or warehouse space will be exempt from the reduced rate of tax relief regarding their unoccupied property. That is clearly an inconsistency in this poorly thought out policy, which disadvantages the non-industrial business sector.

By introducing an exemption for newly built properties in the regulations, the Government has admitted that the bill, as it was passed, would have harmed the very kind of speculative development that our economy needs to get growing. If the minister had listened to the Scottish Conservatives and accepted the amendment that I lodged at stages 2 and 3, which would have secured such an exemption in the bill, a great deal of uncertainty and negative messages over speculative development could have been avoided.

On that basis and for the reasons that I have given, I urge the committee to support the motion to annul the regulations and I move the motion in my name.

**The Convener:** You should move the motion when we get to agenda item 4, Mrs Mitchell.

**Stewart Stevenson:** The Conservative position is well understood and has been rehearsed on a number of occasions. However, it misses some rather important points that run counter to what the Conservatives would traditionally suggest that they stand for.

We have just heard reference made to the lack of demand for premises. The regulations and the primary legislation promote demand by creating an environment in which there is an incentive to businesses to price to let, so as to get money from lets at a level that is sustainable in the current market rather than have property sitting empty. Far from being anti-business, that is a pro-business proposition.

Margaret Mitchell said that the issue had united business, but that is far from the case. Many businesses are finding the rental price for properties sufficiently high that they are unable to progress. Businesses that will benefit from an increase in the supply of property to the market at an affordable price are unlikely to feel that we should not proceed with the measure. Margaret Mitchell also said that the economy needs speculative activity. It is time to promote a bit more activity among the landlords and owners of unlet premises to price accordingly in order to get the economy moving. That is precisely what can be achieved through the measure.

The Conservatives, as a party that suggests that it is fiscally responsible—although I would not necessarily concur—must identify where the £18 million that might come to the Government from the measure, which is voluntary in the sense that it can be avoided if a landlord lets their premises, might otherwise be found in the Government's books.

Having listened to the arguments and in anticipation of what the minister has to say, I think that it is entirely appropriate that we continue to support this much-needed change.

**Derek Mackay:** I have been waiting keenly for this moment. I rebut Margaret Mitchell's motion to annul the SSI. The purpose of the instrument is to vary rates relief on empty properties by regulation, an intention that was set out during the spending review in 2011. I acknowledge that Ms Mitchell has been critical of the policy from the outset. There has indeed been consistency, but it has been consistently inconsistent with what the Conservatives have done in office.

In these challenging economic times, it is important that we ensure that business rates relief maximises opportunity and allows Scotland to retain its position as the most supportive business environment anywhere in the United Kingdom. We also need to maximise the effectiveness of the £560 million-worth of annual rates relief that we provide to businesses and ensure that we continue to provide the right incentives to support the economic recovery that we need.

10:15

The regulations will create two new rates relief schemes, which I announced after listening to stakeholders. The first is the fresh start initiative, which applies where a property has been empty for more than 12 months and then becomes occupied. As an incentive to support the diversification of our town centres, properties with a rateable value of under £45,000 that were previously occupied as a shop or office, or where there has been no previous use, will be eligible for rates relief on their new use as a shop or office. For the first year of occupancy, the new occupier can apply for a 50 per cent reduction in the rates that are payable, capped by state aid de minimis rules. The Welsh Government announced on 5 March that it will introduce a similar scheme.

The second relief scheme is the new start initiative, which will apply when a new property is first entered in the valuation roll on or after 1 April 2013. The ratepayer can apply for 100 per cent rates relief for up to 18 months while the property is unoccupied, capped by state aid de minimis rules. The relief scheme will run for three years and is being introduced six months ahead of the UK Government's planned equivalent. Its aim—which has been welcomed by the Scottish Property Federation—is to continue to encourage speculative development.

We remain focused on maintaining Scotland's position as the most competitive environment for business by offering a significantly more generous relief package than is offered elsewhere in the UK. We are still protecting industrial and listed properties from the reforms to empty property relief. Despite the UK Government funding cuts, the relief package is worth more than £0.5 billion a year.

To support our businesses and high streets further through our empty property relief reforms, we launched a review of our town centres. We all acknowledge that the role of town centres is changing and evolving, which is having a visible impact on businesses and communities throughout the country. A key challenge for us all is to ensure that we support the process of change that is required to help to turn around the fortunes of our town centres.

We all share the objective of seeing town centres return to being viable centres for employment and services for local communities, and a focus for entrepreneurial and civic activity. We have already signalled our support for the work of the review by announcing a £2 million fund that is aimed at promoting our town centres as attractive places not only to work or visit but to live. A report from the town centre review, on a trial of the conversion of offices and shops to residential properties, is due in April.

Margaret Mitchell is attempting to annul not only the reform of empty property relief, but the fresh start and new start relief schemes, which are a direct outcome of stakeholder engagement. With regard to the points that have been made about demolition and speculative development, and the Tory view of industrial properties, we have learned from the evidence on what happened to such properties in England, which is why the exemption continues in Scotland.

The point about demolition refers specifically to the experience with industrial properties, and I question why Margaret Mitchell would not want such properties to continue to be exempt. We believe that we have addressed the points about speculative development through our new start relief.

We must be able to adapt to changing circumstances, which is why the new act is helpful, and we are able to return to the regulations. We are committed to a review and on-going monitoring of the policy. In recognising that the high street is under pressure, I question the Conservatives' point of view. Why is it fair to make it cheaper to close a property on the high street than to keep it open and trading? How exactly would that help the high street?

For all those reasons, I urge the committee to reject Margaret Mitchell's motion to annul the regulations.

**The Convener:** Thank you. Are there any questions for the minister?

**John Pentland (Motherwell and Wishaw) (Lab):** I have not so much a question, but more of a statement.

**The Convener:** We will have the opportunity to debate under the next agenda item, so perhaps we can just stick to questions at the moment. I know that we have been a little bit here and there this morning, but it is probably best that we proceed in that way.

If there are no questions for the minister, we move to item 4, which is the debate on the motion to annul the Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2013 (SSI 2013/37), on which we have just taken

evidence. I know that members want to speak in the debate. Mr Pentland can go first.

**John Pentland:** The minister will be aware that, in the past, we in the Labour Party have agreed in principle that something must be done about unoccupied properties. The instrument will probably go through but, for the record, we believe that, rather than act as an incentive, it could result in the problem of further unoccupied properties. We do not have confidence that the instrument will achieve its objective, because we do not believe that the work has been done to back it up. No BRIA or any other impact assessment has been carried out. We believe that the measure could be counterproductive.

**The Convener:** I ask Margaret Mitchell to speak to motion S4M-05785.

**Margaret Mitchell:** Stewart Stevenson asserts that the rates relief cut would create an environment in which there is an incentive to price to let, which shows just how out of touch he and the Scottish National Party Government are. Does he not realise that that is already in place and that people are cutting rates and rental incomes to the bone in an effort to rent out property?

The minister heralded two measures: the fresh start initiative and the speculative development exemption on newly built properties, which should have been included during the passage of the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill, but which the Government rejected for no good reason. It seems to me that the Government has had time to reflect and has come back with those measures. They amount to no more than sticking plasters on what is a fundamentally flawed act and policy, the only consequence of which will be to deeply damage business growth and economic development.

Throughout the debate, there has been the assertion that the policy will bring business properties back into use. We have heard that claim time and again without any evidence to support it. Perhaps when the minister replies, he could give us an indication of how many properties will be brought back into use and how much of the projected £18 million of possible income will actually be collected.

The minister, either deliberately or through a fundamental misunderstanding of the rates that are currently due on unoccupied property, has continued to present the policy as one that will ensure that landlords pay rates for vacant properties, rather than let those properties go empty at no cost. However, landlords already pay 50 per cent on vacant properties, which is once again proof positive that this rates relief reduction tax is not an incentive, as the minister has



repeatedly claimed, but an extended penalty on already hard-pressed businesses.

By contrast, the evidence in the sector is that landlords are doing all that they can to cut rents, and I hope that Stewart Stevenson is listening keenly at this point. The Scottish Property Federation listed examples of property owners cutting rents by up to half, just to get the properties let out. That is hardly the behaviour of absentee or disinterested landlords.

The policy will add a further burden to businesses and property owners at a time when many are already struggling, without the most basic evidence to support the minister's claim that it will bring empty properties back into use or provide an incentive to do so. For that reason, I cannot support the regulations.

I move,

That the Local Government and Regeneration Committee recommends that the Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2013 (SSI/2013/37) be annulled.

**The Convener:** Minister, do you wish to respond?

**Derek Mackay:** Nobody likes paying more taxes—nobody likes paying taxes and, certainly, nobody likes paying more, and I am not surprised that some groups have expressed that opinion.

It is important to get the policy right, which is why there has been a continuing process of engagement beyond a business and regulatory impact assessment. If members are familiar with BRIAs, they will know what they involve. The Government can evidence how we have gone beyond the expectations of a BRIA in assessing the impact of the policy and in addressing the formulation of policy through the regulations that are before us and through our proposals to maximise their effect.

We have looked at all the available evidence. We should bear it in mind that the policy on empty property rates relief began under the Labour Party and was emulated by the Conservatives and Liberal Democrats in England. We have closely studied the UK Government's command paper, to which I assume Margaret Mitchell objects. We closely studied the view of the Royal Institution of Chartered Surveyors on the matter and we listened carefully to the evidence from the Scottish Property Federation, the Confederation of British Industry and other organisations before coming to the conclusion that there were things that we could do to make the policy better. That amounted to the new start and fresh start initiatives, which address some of the concerns that have been raised.

We must balance the books. The silence during the budget debate was deafening as regards what

our counterparts in other parties would do to balance the books. To return to Mr Stevenson's point, I did not hear about any substitute finance for the £18 million that we think we will realise through this budget saving. The cost of the relief will still be more than £700 million over a spending review period, and the total rates relief per year is now more than £500 million. People appreciate the rates relief, although we are posing the question on that in our rates consultation to ensure that we get it right.

We have responded appropriately, and I believe that the regulations provide a cost-saving measure and a genuine incentive to bring empty properties that blight our communities back into use. Although that might not be universally popular among the folk who pay the taxes, it has certainly been far more popular among the local communities throughout Scotland that want something done about empty premises on their high streets.

I again make the point that, in office, the Conservatives have continued with the policy. The regulations will add the necessary ingredient as part of the regeneration of our country.

**Margaret Mitchell:** I am afraid that the minister has reeled out the same tired old assertion without any substance to back it. Let us be in no doubt that empty properties are already taxed and that the regulations impose an additional penalty on business. No ifs, no buts—it is a fact. I find it astounding that the minister has looked to what is happening in England—where, incidentally, the Government is reviewing the policy, with good reason—and says that we must follow the same line. I wonder why on earth he advocates independence for Scotland.

The Scottish Government's policy is fundamentally flawed and will damage business. The fact that no consultation has taken place and no BRIA has been carried out speaks volumes, and measures are having to be taken in the background to try to make the policy palatable or even workable. For all those reasons, I cannot support the regulations.

**The Convener:** The question is, that motion S4M-05785 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

McTaggart, Anne (Glasgow) (Lab)  
Mitchell, Margaret (Central Scotland) (Con)  
Pentland, John (Motherwell and Wishaw) (Lab)

**Against**

McMillan, Stuart (West Scotland) (SNP)  
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)

Stewart, Kevin (Aberdeen Central) (SNP)  
Wilson, John (Central Scotland) (SNP)

**The Convener:** The result of the division is: For 3, Against 4, Abstentions 0.

*Motion disagreed to.*

### **Valuation (Postponement of Revaluation) (Scotland) Order 2013 [Draft]**

**The Convener:** Item 5 is oral evidence on a draft affirmative instrument. Members have a cover paper from the clerk, setting out the background to the instrument. The Subordinate Legislation Committee did not raise any points on the draft order.

10:30

**Derek Mackay:** Thank you, convener.

The purpose of this affirmative instrument is to postpone the next business rates revaluation until 2017. As members will know, the UK Government announced last October that it would delay the next revaluation in England from 2015 to 2017. That decision created a set of circumstances that could have undermined our continued commitment to match the English poundage rate. The business community has—rightly—wanted the uncertainty to be removed.

If the average rateable values of properties in Scotland fell as a result of our proceeding with our own revaluation in 2015, the poundage would have had to be increased above the English rate to maintain the same income necessary to deliver the services on which businesses rely. For seven consecutive years, the previous Administration set the poundage in Scotland higher than that in England, putting all ratepayers in Scotland at a significant competitive disadvantage.

Although I also acknowledge the petition that has been submitted to Parliament by Colliers International to have the decision overturned, I feel that it misses the point. Holding the next revaluation in 2015 will, as I have said, put businesses in Scotland at a competitive disadvantage, as it would mean having to raise the poundage rate above that set in England. We are not prepared to do that.

For many businesses, a revaluation would be a zero-sum game. Having discussed the issue with stakeholders, we think that there is an impression that everyone would be a winner, but that is not the case and ministers have fully considered the policy implications. To achieve the Scottish Government's policy of ensuring that the poundage rate in Scotland does not rise above the English rate during the lifetime of the 2011 to 2016 session of Parliament, we will hold the next revaluation in 2017. In short, therefore, the result

of the order will be that the next Scottish revaluation will come into effect on 1 April 2017, allowing us to set in Scotland the same poundage rate as that in England.

We have chosen to use the time productively to conduct a thorough and comprehensive review of the rating system, beginning with our consultation paper on business rates, "Supporting Business—Promoting Growth". That consultation sought views from all business ratepayers on two main areas: how the rating and valuation appeals system can support businesses and sustain sustainable economic growth; and how to improve transparency and streamline the operation of the rating system, including the appeals process, while still raising revenue to deliver the services on which businesses rely.

The consultation closed on 22 February and, following the independent analysis of all responses, a report will be published in due course. Any change to the rating system that results from the consultation will be put in place in time for the next revaluation, but any affordable early actions that are identified can be implemented much sooner.

I am happy to answer the committee's questions.

**The Convener:** Thank you, minister. I remind members that this is a question-and-answer session, after which we will have the debate on the motion.

**Stewart Stevenson:** I have a couple of questions about the review of the rating system that can be conducted in the space created by the order's postponement of the revaluation.

First, I do not have any evidence so I am uncertain what lies beneath these comments but, according to many smaller town centre retailers, supermarkets game the system by buying properties in town centres and then letting them out for a high rental in an attempt to influence prevailing rentals and, through that artificial inflation of town centre rentals, to shift out-of-town ratings in their favour. As I have said, I have no evidence that I can point to, but I would be interested to hear your views on that.

Secondly, should we look again at businesses in which there is a significant link between rateable value and turnover? If turnover is going to be the paramount determinant of rateable value for some businesses, should such an approach not be taken to all businesses? After all, it might level the playing field for both town centre businesses and very large out-of-town businesses.

I wonder whether creating the space by postponing the revaluation would allow us to consider those and other issues.

**Derek Mackay:** The short answer to that is yes: postponement would give us time to consider more fully all those matters and a number of questions that we have posed in the consultation paper.

On tactics, I have no evidence that I could confidently present to the committee today on how supermarkets deploy either their planning strategy or their rental strategy, although I may have some views on that. However, it goes to the nub of the issue regarding rates revaluation.

For people to assume that everyone would be a winner if revaluation went ahead is wrong; there will be winners and losers in any revaluation. There will be an interesting geographic spread, and even within geographical areas there will be winners and losers based on who is sited where. There is no question but that high streets across the country are suffering and that out-of-town sites have generally fared better. However, even to say that one sector—the supermarket or smaller retail sector—would be better off with a revaluation is not necessarily true. I would not want to comment further on tactics.

On turnover, business rates are a property tax rather than a profit tax. Some people confuse the two. It is still our proposition that non-domestic rates continue to be based on the value and rental as a property tax, not a turnover or profit tax. Nevertheless, members have raised some interesting considerations in relation to that.

**Stewart Stevenson:** The minister will be aware that many rentals that are operated in the commercial sector are tied to the turnover of business, so there is no absolute disconnect between the turnover of the business and the rental that is established in a commercial environment. Is it not proper that we should at least consider—albeit that we do not necessarily yet have the evidence—whether there should be a similar component in the taxation system in determining what the rateable value should be?

**Derek Mackay:** I understand your point. You are absolutely right that rateable values are driven by rents, which are driven by turnover in many respects on the basis of the profitability of businesses. Therefore, there is a linkage. The valuers assess not the value of the turnover but the value of the property, although turnover is, as you say, an indicator and a factor within that.

I will give you an example. At the moment there is some discretion so that, if there is a change of circumstances in a place, the local authority valuer can amend the assessment and give some relief to those who have been impacted through that change of circumstances. That change might be tied to turnover or profitability issues outwith the control of the tenant or the ratepayer.

It is a complex area. Your fundamental question was whether there is scope to look at the issue. There is, but our proposition is to continue with a property-based tax.

**Margaret Mitchell:** The Cabinet Secretary for Finance, Employment and Sustainable Growth, John Swinney, announced the decision to postpone business rates revaluation from 2015 to 2017 on 27 November last year. Can the minister tell us what consultation took place prior to that announcement?

**Derek Mackay:** Because of the other issues around business rates, the cabinet secretary would, like me, have been discussing with a range of stakeholders what the options were. There was no formal consultation, but a BRIA has been conducted—as best we could conduct a BRIA in the circumstances—to arrive at this recommendation and action today, which is what members asked for.

**Margaret Mitchell:** I point out to the minister that, when I asked the cabinet secretary about the consultation that had taken place prior to his announcement, he could not name a single organisation that the Government had consulted. Can you do that today, minister?

**Derek Mackay:** I say to you again that there was no formal consultation on the matter. That is an issue for Government. The partial BRIA that we have conducted has informed this morning's debate.

I also guarantee that the matter would have come up in conversations relating to rates. People would have been asking ministers and the cabinet secretary what was likely to happen in Scotland as a consequence of the decision in England. The Welsh Administration has made the same decision as we have. I guarantee that the matter would have come up in the conversation that ministers have had with stakeholders over the past number of months.

**Margaret Mitchell:** So that is a no—no organisation or business was formally consulted prior to the decision being made.

**Stuart McMillan (West Scotland) (SNP):** Good morning, minister. Can you give any indication of what the financial burden on businesses would be if the revaluation was not postponed?

**Derek Mackay:** Given that we aspire to keep our manifesto commitment to maintain poundage at the same level as it is in England, which is well worth doing, we estimate that the cost of non-domestic rates would potentially have had to increase by around 20 per cent.

**The Convener:** If Mr Owenson wants to come in at this point, that would be appropriate.

**Graham Owenson (Scottish Government):**

There is no exact answer, because there can be no certainty until the revaluation is carried out. However, when England announced its postponement of the revaluation, estimates suggested that values would have gone down by approximately 23 to 25 per cent. If that had been the case, there would have been a corresponding increase in poundage to maintain the same level of income, although there would have been differing impacts on individual businesses. Unless we undertake the revaluation, there is no definitive answer to that question.

**Stuart McMillan:** But it is fair to assume that there would have been an additional cost burden on Scottish businesses.

**Derek Mackay:** Yes. If the revaluation had gone ahead and values had reduced as a result, there would have been a direct increase in rates for some businesses in order to maintain the poundage level. However, we cannot say for certain which sectors or which businesses would have been affected, because that is all based on the revaluation. The postponement gives us certainty in that regard.

**Stuart McMillan:** Sure.

**Margaret Mitchell:** Putting aside speculation about what may have happened as a result of a revaluation that has not taken place and will now be postponed, is it not the case that, as a direct consequence of the postponement, businesses throughout Scotland will continue to pay good-time rates until 2017 despite having to trade throughout the current recession and some of the most challenging economic times and conditions imaginable? That is the reality resulting from the postponement.

**Derek Mackay:** Of course, the same applies in England and now in Wales. Margaret Mitchell may want to argue again for Scottish independence, and I am sympathetic to that. I am also sympathetic to the Scottish Government having a range of financial levers so that it can act independently in other ways rather than simply through non-domestic rates.

We have the most generous relief package in the United Kingdom, which is helping many businesses to sustain their operations in difficult times. The small business bonus scheme, for example, has been a great relief for the high streets, as many businesses pay nothing and many more pay discounted rates.

**Margaret Mitchell:** I find the minister's obsession with what is going on in England absolutely fascinating, considering that he is supposed to be standing for an independent Scotland, but that is up to him.

The minister will be aware that transitional relief is in place south of the border to compensate for the potential impact on businesses from the revaluation by limiting increases and decreases and taking cognisance of individual circumstances. Will the minister put in place transitional relief in Scotland, now that he has just been whispered to by his official?

**Derek Mackay:** I want to clarify that there cannot be transitional relief if there is no transition, and there is no transition if there is no revaluation. It is very straightforward, as we are not undertaking the revaluation.

**Margaret Mitchell:** The transition came in 2010 at the previous revaluation, so the relief has been in place but we have not had it here. Will the minister put in place transitional rates relief now that he is extending the revaluation postponement to 2017? It seems completely fair that we recognise the new circumstances.

**Derek Mackay:** If Margaret Mitchell is familiar with transitional relief, she will know that it takes effect when there has been a change to the rateable value. There is no revaluation and therefore such relief is not required. It is debatable whether it would actually help certain businesses that may face a different set of circumstances.

10:45

Margaret Mitchell makes the assumption that every business would be a winner and that every business will pay a smaller rates bill as a consequence of revaluation, but that is absolutely not the case. The picture will be different from sector to sector and, for the reasons that I gave earlier, it will even be different in different parts of the country. For many businesses, it will be a zero-sum game, as what they gain through revaluation will be lost through an increased poundage rate. I have not heard Margaret Mitchell object to trying to give Scotland that competitive advantage.

My aim in keeping a very close eye on what happens in other parts of the United Kingdom is—just as with the planning system—to ensure that Scotland is at a competitive advantage. The poundage, the rates relief and the general environment that we create for business in Scotland put us in a very good place. In relation to this policy area, we are able to do better than other parts of the UK because of our comprehensive package of support.

**John Pentland:** Like Margaret Mitchell, I sometimes wonder whether the Scottish Government really wants independence. Whenever there is an opportunity for a decision to be made, it is put aside and the Government refers to our brothers in England. This issue is a

very good example of that: the Government is frightened to make its own decision.

I have two questions to ask the minister. First, do we have any guarantee that the revaluation will not be postponed further? Secondly, what projections have been assumed for future property values?

**Derek Mackay:** Unless the Government becomes a self-perpetuating oligarchy, I cannot predict any future Government minister—or indeed Government—ruling out a postponement in the future. I have set out our intention for the period that we are in office, which is to put Scotland at a competitive advantage, to make this a great place in which to do business, to postpone the revaluation and to do it within the timeframe that I have set out. There is no reason why it cannot be done in that timeframe.

I disagree with your comment that, whenever there is a difficult decision to be made, we follow Westminster. The Labour Party in Wales is making exactly the same decision on revaluation. Why is that the case? We set out in our manifesto our aspirations to make Scotland a good place to do business and not to allow the Scottish poundage rate to be higher than that which is set in England, and we must see what is happening in England to make that policy take effect. That is why our actions have followed what has happened in England. Wales has done the same—Northern Ireland's circumstances are completely different.

We want access to all the levers of financial control and access to our resources, as Scotland generates more than is spent here. Many opportunities would come with independence, but I would argue that it is worth keeping an eye on what our counterparts in other Administrations are doing so that we can do a wee bit better than them. I am confident in both the timescale that we have set out and the justifications that we have given for making this decision. So far, I have not heard any member—either in the chamber or in the committee—come up with an alternative suggestion that would be good for business.

**Anne McTaggart (Glasgow) (Lab):** Minister, how would you react to the possibility that these measures would penalise family and small businesses that acquired property in better economic circumstances only to see the value reduce significantly post-2008 and which feel not only that they could be forced to sell their property as a result of the loss through the revaluation but, in many circumstances, that they could be forced into a position of negative equity?

**Derek Mackay:** That is an excellent question and I will respond in kind.

Anne McTaggart gives the example of a small family business in a local town. That small family

business is likely to be paying no rates whatsoever now, so revaluation would possibly mean no change for it. Depending on the value of the property, that business may well be receiving the small business bonus, which has supported a great number of businesses. Two in five premises have seen their rates removed or reduced.

The number of businesses that have benefited from the small business bonus has been increasing across the country year on year. According to the current estimate, that particular relief costs £145 million for the year 2012-13. That is £145 million of support for the kind of small businesses that Anne McTaggart eloquently characterised in her scenario. Over the spending period, the relief amounts to £711 million—an invaluable relief that is supported by, for example, the Federation of Small Businesses. Even after amendment, it is still not quite as costly as the empty property rates relief that we were debating just moments ago.

In addition to the invaluable relief for small businesses, a range of work is going on in partnership with local government on the regeneration of town centres and on the question in the on-going rates review of potentially giving local authorities discretion in that area. Anne McTaggart was formerly a member of Glasgow City Council, which has a particular package for supporting what are almost mini enterprise zones, whether that is a high street, a property or an area.

To be generous, I should say that good work is going on in England, where there is some legal flexibility for local authorities to determine where to give extra support through rates relief. We are probing that in our current consultation. Over and above what we give right now to support businesses in town centres and small businesses, we are looking at the prospect of giving greater flexibility and further discretion to local authorities on rates relief—as long as they are willing to pay for it, of course—for the creation of mini enterprise zones, which might be a property, a street or a community.

I am confident that the package of support that we provide is adequate—it is more generous than that in any other part of the United Kingdom—but we are looking at how we can do more. I hope that that answers the member's question.

**Stewart Stevenson:** I want to make just a quick point in relation to transitional relief. I wonder whether the minister can confirm that, in relation to the previous revaluation and any future one, those having their increases in payments moderated by transitional relief would find that it was paid for by postponement for those who would benefit from a reduction in their rates and that it is a net-sum game; and that just as there may have been businesses in the previous revaluation that wanted

the introduction of transitional rates relief because they might benefit from postponement of extra costs, there were large numbers of businesses that were desperate to ensure that they got a reduction in the taxation that they were paying at the earliest possible opportunity.

**Derek Mackay:** That is absolutely correct.

**Margaret Mitchell:** I have two brief points. First, surely the minister must accept that the rates review consultation is less than effective, to say the least, given that the bombshell decision to postpone the revaluation came as a fait accompli right in the middle of the consultation, with no prior consultation of any businesses or organisations.

Secondly, will the minister confirm that by postponing the revaluation, the majority of businesses—I do not think that I referred anywhere to all businesses—are now paying rates determined by much more favourable market conditions that no longer exist and that therefore those rates are often no longer affordable for the businesses? That being the case, I wonder where that leaves the Scottish Government's rhetoric on its governing principle of taxation, given that the cabinet secretary told the Parliament that the burden of taxation is to be proportionate to the ability to pay.

**Stewart Stevenson:** Will the member take an intervention?

**The Convener:** I will let you in later. It is now for the minister to respond.

**Derek Mackay:** My first response is that for an earlier item on the agenda I was told that the BRIA was the be-all and end-all of consultation with the private sector on policy matters, but now I am being told that a partial BRIA that is the best that we can do is not good enough for engagement with the private sector—that is completely contrary to what I heard earlier. The reason why we cannot have a full BRIA, of course, is because we cannot assess the full impact, which would need a revaluation. However, the order's purpose is, for the reasons that I have given, not to have the revaluation.

Margaret Mitchell made a point about our policy choices. I think that other parts of the United Kingdom look very jealously at our economic recovery plan and economic policies, but we could do more if we had all the powers to maximise the opportunities to build economic recovery in this country, rather than do what the UK chancellor is doing, which is to stagnate economic recovery.

The clear commitment that we have made on the poundage was never delivered by our predecessors, but it is being delivered by our action on the order today—and it has been delivered over the past number of years by

matching Scotland's poundage rate to the rate in England so that Scotland retains a competitive advantage.

On the member's reference to there being no business support for our policy, I refer her to the comments of the CBI. It is hardly the closest ally of the Scottish Government, but it said that we are doing the right thing, given the limitations that we face.

**Margaret Mitchell:** Will you just answer the question, minister? Will you confirm that businesses are stuck with good-times rates when the good times no longer exist?

**Derek Mackay:** I think that you asked me a number of questions, and I have been able to go over all of them.

**Margaret Mitchell:** Will you address the fundamental question that I asked?

**Derek Mackay:** Again, you make the fundamentally wrong assumption that every business and every property in every area would benefit—

**Margaret Mitchell:** I have already said that that is not the case.

**The Convener:** Give the minister the opportunity to respond, please, Mrs Mitchell.

**Derek Mackay:** The assumption has been made that every business would benefit from a rates revaluation. The fundamental proposition that it was good times for everyone before and that it is bad times for everyone now is not accurate. I will be candid that, for some, we will never know what they might have paid, because we are not having the revaluation. Of course, revaluation would have meant a different rates bill for some, but you cannot make the universal charge that Margaret Mitchell has.

**Margaret Mitchell:** I think that you are making it up now, minister.

**Stewart Stevenson:** Can the minister confirm that the amount that an individual business pays as a proportion of the overall amount raised from business rates is determined by the proportion of the overall valuation of properties across Scotland that its property represents, and that the only way to reduce the tax take for all businesses is to reduce uniform business rates? The rateable value itself is utterly irrelevant; it is only relevant for businesses relative to other businesses, and for every winner there will always be a loser, unless the uniform business rate level is reduced altogether.

**Derek Mackay:** That is exactly why I focus on the poundage. That is the formula that determines how much people pay in a bill to the local authority. That money then comes to the Scottish

Government, and we then give the resources back to the local authorities.

**The Convener:** Minister, you mentioned at the outset that there may be quite large geographical differences. If the revaluation went ahead, could it stymie economic growth in certain areas of the country?

**Derek Mackay:** That really would be speculating, and I would not want to do that. I am indicating that economies and recoveries have different strengths across the country. For example, there is a completely different experience in your constituency in Aberdeen, sector by sector and area by area, compared with the experience in parts of the central belt. Different pressures are being experienced. For some areas that are enjoying a stronger economic recovery, that may well have meant higher rateable values, higher rates bills and bigger tax bills to the point that that could possibly discourage growth.

**The Convener:** Just to clarify, there are always winners and losers with revaluation. Will you comment on what happened with the previous revaluation? Do officials have information about that?

**Graham Owenson:** I do not have the exact statistics, but my memory of what happened, particularly in relation to the decision not to have a transitional relief scheme, is that if we had had a transitional relief scheme the balance would have favoured the public sector at the expense of the private sector. For that reason, the Government decided that it was not prepared to do that.

**The Convener:** That is very useful. I thank you both for your evidence.

Agenda item 6 is the debate on motion S4M-05883, to approve the draft Valuation (Postponement of Revaluation) (Scotland) Order 2013, on which we have just taken oral evidence. Do any members wish to speak in the debate?

**Margaret Mitchell:** I think that we have debated the order quite fully.

**The Convener:** In that case, I ask the minister to move the motion.

*Motion moved,*

That the Local Government and Regeneration Committee recommends that the Valuation (Postponement of Revaluation) (Scotland) Order 2013 [draft] be approved.—[*Derek Mackay.*]

**The Convener:** The question is, that motion S4M-05883, in the name of Derek Mackay, be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

## For

McMillan, Stuart (West Scotland) (SNP)  
McTaggart, Anne (Glasgow) (Lab)  
Pentland, John (Motherwell and Wishaw) (Lab)  
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
Stewart, Kevin (Aberdeen Central) (SNP)  
Wilson, John (Central Scotland) (SNP)

## Against

Mitchell, Margaret (Central Scotland) (Con)

**The Convener:** The result of the division is: For 6, Against 1, Abstentions 0.

*Motion agreed to.*

**The Convener:** I thank the minister and the officials for their evidence. I suspend the meeting for a few minutes to allow them to leave.

11:00

*Meeting suspended.*

11:02

*On resuming—*

## Local Government Elections 2012

**The Convener:** Agenda item 7 is an update from our committee reporters on the work that they are doing on Scottish local elections.

**John Wilson (Central Scotland) (SNP):** I have an update from Anne McTaggart and myself, who are the committee reporters carrying out the brief inquiry. I remind members that the committee set the inquiry's remit. We are to look at Scottish local authority elections and investigate eight key issues: voter turnout and how it can be increased; voter registration and how it can be increased; proxy voting, including postal voting and signature verification; the terminology used in and around elections; reasons why people do not vote; Robson rotation and the ordering of the ballot paper; diversity among voters and elected representatives, including any matters associated with the eligibility to stand, donations and the nomination process; and the timing of future elections, with a view to minimising clashes.

We have to report by Easter 2013 to the committee about any areas on which we consider that further action will be needed; the committee will hear later about action that we need the committee to take in relation to that date.

Initially, we asked the bodies that gave the committee formal evidence last year to come and update us. A call for evidence was issued on 25 January and we wrote to all local authorities, all political parties and all who gave evidence to the committee. The call for evidence was put on the website. The closing date for the receipt of evidence was 1 March. To date, we have received 15 submissions. The Scottish Government wrote to the convener on 5 March to say that it would not make a submission in response to the call for evidence but that it is interested in our findings and will respond to any points that are raised in our report.

We heard evidence from Scottish Government officials on 6 March and are due to take evidence from the Electoral Commission tomorrow—Thursday 14 March—and from Dr Clark on 28 March. Unfortunately, a meeting with the Electoral Management Board for Scotland had to be cancelled, but it has been rearranged for 2 May. Having reviewed the written evidence, we are also keen to hear from Dr Gilmour and we hope to do so on 18 April.

It has become clear that we will be unable to fulfil our remit in the original time allowed, so we ask the committee for an extension to complete our work and write our report. We suggest that the

end of May would be a more appropriate date and would allow us adequate time to hear evidence and consider our report.

**The Convener:** Thank you, John. Anne, do you have anything to add to that report?

**Anne McTaggart:** We have kick-started the work and it all looks good. We are looking at various models and taking lots of different evidence, so it is all very interesting. It would be advantageous if the committee extended our time to allow us to bring back a full report.

**The Convener:** Do committee members have any questions for the reporters?

**Stuart McMillan:** When we wrote to the local authorities, did we ask any specific questions about local authorities in which independent councillors were elected? You said that you wrote to each political party, which was certainly the right thing to do, but is there any way of getting feedback from councillors who are not politically aligned?

**John Wilson:** We have received feedback from a number of local authorities, which tend to refer us to the EMB report that was presented after last year's elections. We have received individual submissions, and I believe that one or two of them are from independent councillors, but they are leaders of authorities who are responding to the issues.

Until last week, we had received no feedback from political parties, but we have asked the clerks to write to them for responses to help us with our deliberations on the issues around local government elections.

**Stuart McMillan:** Do you mean all political parties that are represented or all that stood in last year's elections?

**John Wilson:** The call for evidence went out to local authorities. I understand Mr McMillan's concern because, when a committee writes to a local authority, the correspondence tends to go to the chief executive or the leader of the administration, without any reference to individual elected members. We will write to David Parker as a representative of the independents in the Convention of Scottish Local Authorities.

**The Convener:** Does the committee agree to amend the inquiry timetable and allow until the end of May for the work, which will allow the reporters to report to the committee on the local government election issues that they are examining?

**Members indicated agreement.**



## Petition

### Use of Productive Land (PE1433)

11:09

**The Convener:** Agenda item 8 is consideration of our approach to public petition PE1433, in the name of John Hancox, on productive land for landless Scots to grow their own food. We have a paper from the clerk that sets out the background to the petition. Do members have any comments?

**Stewart Stevenson:** The petition is interesting and the clerk's paper helpfully delineates the underlying issues. I am interested to hear others' views on the subject, but the issue might first and most usefully be considered under the broad remit of the land reform review group, which is led by Dr Alison Elliot.

I am in the convener's hands on the matter procedurally but, although the petition has come to us, it might be better for that group to consider whether it can pick up the petition in the first instance, as the group goes around Scotland gathering evidence and delivers a series of interim reports. We should not necessarily resile from future consideration of the issue; I think merely that for the time being that might be the best way to deal with it.

**Stuart McMillan:** I agree with Stewart Stevenson, but there is also scope in our work programme. Members who visited Glasgow three or four weeks ago heard compelling evidence from the GalGael Trust about how to utilise land and get communities involved. It would be useful for us to hear evidence from the petitioner, perhaps as part of the regeneration inquiry, to help to shape further thoughts and opinions.

However, I agree with Stewart Stevenson's point about the wider picture. The petition is not solely for us to consider, and I suggest that it would be better directed elsewhere, but there is still an opportunity for us to hear further evidence.

**The Convener:** Do Anne McTaggart and John Wilson have any comments, as members of the Public Petitions Committee?

**John Wilson:** First, I declare an interest: I have carried out work with John Hancox in the past. He has held a number of events in the Parliament, particularly in relation to apple day, which I have co-sponsored.

I remind committee members that the Public Petitions Committee can refer petitions only to other committees of the Parliament. It is not empowered to refer petitions to other external bodies or inquiries that are being conducted. However, this committee might wish to take up the

suggestion that has been made, since the petition has been passed to it to deliberate and come to conclusions on.

Stuart McMillan suggested that we take evidence from the petitioner. I suggest that there is enough information in the work that has been done by the Public Petitions Committee to allow this committee to progress any suggestions or discussions in that committee. It is not necessary to take evidence from Mr Hancox, because he has already given evidence to the Public Petitions Committee.

The issue for that committee was quite clear. We passed the petition to this committee because we felt that it would fit in with the regeneration inquiry and the issues that the convener and other members have identified of community land ownership and how communities can be more involved in organising themselves around the use of community land that is currently unproductive. That ties in with the petition's original objective, which is to free up more community land and put it to productive use for local communities. As I know the petitioner, I know his ideas about community allotments and grow-your-own projects.

The petition was remitted to this committee on the basis of the regeneration inquiry and to allow the committee to consider the petition, along with other submissions, in relation to how we fully engage with communities to make the best use of any identified land areas that can be turned to productive use for those communities.

**Anne McTaggart:** I agree with everything that John Wilson said. I declare an interest in that I am on the Public Petitions Committee and was among the members who referred the petition. At that time, I was thinking about the forthcoming community empowerment and renewal bill, and issues such as the use of vacant and derelict land. I thought that the petition and the evidence tied in with that. I do not know whether we need to hear from the petitioner because, as John Wilson said, we have an array of evidence that has already been taken. The petition fits in well with what we are doing on regeneration but also as evidence in relation to the community empowerment and renewal bill.

11:15

**Stewart Stevenson:** Was this the only committee to which the Public Petitions Committee referred the petition?

**John Wilson:** Yes.

**The Convener:** We have a number of choices. Stewart Stevenson's suggestion of writing to Dr Alison Elliot's group is good. Does the committee agree to do that?

**Members** *indicated agreement.*

**The Convener:** What part of the country does Mr Hancox come from?

**John Wilson:** He comes from East Lothian.

**The Convener:** I was going to suggest inviting him to one of our community events, but perhaps the next one, in South Ayrshire, is a little far for him. I have no problem with involving Mr Hancox in round-table events as part of the regeneration inquiry, but Anne McTaggart's suggestion about the community empowerment and renewal bill is probably more important.

Do we agree to leave off the petition for the regeneration inquiry but maybe call on Mr Hancox as part of a round-table event when we deal with the community empowerment and renewal bill?

**Members** *indicated agreement.*

**The Convener:** Thank you.

11:16

*Meeting continued in private until 11:45.*

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e-format first available  
ISBN 978-1-78307-586-7

Revised e-format available  
ISBN 978-1-78307-602-4

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Printed in Scotland by APS Group Scotland

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