



## INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

### AGENDA

**19th Meeting, 2012 (Session 4)**

**Wednesday 7 November 2012**

The Committee will meet at 10.00 am in Committee Room 2.

1. **Draft Budget Scrutiny 2013-14:** The Committee will take evidence on the Scottish Government's Draft Budget 2013-14 from—

Nicola Sturgeon, Cabinet Secretary for Infrastructure, Investment and Cities, Rachel Gwyon, Head of Housing: Sustainability and Innovative Finance, Janet Egdell, Head of Infrastructure Investment Policy, and Sharon Fairweather, Director, Finance, Transport Scotland, Scottish Government.

2. **Water Resources (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

Nicola Sturgeon, Cabinet Secretary for Infrastructure, Investment and Cities, Christina Phillips, Bill Manager, Water Industry Team, and Stephen Rees, Legal Directorate, Scottish Government.

3. **Subordinate legislation:** The Committee will consider the following negative instrument—

Housing (Scotland) Act 2001 (Assistance to Registered Social Landlords and Other Persons) (Grants) Amendment Regulations 2012SSI/2012/258.

4. **Appointment of European Union Reporter:** The Committee will appoint a member to serve as its European Union Reporter.

**ICI/S4/12/19/A**

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The papers for this meeting are as follows—

**Agenda item 1**

PRIVATE PAPER ICI/S4/12/19/1 (P)

SPICe Briefing Note ICI/S4/12/19/2

Correspondence from the Cabinet Secretary for Finance and Sustainable Growth ICI/S4/12/19/3

**Agenda item 2**

PRIVATE PAPER ICI/S4/12/19/4 (P)

**Agenda item 3**

Note from the Clerk ICI/S4/12/19/5

[The Housing \(Scotland\) Act 2001 \(Assistance to Registered Social Landlords and Other Persons\) \(Grants\) Amendment Regulations 2012](#)

**Agenda item 4**

Paper from the Clerk ICI/S4/12/19/6



## Infrastructure and Capital Investment Committee

### Housing supply budget

This note sets out information relating to the 2012-13 and 2013-14 housing supply budget.

#### 2013-14 draft budget document

The 2013-14 draft budget document presents figures at Level 3 for 'Supporting Economic Growth/Housing Supply', which includes the Housing Supply budget.

£m	2012-13	2013-14	2014-15
Supporting Economic Growth/Housing Supply	155.3	172.8	170.1

Source: [2013-14 Draft Budget](#), Table 9.10

Within these totals, a more detailed Level 4 breakdown is available for 2012-13 and 2013-14. The Level 4 data show the following totals for Affordable Housing Supply:

£m	2012-13	2013-14
Affordable Housing Supply	135.3	146.2

<sup>1</sup> 2012-13 figure includes Homeowners' support fund as this is included in the 2013-14 affordable housing draft budget figure

Source: Scottish Government (<http://www.scottish.parliament.uk/parliamentarybusiness/17534.aspx>)

The 2012-13 figures shown in the draft budget are those which were presented in the 2012-13 draft budget document i.e. they do not reflect the impact of in-year budget changes. During 2012-13 there have been three spending announcements that have had an impact on the housing supply budget, meaning that the 2012-13 housing supply budget is now higher than that shown in the draft budget documents. These three announcements are considered in turn.

### Stage 3 of 2012-13 Budget Bill (8 February 2012)

At Stage 3 of the 2012-13 Budget Bill, the Scottish Government announced how it planned to allocate some of the Barnett consequential that it had received as a result of spending decisions announced by the UK Government in the 2011 Autumn Statement. This included a total of £87m for housing spread across three years, split between affordable housing and equity and loans.

£m	2012-13	2013-14	2014-15	Total
Housing: Affordable homes	12	16	17	45
Housing: Loans / Equity	26	16	-	
<b>Total</b>	<b>38</b>	<b>32</b>	<b>17</b>	<b>87</b>

Source: Scottish Government (<http://www.scotland.gov.uk/News/Releases/2012/02/budget08022012>)

As explained above, the £38m for 2012-13 is not reflected in the draft budget figures. However, the £32m for 2013-14 is included in the 2013-14 draft budget figures.

### Capital stimulus package (27 June 2012)

On 27 June 2012, the Scottish Government announced a capital stimulus package which included additional money for housing supply in 2012-13. The total of £35m was for priority investments within Local Authority Strategic Housing Investment Plans to allow for the construction of 650 homes. The funding included £15m brought forward from 2013-14 and 2014-15 and a further £20m additional funding.

Again, this £35m is not included in the 2012-13 figure presented in the draft budget.

### Draft 2013-14 Budget Statement (20 September 2012)

In addition to these two announcements, the Scottish Government announced a further £40m for affordable housing in the 2013-14 draft budget. This funding is to be spread over two years, with £30m to be spent in 2012-13 and £12.5m to be spent in 2013-14. (Source: Scottish Government - the exact total was £42.5m, rounded to £40m in the budget statement.)

As before, the £30m for 2012-13 is not included in the 2012-13 figure presented in the draft budget. However, the funding for 2013-14 is included in the draft budget figures.

This £40m additional funding was also the subject of a Scottish Government press release on 21 October 2012 ('[Hundreds of affordable homes](#)') which referred to a total of £45m funding. This included the £40m announced in the 2013-14 draft budget as well as £5m funding which had previously been announced, but remained to be allocated to local authorities as part of their resource planning assumptions (see <http://www.scottish.parliament.uk/parliamentarybusiness/53169.aspx>, p7, under 'Locally Led Programmes').

## Summary of additional spending announcements

The additional spending announcements are summarised below. Over the three year period, there is an additional £164m allocated to housing supply, including £103m in 2012-13 which is not included in the draft budget figures.

In 2012-13, there was also a repayment of £3m in respect of capital that had been accelerated from the 2012-13 budget into 2011-12. This is offset against the total additions in the table below.

£m	2012-13	2013-14	2014-15	Total
2012-13 Budget Bill, Stage 3	38	32	17	87
Capital stimulus package	35	-	-	35
Draft 2013-14 Budget Statement	30	12		42
<b>Total additions</b>	<b>103</b>	<b>44</b>	<b>17</b>	<b>164</b>
Repayment of accelerated capital	-3	-	-	-
<b>Net additions</b>	<b>100</b>	<b>44</b>	<b>17</b>	<b>161</b>

## Impact on 2012-13 housing supply budget

The combination of the Level 4 data for affordable housing and the 'Transfer of Management of Development Funding (TMDF)' shown within the local government budget gives the total housing supply budget. These two budget lines are shown in the table below, before and after taking into account the in-year revisions described above.

As explained earlier in this note, the spending announcements are already reflected in the 2013-14 figures, so do not need to be added in again. The revisions to the 2012-13 budget figures have yet to receive parliamentary approval through the budget revisions process.<sup>1</sup>

£m	2012-13	2013-14
Affordable Housing Supply	135	146
TMDF	80	73
<b>Total housing supply budget before revisions</b>	<b>215</b>	<b>219</b>
In-year revisions (net)	100	-
<b>Total housing supply budget after revisions</b>	<b>315</b>	<b>219</b>

<sup>1</sup> 2012-13 figure includes Homeowners' support fund as this is included in the 2013-14 affordable housing supply draft budget figure

Sources: Scottish Government (<http://www.scottish.parliament.uk/parliamentarybusiness/17534.aspx>; [2013-14 Draft Budget](#), Table 12.03; <http://www.scotland.gov.uk/News/Releases/2012/02/budget08022012>; Scottish Government, personal communication

Before taking into account the in-year revisions to the 2012-13 housing supply budget, the figures show a modest increase in the housing supply budget from £215m to £219m (an increase of £4m or 2%). However, when the

<sup>1</sup> The 2012-13 Autumn Budget Revisions have now been published and are to be considered by the Finance Committee on 5 November 2012

additional spending announced for 2012-13 is taken into account, the figures show a £96m reduction in the housing supply budget, from £315m to £219m, equivalent to a fall of 30%.

**Nicola Hudson**  
**Financial Scrutiny Unit**  
**SPICe Research**  
**31 October 2012**

**Infrastructure and Capital Investment Committee**

**19th Meeting, 2012 (Session 4), Wednesday, 7 November 2012**

**Draft Budget Scrutiny 2013-14 – Climate Change Targets**

The Cabinet Secretary for Finance, Employment and Sustainable Growth has written to subject Committees, providing information on the budget lines which support the Scottish Government's delivery of its climate change policies. It has set out these details in a summary document, divided into respective subject remits. A copy of this letter and the sections of summary data relevant to the Infrastructure and Capital Investment Committee have been attached to this note.



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Subject Committee Conveners  
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23 October 2012

Dear Convenor

In its report last year on the Spending Review 2011 and Draft Budget 2012-13, the Finance Committee, drawing on submissions made to it by the Rural Affairs, Climate Change and Environment Committee, recommended that the Scottish Government take steps to improve the presentation of budget information relating to the delivery of climate change policies.

In response to that recommendation, the Scottish Government has prepared a summary document that draws together details of the budget lines across the current spending review period that support the delivery of measures to reduce greenhouse gas emissions. The majority of the figures in this document have been presented at level 4 where it has been possible to do so.

Rather than present budgets strictly according to Ministerial portfolio as is the case with other draft Budget supporting documents, the climate change funding summary groups budgets according to the main sectors set out in Low Carbon Scotland: Meeting the Emissions Reduction Targets 2010-2022, the Scottish Government's first statutory climate change report on proposals and policies (RPP1). This is intended to help committee members more easily read across between RPP1 and the draft Budget.

The budgets detailed in this summary document should be considered in the wider context of the actions that the Scottish Government and its partners are undertaking to transition to a low carbon economy while supporting sustainable economic growth. For example, the Scottish Government is investing more than £1 billion per year on public transport and has announced a £5 billion package of funding and investment in Scotland's railways between 2014 and 2019; we will shortly be consulting on options for strengthening the energy standards required by building regulations; and over 150 of our partners across the public sector have put in place carbon management plans identifying cost effective energy efficiency measures.

Copies of the climate change funding summary document have been passed to all subject committees and have also been placed in the Scottish Parliament Information Centre.

I understand that the Rural Affairs, Climate change and Environment Committee (RACCE) is adopting a mainstream approach to climate change and expects subject committees to include in their reports to the Finance committee an assessment of how spending in their particular portfolios has taken account of climate change issues. I hope you and the members of your respective committees find the information in the summary document helpful in your scrutiny of the Scottish Draft Budget 2013-14.

**JOHN SWINNEY**

<b>Draft Budget 2013-14</b> <b>Details of funding for climate change mitigation measures</b>
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This document summarises the principal lines within the Scottish Government's budget and spending plans which support the delivery of measures to reduce greenhouse gas emissions.

The information has been organised in line with the emissions sectors identified in *Low Carbon Scotland - Meeting the Emissions Reduction Targets 2010-2022*, the Scottish Government's first climate change report on proposals and policies. Indications are provided where elements of Ministerial portfolio budgets are allocated across separate sectors.

The majority of the figures in this document are presented at "level 4" where it is possible to do so. This provides a more detailed breakdown than the "level 3" figures presented in the draft budget. There is no single definition of level 4, and indeed there is wide variation in the level 4 figures provided. However, as a general rule, level 4 figures show the principal budget lines allocated to individual Directorates within the Scottish Government.

At this level of disaggregation, the information is subject to change without notice during the year and outturn spending at this operational level may not necessarily reflect the disaggregation as recorded in budgets.

In order to provide as up to date a summary as possible, the tables in this document include proposed changes to budget lines which would be made as a result of the Autumn Budget Revisions 2012. These changes are subject to the Parliament passing the Budget (Scotland) Act 2012 (Amendment) Order 2012.

Figures have been rounded to one decimal point and may not sum to total due to rounding.

**Summary of sectoral totals**

	<b>2012-13 budget</b>	<b>2013-14 draft budget</b>	<b>2014-15 plans</b>	<b>Total over three years</b>
Energy	96.9	141.8	140.6	<b>379.2</b>
Homes and Communities	106.7	119.5	114.1	<b>340.2</b>
Business and the Public Sector	10.3	10.3	5.3	<b>25.8</b>
Transport	65.6	72.9	61.3	<b>199.7</b>
Rural Land Use	39.6	39.3	38.6	<b>117.4</b>
Zero Waste	26.4	26.4	26.4	<b>79.2</b>
Other	1.2	1.2	1.1	<b>3.5</b>
<b>TOTAL</b>	<b>346.6</b>	<b>411.3</b>	<b>387.1</b>	<b>1145.0</b>

**Draft Budget 2013-14**

Detail of funding for climate change mitigation measures

**Homes and Communities**

(Unless stated otherwise, these budgets are held within the Infrastructure &amp; Capital Investment portfolio)

**Fuel Poverty/Domestic Energy Efficiency/Climate Change**

	2012-13 budget	2013-14 draft budget	2014-15 plans	Commentary
Capital	40	22.5	0	<p>In 2012-13 this budget supports delivery of the Energy Assistance Package (EAP) which provides advice and upgrades for the least energy efficient/most fuel poor homes; and the Universal Home Insulation Scheme (UHIS) - a Scottish, area-based scheme delivered through local authorities, promoting and installing insulation and other energy saving measures. As well as the Scottish Government funding detailed in this table, EAP and UHIS are also part-funded by money from the Carbon Emissions Reduction Target (CERT), a UK scheme which obliges gas and electricity suppliers to achieve emission savings by installing energy saving measures in people's homes. It is not possible at this stage to quantify the extent this additional funding but we estimate that by the end of this financial year these programmes will have drawn in an additional £7 million in CERT funding.</p> <p>It is worth noting that, as well as helping to fund the Scottish Government programmes listed above, energy companies carry out additional domestic energy efficiency installations through CERT and the similar Community Energy Saving Programme (CESP). The specific levels of funding are not reported to Ofgem but Scotland has received a pro-rata share (around 9%) of professionally installed GB insulation under CERT. If Scotland received a pro-rata share of all CERT and CESP energy efficiency investment, this will have delivered in excess of £100m per year in Scotland since April 2011.</p>

Revenue	25.1	42.5	66.3	From 2013-14 the EAP and UHIS will be replaced by a single National Retrofit Programme (NRP) to upgrade energy efficiency in Scotland's ageing housing stock, tackle fuel poverty and reduce carbon emissions. The programme will tackle fuel poor areas first and cover the whole of Scotland in around ten years. Local authorities will play a central role in delivering the programme which could also benefit from around £120 million a year from the new energy company obligation (ECO), which replaces CERT . Together with SG funding this could create a fund of nearly £200 million a year to support the National Retrofit Programme in 2013-14 and 2014-15.
	3	0	0	Additional funding allocated as part of the 2012-13 Autumn Budget Revision. This will be used for NRP pilot projects to kick-start the programme prior to its full roll-out in 2013-14.
<b>Total Level 3</b>	<b>68.1</b>	<b>65.0</b>	<b>66.3</b>	

### Scottish Futures Fund - Warm Homes Fund

	2012-13 budget	2013-14 draft budget	2014-15 plans	Commentary
Warm Homes Fund	3.3	7.8	18.8	This is a £50m fund over the lifetime of the current Parliament providing loans for renewable energy projects for homes in fuel poor communities to help to reduce household energy bills.

### Energy Efficiency Promotion & Policy Implementation

(Budget held within Finance, Employment and Sustainable Growth Portfolio)

	2012-13 budget	2013-14 draft budget	2014-15 plans	Commentary
Energy Efficiency & Policy Implementation	18.8	16.8	13.8	This budget supports the promotion of energy efficiency including in 2012-13 over £6.5m for advice and support programmes to encourage householders to be energy efficient; provides energy efficiency loans to SMEs and for the initial development phases of the introduction of the Green Deal and ECO in Scotland. It is also contributing £4m to the £20m voucher cash back scheme over a two year period for energy efficiency measures as part of the Green Investment Package (Green Deal money provides the balance). In addition, £5m of this budget line has been allocated (together with a further £5.3m from the Low Carbon Economy budget) to provide additional support for public sector energy efficiency over a two year period (2012-13 to 2013-14) (see the Low Carbon Economy line on the Business and Public Sector sheet).

### Green Deal

(Budget held within Finance, Employment and Sustainable Growth Portfolio)

	2012-13 budget	2013-14 draft budget	2014-15 plans	Commentary
Green Deal	1.34	14.7	0	Scottish Ministers secured a proportionate share of this GB-wide funding to support the development of a Green Deal market in Scotland. It will fund the majority of the £20m voucher cash back scheme over a two year period for energy efficiency measures (See the Energy Efficiency & Policy Implementation budget line). In addition to, and working alongside this introductory government incentive, Green Deal finance will be available via Green Deal Providers, who will be responsible for both the provision of finance and arranging the energy efficiency works.

**Sustainable Action Fund  
(Budget held within the Rural Affairs and Environment portfolio)**

	<b>2012-13 budget</b>	<b>2013-14 draft budget</b>	<b>2014-15 plans</b>	<b>Commentary</b>
Sustainable Action Fund - Climate Challenge Fund	10.3	10.3	10.3	The Climate Challenge Fund provides Scottish communities with finance to support low-carbon action at a local level. Since the CCF's establishment in 2008, through to the latest round of awards (Round 11, August 2012), the Fund has supported 542 projects across 394 communities.
Sustainable Action Fund - Other	5	5	5	This element of the Sustainable Action Fund is used to support the Scottish Government's Greener Scotland strategic objective. This includes funding for environmental campaigns, the Government's low carbon behaviour change programme and sustainable development education activity. This budget also covers the costs of developing and expanding the Sustainable Scotland Network to provide support for the wider public sector alongside existing work with local authorities in support of the Climate Change Public Bodies Duties. It focuses on key areas of sustainable development, climate change and sustainable procurement including: events and networking services, best-practice knowledge exchange, performance improvement, capacity building, and scrutiny, with the overarching aim of improving local authority/public sector awareness, practice, assessment, action and reporting.
<b>Total Level 3</b>	<b>15.3</b>	<b>15.3</b>	<b>15.3</b>	

***N.B.** The Energy Efficiency Promotion & Policy Implementation, Green Deal and Sustainable Action Fund budgets also help to deliver measures that will support emissions reduction in businesses and the public sector.*

	<b>2012-13 budget</b>	<b>2013-14 draft budget</b>	<b>2014-15 plans</b>
<b>TOTAL HOMES &amp; COMMUNITIES</b>	<b>106.7</b>	<b>119.5</b>	<b>114.1</b>



**Draft Budget 2013-14**

Detail of funding for climate change mitigation measures

**Transport****(Budgets held within the Infrastructure & Capital Investment portfolio)****Support for Sustainable & Active Travel  
(SSAT)**

	<b>2012-13 budget</b>	<b>2013-14 draft budget</b>	<b>2014-15 plans</b>	<b>Commentary</b>
Grant funding for cycling infrastructure and promotion.	10.3	10.4	tbc	Grant funding from the SSAT revenue budget to Sustrans and Cycling Scotland for cycling infrastructure and promotion. Cycling infrastructure investment (the bulk of this grant) is match-funded by local authorities. Also includes £0.1m for Government work to develop an active travel marketing campaign. The Future Transport Fund (see below) also supports cycling.
Energy Savings Trust	1.3	tbc	tbc	Grant funding for the Energy Saving Trust provision of sustainable travel support for organisations (incl. promoting workplace travel-planning) and fuel efficient driver training. Grant funding for future years will be reviewed in the light of outcomes achieved in 2012-13 and policy priorities.
CarPlus	0.3	tbc	tbc	Grant funding to Carplus to support the development in Scotland of affordable, accessible and low-carbon car-sharing clubs and ride-sharing services. Grant funding for future years will be reviewed in the light of outcomes achieved in 2012-13 and policy priorities.

Smarter Measures including Smarter Choices Smarter Places (SCSP)	0.5	tbc	tbc	SCSP is a sustainable travel demonstration programme undertaken in 7 communities as a partnership between SG and COSLA, involving tailored packages of measures including infrastructure and services development alongside local social marketing. It is currently undergoing an in-depth evaluation which will inform future policy and programmes around community-based travel planning work. Includes funding for bike-rail integration and possible work around Smart Cities. This line will be updated later this autumn as development work progresses and delivery options emerge.
Low Carbon Vehicles	0.2	tbc	tbc	Funding to support the operation of Plugged in Places (delivery of electric vehicle charging infrastructure) and E-cosse (partnership of government, industry NGOs and other stakeholders to advance adoption of electric vehicles in Scotland). In addition to this budget line, capital funding for low carbon vehicles is allocated from the Future Transport Fund.
Strathclyde Passenger Transport Fastlink	5.0	20.0	10.0	To promote modal shift to public transport through development of the Fastlink Bus Rapid Transit project.
Forth Replacement Crossing Public Transport Strategy	6.0	0.0	0.0	To promote modal shift to public transport through provision of Park & Ride facilities at Halbeath.
<b>Total Level 3</b>	<b>23.5</b>	<b>35.0</b>	<b>19.0</b>	Includes £2.5m in 2013-14 for green buses. Not all decisions about budget allocations below Level 3 have been made. The balance will be allocated over the next period in line with objectives for 2013/14 and outcomes achieved in 2012/13. This additional allocation will be within the overall budget envelope for the year.

**Local Authority grants for Active Travel (Cycling, Walking and Safer Streets)**

	<b>2012-13 budget</b>	<b>2013-14 draft budget</b>	<b>2014-15 plans</b>	<b>Commentary</b>
LA grants for Active Travel	6.1	5.6	8.2	Ring-fenced capital grants for programmes of work to support cycling, walking and safer streets. Forms part of the Local Government settlement.

**Scottish Futures Fund - Future Transport Fund**

	<b>2012-13 budget</b>	<b>2013-14 draft budget</b>	<b>2014-15 plans</b>	<b>Commentary</b>
Low Carbon Vehicles	1.0	1.8	5.0	Capital funding for work to support LCV conversion (infrastructure and vehicles procurement)
Hybrid buses	0.0	2.8	4.8	This portion of the Future Transport Fund provides additional money to be paid through the Scottish Green Bus Fund, detailed separately below.
Cycling infrastructure	1.5	1.3	4.5	To support the development of the cycling infrastructure across Scotland, through partnership work by Sustrans with local authorities
Freight Modal Shift	0.8	2.0	4.5	To promote freight modal shift away from road transport, through support for infrastructure projects
<b>Total Level 3</b>	<b>3.3</b>	<b>7.8</b>	<b>18.8</b>	

**Support for Freight Industry**

	<b>2012-13 budget</b>	<b>2013-14 draft budget</b>	<b>2014-15 plans</b>	<b>Commentary</b>
Freight mode-shift support	1.1	1.1	1.1	Mode Shift Revenue Support (MSRS) grants to encourage alternatives to road transport, plus the Water Freight Grant (WFG), a start-up grant for new water freight services

**Additional Low Carbon Vehicle Support**

	2012-13 budget	2013-14 draft budget	2014-15 plans	Commentary
Plugged in Places	1.8	1.6	0.0	Capital investment in a programme of electric vehicle infrastructure, with support from the Office of Low Emission Vehicles (OLEV), complementing wider SG work around LCVs. Decisions about funding from 2014-15 will be taken subject to evaluations and policy priorities.

**Scottish Green Bus Fund (comprises elements of funding from other transport budgets detailed in this spreadsheet)**

	2012-13 budget	2013-14 draft budget	2014-15 plans	Commentary
Scottish Green Bus Fund	[3]	[2.5]	[4.8]	<p>The Scottish Green Bus Fund (SGBF) pays part of the additional cost to operators of buying low carbon, mainly hybrid, buses compared with conventional vehicles. Allocations to individual operators are decided through a bidding process. Grants under the current 2012-13 round are expected to be made in March 2013.</p> <p>The SGBF draws money from other sustainable transport budgets. In order to maintain consistency with other Budget documents the individual elements of the fund are counted as part of their parent budgets in this spreadsheet. <u>To avoid double counting</u>, the SGBF money is shown in square brackets in this table and is not included in the overall totals in this spreadsheet.</p> <p>In 2012-13, £3m will be available, the bulk of which comes from accelerating £2.75m of 2013-14 money from the Support for Sustainable and Active Travel budget (SSAT) and the Future Transport Fund (FTF). This leaves £2.5m available in 2013-14 from the SSAT and FTF. In 2014-15, £4.75m will be provided from the FTF.</p>

**Vessels and Piers - Hybrid Ferries**

	<b>2012-13 budget</b>	<b>2013-14 draft budget</b>	<b>2014-15 plans</b>	<b>Commentary</b>
Hybrid Ferries	2.0	2.0	0.0	To support the development of two new hybrid vessels.

**Intelligent Transport Systems (ITS)**

	<b>2012-13 budget</b>	<b>2013-14 draft budget</b>	<b>2014-15 plans</b>	<b>Commentary</b>
ITS Maintenance	7	7	7	Annual costs of running and operating the Traffic Scotland service and supporting systems, supporting congestion management and efficient network usage.
ITS New Works	9.5	1	1	Completion of the Traffic Scotland ITS Action Plan, e.g., enhancing Traffic Scotland field equipment and upgrading the Traffic Scotland control system, supporting congestion management and efficient network usage.
<b>Total Level 3</b>	<b>16.5</b>	<b>8</b>	<b>8</b>	

**Rail projects**

	<b>2012-13 budget</b>	<b>2013-14 draft budget</b>	<b>2014-15 plans</b>	<b>Commentary - Rail</b>
Edinburgh-Glasgow Improvement Programme	7.5	7.5	0	Construction of the new Edinburgh Gateway station
Rail: major public transport projects	3.8	3.4	5.2	Support for the up-front RAB financing costs of Edinburgh-Glasgow Improvement Programme core works and the Borders project. Both supporting modal shift and/or electrification.

Rail Infrastructure (new electrification - Paisley Canal)	0	1	1	Support for electrification and modal shift.
<b>Total Level 3</b>	<b>11.3</b>	<b>11.9</b>	<b>6.2</b>	

	2012-13 budget	2013-14 draft budget	2014-15 plans
<b>TOTAL TRANSPORT</b>	<b>65.6</b>	<b>72.9</b>	<b>61.3</b>

**Infrastructure and Capital Investment Committee**

**19th Meeting, 2012 (Session 4), Wednesday, 7 November 2012**

**Subordinate Legislation**

<b>Title of Instrument</b>	Housing (Scotland) Act 2001 (Assistance to Registered Social Landlords and Other Persons) (Grants) Amendment Regulations 2012 SSI/2012/258
<b>Type of Instrument</b>	Negative
<b>Laid Date</b>	21 September 2012
<b>SSIs drawn to the Parliament's attention by Subordinate Legislation Committee</b>	Yes
<b>Reporting Deadline</b>	5 November 2012
<b>40 Day Deadline (by which date the whole Parliament must consider any motion to annul)</b>	15 November 2012

**Introduction**

1. The Committee considered the Regulations at its meeting on 31 October. The Committee agreed to invite Scottish Government officials to appear at its next meeting to respond to the concerns raised by the Subordinate Legislation Committee (SLC) in relation to the Regulations.

**Background to the Regulations**

2. The Housing (Scotland) Act 2001 (the 2001 Act) gives the option for councils to take a more strategic role in the provision of housing, and management of the Development Funding programme for their area. It further allows Scottish Ministers to make Regulations in relation to:

- the purposes for which each grant scheme can be used;
- who is eligible to receive grants;
- the criteria that local authorities must follow in considering whether to allocate financial assistance; and

- the terms and conditions under which financial assistance will be given.
3. The Regulations provide for specific types of grant assistance to be given by local authorities to registered social landlords and other persons. The funding for this comes from the grants paid to the local authority by Scottish Ministers. This includes grants made by local authorities under the Transfer of Management of Development Funding arrangements (TMDF).

### **Purpose of the Regulations**

4. The Regulations amend a previous set of Regulations from 2004. They replace the provision for GRO for Owner Occupation (GRO Grants) with provision for Partnership Support for Regeneration (PSR) grants. The GRO grants were provided by local authorities to non-registered housing associations, housing trusts, or private developers for building houses in areas of limited housing in order to help meet local shortages. When making new PSR grants local authorities will now be required to follow a certain procedure and adhere to specific terms and conditions.

5. The Regulations also add Innovation and Investment Fund (IIF) grants to the categories of grant assistance that may be provided by a local authority under the 2004 Regulations. It is intended that IIF grants will only be available to Registered Social Landlords and their subsidiaries. The Scottish Government's Policy Note states that this will "ensure that prescribed procedures are followed by local authorities and that prescribed terms and conditions will apply to any offer of IIF grant that is made".

6. In addition, the Regulations make technical amendments to aspects of the Housing Association Grant (HAG), which is made to social landlords in relation to property upkeep and improvement. HAG grants were originally subject to conditions of good performance by landlords and failure to comply with them would lead to the termination of the relevant project. Under the 2004 Regulations, a local authority was required to determine the appropriate funding route for each HAG grant applicant based on the 'performance grading' of the landlord. The 2010 Act removed the power of Scottish Ministers to grade registered social landlords and so changes are needed to replace references to 'performance grading' in the 2004 Regulations. To achieve this, the Regulations insert references to information about the performance of the landlord or their ability to deliver a project contained in documents, such as a performance report published by the Scottish Housing Regulator or a report of an inquiry made by the Regulator.

7. No additional costs or administrative burdens are anticipated in relation to the implementation of the Regulations.

### **Consideration by the Subordinate Legislation Committee**

8. The SLC drew the attention of the Parliament to the Regulations on grounds of defective drafting and as the form or meaning of the Regulations



could be clearer. The relevant extract from the SLC's report is attached at **Annexe A**.

9. The SLC's point on defective drafting relates to where the Regulations provide for the procedure that local authorities must follow in considering applications for IIF grants. The SLC is concerned that the Regulations require local authorities to follow procedures set out in an external text. However, as it states in its report, the SLC considers that this external text does not appear to contain any provision that regulates the procedure to be followed by local authorities in considering applications for IIF grants.

10. The SLC concluded that "the lack of specification as to how a document for a different purpose is to be given effect in these circumstances casts doubt as to whether the instrument effectively makes any provision as to the procedure to be followed by local authorities, despite that being its apparent intention".

11. The second point on which attention has been drawn relates to the procedures to be followed by a local authority in considering applications for PSR grants. This has been included under Schedule 1 (which inserts a new Schedule 2 into the 2004 Regulations), however, the SLC suggests that as the Regulations require that the applicant have, or be able to obtain, control of the development site, the provisions should be included in Part 2 of the Schedule, which relates to grant application eligibility ("Classes of Person"), rather than in Part 3 as a procedural requirement ("Procedure to be Followed by a Local Authority").

### **Recommendation**

12. A copy of the SSI and its accompanying documents is included with the papers.

**13. The Committee is invited to consider any issues that it wishes to raise in reporting to the Parliament on this instrument.**

**14. In doing so, the Committee will wish to take into account the issues brought to its attention by the SLC, which are referred to at paragraphs 8 to 11 above and outlined in the extract at Annexe A.**

Steve Farrell  
Clerk to the Committee  
October 2012

## EXTRACT FROM SUBORDINATE LEGISLATION COMMITTEE REPORT

### 46th Report, 2012 (Session 4)

#### **Housing (Scotland) Act 2001 (Assistance to Registered Social Landlords and Other Persons) (Grants) Amendment Regulations 2012 (SSI 2012/258).** (*Infrastructure and Capital Investment Committee*)

4. This instrument amends the Housing (Scotland) Act 2001 (Assistance to Registered Social Landlords and Other Persons) (Grants) Regulations 2004 (“the principal Regulations”). It revokes Schedule 2 of the principal Regulations, which makes provision for a type of grant assistance known as GRO for owner occupation, and replaces it with a new Schedule 2 which makes provision for a new type of grant assistance known as Partnership Support for Regeneration, or PSR. Further provision is made in a new Schedule 5 for another type of grant assistance to be known as Innovation and Investment Fund grant, or IIF.

5. The instrument is subject to the negative procedure, and comes into force on 19 November 2012.

6. In considering the instrument, the Committee asked the Scottish Government for clarification of certain points. The correspondence is reproduced in Appendix 1.

#### *Question 1 – procedure in relation to IIF grants*

7. This instrument inserts a new Schedule 5 into the principal Regulations to make provision for Innovation and Investment Fund grants. Part 3 of the new Schedule specifies the procedure to be followed by a local authority in considering grant applications. Unlike the other Schedules, however, the new Schedule does not directly prescribe the procedure to be followed. Instead, it directs local authorities to ensure that the invitation of applications, assessment of applications and approval of grant are carried out “in accordance with” a letter sent jointly by the Scottish Ministers and COSLA to local authority chief housing officers on 21 March 2011.

8. The letter was jointly written by the Scottish Ministers and COSLA. It invited local authorities themselves to make applications to the Ministers for IIF grants for development projects run by the authority. Those applications were to be assessed jointly by the Ministers and COSLA. The timescales laid out in the letter commenced in February 2011 and concluded with the awarding of grants in August 2011. The criteria specified in the Annex to the letter appear on the face of it to be relevant to local authorities seeking funding from central government.

9. By contrast, applications under Schedule 5 of the principal Regulations may be made by registered social landlords (“RSLs”) and their subsidiaries to local authorities for IIF funding. In the Committee’s view, the letter does not contain provision about how local authorities should consider IIF grant

applications from RSLs. The letter instead sets out how local authorities themselves should apply for IIF grants from the Scottish Ministers.

10. The power in section 93 of the Housing (Scotland) Act 2001 (“the 2001 Act”) was delegated by the Parliament to the Scottish Ministers in order that they might regulate the procedure to be followed by local authorities in considering applications for grants. The Committee considers that the purpose of so doing was to ensure that a) it would be sufficiently clear to local authorities what was required by way of procedure in considering applications, b) there would be a degree of uniformity across the 32 local authorities who may require to consider applications in the way that those applications are handled and c) transparency might be assured for grant applicants.

11. In considering applications for IIF grants, it might be argued that local authorities are to be expected to apply – by analogy – a similar procedure to the procedure which they are subject in themselves making an application, as set out in the letter. However, paragraph 4 of Schedule 5 does not make provision to that effect. It simply says that the procedures in question are to be carried out “in accordance with” the letter.

12. As far as the purposes for which the power was conferred are concerned, it appears to the Committee that there is a substantial lack of clarity as to what local authorities must do by way of procedure in considering applications. The Committee cannot readily ascertain what is required of authorities from the letter, and it contrasts this with the equivalent Part 3 in each of the other Schedules, which sets out (in greater or lesser detail) the steps which must be taken.

13. The Committee considers that the Scottish Ministers intended to make provision under section 93(2)(b) about the procedure to be followed by local authorities in considering applications for IIF grants. That provision is contained in paragraph 4 of the new Schedule 5, which effectively provides a reference to the letter of 21 March 2011. In the Committee’s view, however, the provision which is made fails adequately to specify the procedures to be followed by local authorities in considering applications, for the reasons explained above. The Committee accordingly consider that the instrument appears to be defectively drafted insofar as it purports, at paragraph 4 of new Schedule 5, to provide for the procedure to be followed by local authorities in considering applications for IIF grants.

14. The 2001 Act confers powers on the Scottish Ministers to make regulations about three specific aspects of providing assistance for housing purposes. They may provide for: a) the purposes for which, and the classes of people to whom, local authorities may provide, among other things, grant assistance, b) the procedure to be followed by local authorities in considering whether to provide assistance and c) the terms and conditions on which it is to be provided, including conditions for repayment.

*Question 2 – eligibility for PSR grants*

15. Each Schedule of the principal Regulations relates to a different type of grant assistance. Regulation 4 specifies that, in each case, Part 1 of each Schedule provides the purposes for which local authorities may provide grant assistance, Part 2 provides the classes of person to whom it may be provided, Part 3 provides the procedures to be followed in considering an application and Part 4 provides the terms and conditions on which it is to be provided. This division of each Schedule into four Parts is continued in the new Schedules inserted by this instrument. Part 3 in each case is accordingly made in exercise of the powers conferred by section 93(2)(b) to specify the procedure to be followed by local authorities in considering whether to provide assistance.

16. In the new Schedule 2 as inserted by this instrument, Part 3 consists of paragraph 4 which is divided into a number of sub-paragraphs. Sub-paragraph (g) provides that a local authority must ensure that “the grant applicant already has, or will be able to obtain, control of the development site or property”. The Committee does not consider that this provision, properly construed, is an aspect of the procedure to be followed by a local authority in considering whether to provide assistance. Instead, it appears to be a criterion which prospective applicants would have to satisfy in order to be eligible for assistance.

17. In their response, the Scottish Ministers indicate that “[t]he paragraph referred to is indeed intended as a restriction in eligibility, in other words no PSR grant applicant should be successful unless they have, or will be able to obtain, control of the development site.” They go on to advise that the procedure envisaged is “such as is necessary to ensure that this restriction is complied with.”

18. The position adopted by the Scottish Ministers accordingly appears to the Committee to be problematic in two respects. First, they accept that this provision is intended to operate as a restriction in eligibility. They do not explain why it ought to be considered to be a procedural requirement. Secondly, in stating that the procedure is “such as is necessary to ensure that this restriction is complied with”, the Ministers appear to accept that paragraph 4(g) does not of itself set out any procedure to be followed. Local authorities are instead to determine a procedure for themselves which achieves that outcome. Even if it were accepted that paragraph 4(g) is capable of being procedural, rather than setting out a substantive eligibility criterion, the fact remains that it does not actually specify a procedural step to be taken.

19. For these reasons, the Committee has difficulty in accepting the Scottish Ministers’ analysis of paragraph 4(g). However, it considers that some assistance may be derived from the Ministers’ alternative position set out in the final paragraph of their response. They point to section 92(2)(a), which allows the Ministers to make regulations providing for the classes of person to whom assistance may be provided. They say that this provision should be interpreted as limiting the classes of persons to whom assistance may be

provided to those persons who have, or will be able to obtain, control of the development site.

20. The Committee accepts there is some force in this argument. Part 2 of Schedule 2 (paragraph 3) specifies that private developers, housing trusts and non-registered housing associations are the classes of person who may apply for this type of grant assistance. Paragraph 4(g) can be interpreted as further restricting that specification to a sub-set of each of those classes, namely private developers, housing trusts and non-registered housing associations who have, or will be able to obtain, control of the development site.

21. In accepting this argument, however, the Committee points out that it violates the structure of the principal Regulations as set out in regulation 4, whereby the classes of persons eligible are said to be specified in Part 2 of each Schedule, and the procedures to be followed by a local authority in considering applications in Part 3. More importantly, the Committee considers it unlikely that the end-users of the principal Regulations, as amended by this instrument, would find it easy to determine eligibility for PSR grants when some of the criteria to be applied are not specified in Part 2 (headed "CLASSES OF PERSON") but instead appear in Part 3 (headed "PROCEDURES TO BE FOLLOWED BY A LOCAL AUTHORITY"). It accordingly appears that the intended meaning might have been more clearly expressed had the provision in paragraph 4(g) been grouped with the other eligibility criteria in Part 2 of the Schedule.

**22. The Committee draws the instrument to the attention of the Parliament on reporting ground (i) as it appears to be defectively drafted. Schedule 2 inserts a new Schedule 5 into the Housing (Scotland) Act 2001 (Assistance to Registered Social Landlords and Other Persons) (Grants) Regulations 2004. Paragraph 4 of the new Schedule 5 purports to make provision as to the procedure which local authorities must follow in considering applications for IIF grants. It does so by requiring local authorities to ensure procedures for a) the invitation of applications, b) the assessment of applications and c) the approval of grants are carried out in accordance with the terms of a specified external document.**

**23. On consideration of that document, it does not appear that it contains any provision which regulates the procedure to be followed by local authorities in considering applications for IIF grants. The document rather concerns itself with how the Scottish Ministers and COSLA will deal with applications for IIF grants from local authorities themselves. The lack of specification as to how a document for a different purpose is to be given effect in these circumstances casts doubt as to whether the instrument effectively makes any provision as to the procedure to be followed by local authorities, despite that being its apparent intention.**

**24. The Committee also draws the instrument to the attention of the Parliament on reporting ground (h) as the form or meaning of the**

**instrument could be clearer. Schedule 1 inserts a replacement Schedule 2 into the Housing (Scotland) Act 2001 (Assistance to Registered Social Landlords and Other Persons) (Grants) Regulations 2004. Paragraph 4(g) of the replacement Schedule 2 purports to provide procedures to be followed by a local authority in considering applications for PSR grants. However, that provision requires that the applicant have, or be able to obtain control of the development site. As such, it appears instead to be a criterion for eligibility and so the meaning of the instrument would be clearer (and the internal form of the Regulations being amended more closely respected) had that provision been contained in Part 3 of the Schedule which prescribes the classes of persons eligible to apply for grants of this type, instead of appearing in Part 4 in the guise of a procedural requirement.**

## Infrastructure and Capital Investment Committee

19th Meeting, 2012 (Session 4), Wednesday, 7 November 2012

### Appointment of EU Reporter

1. The purpose of this paper is to elect a new EU Reporter, following the resignation from the Committee of the previous Reporter, Aileen McLeod.

#### *The Scottish Parliament's European Strategy*

2. On 9 December 2010, the Parliament agreed to the introduction of a Parliament-wide strategy for European Union engagement and scrutiny. The Strategy is available at—

<http://archive.scottish.parliament.uk/s3/committees/europe/reports-11/eur11-03.htm#annb>

3. The Strategy outlines the enhanced role of subject committees in early engagement and in the scrutiny of emerging EU legislative proposals. Subject committees will be responsible for appointing EU Reporters and for scrutinising EU proposals within their area.

#### *The Role of the EU Reporter*

4. The role of the EU Reporter is to act as champion for EU matters within the Committee. This will involve promoting the European dimension in the work of the Committee, taking the lead on EU early engagement and in developing relationships with the European Commission and European Parliament, leading the Committee's EU scrutiny work, promoting and speaking to European issues, highlighting the European dimension within policy debates and acting as a conduit between the Committee and the EERC.

5. In this way the Reporter will be invited to take forward the Committee's existing EU priorities. An update on the priorities was prepared by the former EU Reporter, Aileen McLeod, for the Committee's last meeting on 24 October.

#### *Fact-finding trip to Brussels*

6. The Clerk to the European and External Relations Committee is planning a trip to Brussels, which is proposed for Sunday 2 December and returning on Tuesday 4 December. The new EU Reporter would be invited to attend this trip.

7. The visit would include a formal dinner hosted by the European Commission, possibly on a Sunday evening. The following morning would be a general introduction to the European institutions, followed by, in the afternoon, breakout meetings for each Reporter in their subject area.

**8. The Committee is invited to nominate a Member to act as EU Reporter for the Committee.**

Steve Farrell  
Clerk to the Committee  
October 2012