



The Scottish Parliament
Pàrlamaid na h-Alba

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

AGENDA

20th Meeting, 2012 (Session 4)

Wednesday 14 November 2012

The Committee will meet at 10.00 am in Committee Room 1.

1. **Decision on taking business in private:** The Committee will decide whether to take items 7 and 8 in private, and also decide whether to take consideration of a draft report on the Water Resources (Scotland) Bill in private at future meetings.
2. **Subordinate legislation:** The Committee will take evidence on the Housing Support Services (Homelessness) (Scotland) Regulations 2012 [draft]; the Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012 [draft]; and the Rent (Scotland) Act 1984 (Premiums) Regulations 2012 [draft] from—

Margaret Burgess, Minister for Housing and Welfare, Stephen White, Head of Housing Options & Services Unit, Gordon McNicoll, Divisional Solicitor, Directorate for Legal Services, Barry Stalker, Private Rented Sector Team Leader, and Jaqueline Pantony, Legal Directorate, Scottish Government.
3. **Subordinate legislation:** Margaret Burgess to move S4M-04739—

That the Infrastructure and Capital Investment Committee recommends that the Housing Support Services (Homelessness) (Scotland) Regulations 2012 [draft] be approved.
4. **Subordinate legislation:** Margaret Burgess to move S4M-04740—

That the Infrastructure and Capital Investment Committee recommends that the Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012 [draft] be approved.
5. **Subordinate legislation:** Margaret Burgess to move S4M-04632—

That the Infrastructure and Capital Investment Committee recommends that the Rent (Scotland) Act 1984 (Premiums) Regulations 2012 [draft] be approved.

6. **Scottish Water Annual Report and Accounts 2011-12:** The Committee will take evidence from—

Ronnie Mercer, Chairman, Douglas Millican, Interim Chief Executive, and Geoff Aitkenhead, Asset Management Director, Scottish Water;

and then from—

Alan Sutherland, Chief Executive, and John Simpson, Director of Analysis, Water Industry Commission for Scotland.

7. **Draft Budget Scrutiny 2013-14:** The Committee will consider a draft report to the Finance Committee on the Scottish Government's Draft Budget 2013-14.
8. **Work programme:** The Committee will review its work programme.

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The papers for this meeting are as follows—

Agenda item 2

Note from the Clerk

ICI/S4/12/20/1

[Housing Support Services \(Homelessness\) \(Scotland\) Regulations 2012 \[draft\] SSI/2012/draft](#)

[Homelessness \(Abolition of Priority Need Test\) \(Scotland\) Order 2012 \[draft\] SSI/2012/draft](#)

[Rent \(Scotland\) Act 1984 \(Premiums\) Regulations 2012 SSI/2012/draft](#)

Agenda item 6

PRIVATE PAPER

ICI/S4/12/20/2 (P)

[Scottish Water Annual Report and Accounts 2011-12](#)

Agenda item 7

PRIVATE PAPER (to follow)

ICI/S4/12/20/3 (P)

Agenda item 8

PRIVATE PAPER

ICI/S4/12/20/4 (P)

Infrastructure and Capital Investment Committee

19th Meeting, 2012 (Session 4), Wednesday, 14 November 2012

Subordinate Legislation

Title of Instruments	Housing Support Services (Homelessness) (Scotland) Regulations 2012 [draft] SSI/2012/draft Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012 [draft] SSI/2012/draft Rent (Scotland) Act 1984 (Premiums) Regulations 2012 SSI/2012/draft
Type of Instruments	Affirmative
Laid Date	Housing & Homelessness: 25 October 2012 Rent: 2 October 2012
Minister to attend the meeting	Yes
SSI drawn to the Parliament's attention by Subordinate Legislation Committee	No
Reporting Deadline	Housing & Homelessness: 3 December 2012 Rent: 26 November 2012

Procedure

1. The Infrastructure and Capital Investment Committee has been designated as lead committee for these instruments and is required to report to the Parliament.
2. Under Rule 10.6.1 (a), these Regulations are subject to affirmative resolution before they can be made. It is for the Infrastructure and Capital Investment Committee to recommend to the Parliament whether these Regulations should be approved.
3. The Minister for Housing and Welfare has, by motions S4M-04632, S4M-04739, and S4M-04740 (set out in the agenda), proposed that the Committee should recommend the approval of these Regulations. The Minister will attend in order to speak to and move the motions. The formal debate on each motion may last for up to 90 minutes. Ahead of the formal debate (as part of an earlier agenda item), there will be an opportunity for members to ask questions of the

Minister and her officials on the background to and purpose of these instruments.

4. At the end of each debate, the Committee must decide whether or not to agree the respective motion, and then report to Parliament accordingly. Such a report need only be a short statement of the Committee's recommendations.

Homelessness etc. (Scotland) Act 2003 (the 2003 Act) – 'Homelessness Commitment'

Background

5. Under the Homelessness etc. (Scotland) Act 2003 (the 2003 Act), the Scottish Government made a commitment to eradicating unintentional homelessness in Scotland by the end of 2012. During December 2011 to March 2012 the Committee undertook an inquiry into the commitment, receiving oral and written evidence from a range of stakeholders with interests in the Commitment, such as local authority housing associations, charities and community groups. It also visited housing 'Hubs' around the country, to gauge and understanding of the most pertinent issues involved in meeting the target from the local authorities perspective.

6. The Committee published a report on its inquiry on 20 March 2012 in which it made several recommendations to the Scottish Government on how it might implement and monitor the legislation created to meet its target. This included the monitoring of how the need for temporary accommodation might be managed, if demand becomes increased as a result of the 2003 Act. The Committee also considered how the Scottish Government might best support those local authorities that struggle to meet its requirements and which body or organisation would be best placed to advise/manage this e.g. a steering group comprised of COSLA and the Scottish Government.

7. The Committee also recommended in its report that the advice on money management and debt counselling should be made an essential component of the support offered to unintentionally homeless households. The following instrument of subordinate legislation has been drafted to reflect this recommendation.

The Committee's report on the homelessness commitment can be found here:
http://www.scottish.parliament.uk/S4_InfrastructureandCapitalInvestmentCommittee/Reports/trr-12-02w.pdf

8. Further to the Committee's own work on the homelessness commitment, it is suggested that it may wish to seek an update from the Minister on certain of the issues it addressed in its report, such as the progress being made by local authorities, future monitoring and the prevention work being carried out by housing hubs.

**Housing Support Services (Homelessness) (Scotland) Regulations 2012
[draft] SSI/2012/draft***Purpose*

9. These Regulations, if approved, will place a duty on local authorities assessing a homeless applicant for housing, to consider whether the applicant requires housing support services. Following the Scottish Government consultation with stakeholders, four specific housing support services, providing advice and assistance to tenants, have been agreed:

- Personal budgeting, debt counselling or in dealing with benefit claims.
- Engagement with bodies and organisations with interests in the applicant's welfare.
- The applicants understanding of their tenancy rights and in dealing with disputes.
- Settling in to a new tenancy.

10. The local authority will only be required to provide a relevant service to enable the tenant to remain in occupation of their residential accommodation. This legislation has been added in response to the suggestions made in the consultation period that assessment and as a means for establishing the need for housing support services, would not allow flexibility in dealing with individual situations.

11. The aim of this instrument is to help tackle homelessness in Scotland and meet the Homelessness Commitment target. If agreed, these Regulations will be commenced under section 32B of the Housing (Scotland) Act 1987 on 1 June 2013.

**Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012
[draft] SSI/2012/draft***Purpose*

12. This Order is made under the 2003 Act and is intended to abolish the priority needs testing, currently applied to unintentionally homeless applicants for local authority housing. As of 31 December 2012, if the Order is approved, such an applicant will no longer be distinguished by their priority needs. The currently list of those considered as requiring priority treatment is set out at Section 25 of the Housing (Scotland) Act 1987 and includes vulnerable people such as those mentally or physically disadvantaged, pregnant or with dependents, or those at risk of, or currently experiencing, homelessness. The Order aims to revoke the distinction made between unintentionally homeless applicants and allow all those seeking accommodation to be housed.

13. The Order further intends to enable a local authority to refer an applicant to another local authority, if the applicant falls within the second authorities' catchment area.

14. A Business Regulatory Impact Assessment (BRIA) has been carried out for this Order, which raises the possibility that as the Order will entitle an additional 3000 homeless 'households', currently outwith the priority category, to residential accommodation, a need for more local authority reliance on temporary housing could be created. The BRIA, however, also suggests that such a need could be offset by the homelessness prevention activity, currently in operation.

Consideration by the Subordinate Legislation Committee

15. The SLC considered these instruments at its meetings 6 November 2012 and agreed to raise no points relating them.

Rent (Scotland) Act 1984 (Premiums) Regulations 2012 SSI/2012/draft

Background

16. The Energy Act 2011 introduced the Green Deal plans which allow for energy efficiency improvements made to a property to be recouped from the person liable for the payment of the property's energy bills. These payments can be taken over time as an element of the energy bills.

17. The Rent (Scotland) Act 1984 (the 1984 Act), which makes it a criminal offence for landlords to demand payment of a premium as a condition of the grant, renewal or continuance of a protected tenancy. There is, therefore, a potential for confusion as to who is liable to pay for improvements made under a Green Deal plan when they apply to an assured or protected tenancy.

18. The 1984 Act also, makes it an offence for a landlord of such a tenancy, to receive any premium (such as an administration charge) in addition to the rent on a property. The Housing (Scotland) Act 1988 extended the 1984 Act to cover assured tenancies, which have replaced protected tenancies.

19. The term "premium" is defined under the Private Rented Housing (Scotland) Act 2011 is any 'fine, sum or pecuniary consideration' other than rent or a refundable deposit. As a Green Deal payment is over and above rent and deposit, there is a need for clarification as to whether or not such a payment is to be treated as a premium for the purposes of section 82 of the 1984 Act.

Purpose

20. These Regulations are intended to make clear that payments under a Green Deal plan are not to be treated as a premium and, as a consequence, tenants under a protected or assured tenancy can be liable for such payments. Landlords, therefore, are not committing an offence by requiring these payments from their tenants. These Regulations, if approved, will clarify the responsibility of a tenant to keep up Green Deal payments.

Consideration by the Subordinate Legislation Committee

21. The SLC considered this instrument at its meeting on 23 October 2012 and agreed to raise no points relating to it.

22. A copy of these Regulations and their accompanying documents, are contained within the papers.

Steve Farrell
Clerk to the Committee
November 2012