



The Scottish Parliament
Pàrlamaid na h-Alba

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

AGENDA

8th Meeting, 2016 (Session 4)

Wednesday 2 March 2016

The Committee will meet at 10.00 am in the Robert Burns Room (CR1).

1. **Decision on taking business in private:** The Committee will decide whether to take item 4 in private at this and future meetings.

2. **Commissioner for Ethical Standards in Public Life in Scotland:** The Committee will take evidence from—

Bill Thomson, Commissioner for Ethical Standards in Public Life in Scotland;

Brenda McKinney, Investigations Manager, Office of the Commissioner for Ethical Standards in Public Life in Scotland.

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

The Building (Scotland) Amendment Regulations 2016 (SSI 2016/70);

The Building (Energy Performance of Buildings) (Scotland) Amendment Regulations 2016 (SSI 2016/71);

The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations (SSI 2016/72);

The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Amendment Regulations 2016 (SSI 2016/74); and

The Charities Accounts (Scotland) Amendment Regulations 2016 (SSI 2016/76)

4. **Legacy paper:** The Committee will consider a draft legacy paper.

5. **Inquiry into arm's length external organisations (in private):** The Committee will consider a draft report.

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The papers for this meeting are as follows—

Agenda item 2

PRIVATE PAPER

LGR/S4/16/8/1 (P)

Agenda item 3

Paper by the clerk

LGR/S4/16/8/2

Agenda item 4

PRIVATE PAPER

LGR/S4/16/8/3 (P)

Agenda item 5

PRIVATE PAPER

LGR/S4/16/8/4 (P)

Local Government and Regeneration Committee

8th Meeting, 2016 (Session 4), Wednesday, 2 March 2016

Subordinate legislation

Introduction

1. This paper seeks to inform members' consideration of the following negative statutory instruments

[The Building \(Scotland\) Amendment Regulations 2016 \(SSI 2016/70\)](#) (page 2);

[The Building \(Energy Performance of Buildings\) \(Scotland\) Amendment Regulations 2016 \(SSI 2016/71\)](#) (page 3);

[The Disabled Persons \(Badges for Motor Vehicles\) \(Scotland\) Amendment Regulations 2016 \(SSI 2016/72\)](#) (page 4);

[The Local Government Pension Scheme \(Management and Investment of Funds\) \(Scotland\) Amendment Regulations 2016 \(SSI 2016/74\)](#) (page 5); and

[The Charities Accounts \(Scotland\) Amendment Regulations 2016 \(SSI 2016/76\)](#) (page 6).

Committee consideration

2. The Delegated Powers and Law Reform Committee considered all five instruments at its meeting on 23 February 2016 and agreed that it had no comments to make.

3. No motion to annul these instruments has been lodged.

4. **The Committee is invited to consider whether it has any comments to make in relation to these instruments.**

The Building (Scotland) Amendment Regulations 2016

Background

5. The instrument was laid on 3 February 2016 and this Committee has been designated the lead committee. The lead committee must report on the instrument by 21 March 2016.

6. The above instrument is made in exercise of the powers conferred by sections 1 and 54(2) of, and Schedule 1 to, the Building (Scotland) Act 2003. The instrument is subject to negative procedure.

7. Members will note that this is a negative instrument. This means that the instrument will come into force on the specified date unless a motion to annul it has been agreed to by the Parliament within the 40 day period.

Policy objectives

8. Article 8 of Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communication networks is seeking to make new buildings and major renovations to existing buildings ready to receive high-speed electronic communication. It is looking for infrastructure to be formed within buildings that allow the passage of cables and fibre, when the building owner or occupant chooses to install superfast broadband.

9. The principle aim of the instrument is to transpose this European legislation into Scottish building regulations. However, indirectly it also supports the government's strategic objectives of a wealthier and fairer; safer and stronger; smarter; greener and healthier Scotland.

10. Regulation 1 meets the coming into force date of 1 July 2016, and the date, 1 January 2017, from which the regulations apply to new buildings and major renovations to physical infrastructure in existing buildings. Both of these dates are set by the Directive and the latter one is applied by the trigger of a building warrant application (building permit application, as the Directive refers).

Impact assessments

11. A pre-screening notification was undertaken for the Strategic Environmental Assessment. This established that the policy will result in 'no or minimum environmental effects' and that under section 7 of the Environmental Assessment (Scotland) Act 2005, no further assessment is required.

12. The need for both an Equality Impact Assessment and Children's Rights and Welfare Impact Assessment was considered. However, as this policy only covers the in-building infrastructure to support future installation of broadband, no equality or children's rights and welfare impact issues were identified. Consequently, these impact assessments are not necessary.

13. The subject of this instrument has a material financial impact on those who elect to carry out new building work and on those who decide to do major

refurbishment of existing in-building infrastructure. Some or all of the cost of the work may be passed on to those procuring a new building or requesting a refurbishment. However, the in-building infrastructure is a relatively insignificant cost when viewed in terms of the overall capital cost of construction for buildings.

14. An assessment of the overall costs and benefits associated with implementation of this instrument (Option 2 - introduce a new mandatory standard, together with new supporting guidance within the Technical Handbooks) is provided within the final Business and Regulatory Impact Assessment, published at: <http://www.gov.scot/bsd>. This identifies both the costs and the benefits of the approach taken.

The Building (Energy Performance of Buildings) (Scotland) Amendment Regulations 2016

Background

15. The instrument was laid on 4 February 2016 and this Committee has been designated the lead committee. The lead committee must report on the instrument by 21 March 2016.

16. The above instrument is made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

17. Members will note that this is a negative instrument. This means that the instrument will come into force on the specified date unless a motion to annul it has been agreed to by the Parliament within the 40 day period.

Policy objectives

18. This instrument addresses two specific elements within the EU Energy Performance of Buildings Directive. This Directive, which promotes the improvement of the energy performance of buildings, was recast in May 2010 as [Directive 2010/31/EU on the Energy Performance of Buildings](#).

19. Action in response to this European Directive forms part of the obligation of the UK as a Member State to make national regulations in response to EU legislation. Action to improve the energy efficiency of new buildings and of larger air conditioning systems within all buildings also contributes to Scottish Ministers' action to reduce carbon dioxide emissions and energy use, as part of the Scottish Government's Climate Change Programme. This contributes to the Scottish Government's Greener Strategic Objective. In particular, it will impact on the National Outcome "We reduce the local and global environmental impact of our consumption and production".

20. The recast Directive sets out a number of requirements for Member States to address which include to:

- To ensure that all new buildings are 'nearly zero energy' buildings to a timetable prescribed within Article 9(1) of the Directive; and

- To undertake regular inspection of air-conditioning systems in buildings, under Article 15 of the Directive.

Consultation

21. The subject of this instrument introduces no change to what is required of parties affected by the regulations. The proposed amendments are an administrative exercise which results in no effect on those subject to the current regulations and so, therefore, no consultation was undertaken.

22. As no consultation has taken place in respect of these changes, regulation making powers under the Building (Scotland) Act 2003 are not available since it is a requirement under section 1(2) of that Act to consult “persons as appear to Ministers to be representative of the interests concerned”. In this light, and given that the instrument is made in response to a European Directive, the instrument is made using powers under section 2(2) of the European Communities Act 1972 rather than powers under the Building (Scotland) Act 2003.

Impact assessments

23. The subject of this instrument introduces no change to what is required of parties affected by the regulations. No assessment of impact is required

Financial effects

24. The subject of this instrument introduces no change and has no financial effect on parties affected by the regulations.

The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2016

Background

25. The instrument was laid on 4 February 2016 and this Committee has been designated the lead committee. The lead committee must report on the instrument by 21 March 2016.

26. The above instrument is made in exercise of the powers conferred by section 21 of the Chronically Sick and Disabled Persons Act 1970.

27. Members will note that this is a negative instrument. This means that the instrument will come into force on the specified date unless a motion to annul it has been agreed to by the Parliament within the 40 day period.

Policy objectives

28. The Blue Badge Scheme currently focuses on helping people with severe mobility problems lead independent lives by enabling them to get easier access to services they want to use. The Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 provide a range of eligibility criteria. Badges can be issued either without assessment, generally where an applicant receives a “passport” from another benefit such as Disability Living Allowance or Personal Independence Payment or following assessment by a local authority.

29. Currently, people who are assessed via a local authority are eligible by virtue of being able to demonstrate that they are 'unable to walk or virtually unable to walk' as outlined in Regulation 4(2)(f) and 4(2)(g) of the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000.

30. The intention of this policy is to extend eligibility, via an application to the local authority, to people with mental disorders who have no awareness of danger from traffic and are likely to compromise their safety, or the safety of others as result.

Consultation

31. Transport Scotland conducted a Call for Evidence in December 2013 which aimed to gather information on potentially extending the eligibility criteria for the blue badge scheme to include people, who as a result of a diagnosed mental disorder, have little or no awareness of danger from traffic. The subsequent analysis of the responses received indicated support for the scheme to be extended, although there remained issues on the best way to effect the change. This Working Group made the recommendation to Scottish Ministers that is now being given effect to through these Regulations.

32. As a result, Transport Scotland established a Working Group in 2015 to evaluate the practical viability of an extension. Membership of the group, which is chaired by Transport Scotland, was made up from people who currently administer the scheme within local authorities, health professionals who are involved with assessments under the scheme and people representing disability organisations.

Impact assessments

33. An Equality Impact Assessment has been completed and can be accessed on the Transport Scotland website. Consideration of how this policy affects children is considered under the Equality Impact Assessment and therefore no Child Rights and Wellbeing Impact Assessment has been conducted.

34. A Privacy Impact Assessment is not required as all personal data collected by local authorities will be entered on the systems currently being used for the existing Blue Badge Scheme.

35. There are no environmental impacts as a result of this policy and therefore, a Strategic Environmental Assessment has not been conducted.

The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2016

Background

36. The instrument was laid on 4 February 2016 and this Committee has been designated the lead committee. The lead committee must report on the instrument by 21 March 2016.

37. The above instrument is made in exercise of the powers conferred by section 7 of, and Schedule 3 to, the Superannuation Act and of all other powers enabling them to do so.

38. Members will note that this is a negative instrument. This means that the instrument will come into force on the specified date unless a motion to annul it has been agreed to by the Parliament within the 40 day period.

Policy objectives

39. This instrument amends The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2010 (the Investment Regulations) in order to increase the proportion of funds that local authority pension funds can invest in partnerships from a maximum of 15% of the fund to a maximum of 30%.

40. In relation to management of Local Government Pension Scheme (LGPS) pension funds, LGPS scheme managers are required to manage LGPS in such a way as to ensure that investments deliver the returns needed to pay pensions accrued by current and former LGPS members and also to protect local taxpayers and employers from high pension costs. The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2010 (the Investment Regulations) were designed to enable local fund managers to pursue effective investment strategies in order to meet these two objectives. Those regulations require that funds and risks are spread across a number of different types of investment; therefore, by setting limits on the proportion of funds that can be invested in each type of investment, the Investment Regulations were designed to minimise risk to; and protect the interests of taxpayers.

Consultation

41. A consultation was carried out with those stakeholders concerned with investments in the LGPS scheme but due to the highly technical nature of the amendment, and because no change of policy was involved, a wider consultation was not thought to be necessary.

Impact assessments

42. It is considered that these Regulations have no new impact on business or the voluntary sector as they are amending Regulations to improve administration of the scheme and to implement other government policies.

The Charities Accounts (Scotland) Amendment Regulations 2016

Background

43. The instrument was laid on 4 February 2016 and this Committee has been designated the lead committee. The lead committee must report on the instrument by 21 March 2016.

44. The above instrument is made in exercise of the powers conferred by section 44(4) and (5) of the Charities and Trustee Investment (Scotland) Act 2005 ("the 2005 Act").

45. Members will note that this is a negative instrument. This means that the instrument will come into force on the specified date unless a motion to annul it has been agreed to by the Parliament within the 40 day period.

Policy objectives

46. This instrument aims to update the definition of the Statement of Recommended Practice (“SORP”)

47. Chapter 6 of the 2005 Act sets out the duty on charities to keep accounts. It sets out the requirement for charities to prepare for each financial year a statement of account, including a report on its activities in the financial year, to have this statement of account independently examined or audited and to send a copy to Office of the Scottish Charity Regulator (OSCR).

48. Charities preparing fully accrued accounts are required to do so in accordance with the SORP unless they are a special case charity under regulation 14 of the 2006 Regulations in which case they are required to prepare accounts in accordance with the SORP for further and higher education or the SORP for registered social housing providers.

49. The instrument also aims to enable cross-border charities that are registered as social landlords in England, Wales or Northern Ireland, to prepare their accounts in accordance with the Housing SORP rather than the Charities SORP.

50. Regulation 2(2) amends the definition of “registered social landlord” to extend its application to charities who are registered as social landlords in England, Wales and Northern Ireland. The effect of extending the definition is to ensure that bodies which are registered as charities in Scotland but are also registered social landlords in England, Wales or Northern Ireland prepare their statements of account in accordance with their own specialist industry statements of recommended practice. The reason for making this amendment was to ensure that charities registered as social landlords in other parts of the United Kingdom but not Scotland are not placed under an administrative burden of providing accounts under the Charities SORP in Scotland when they are required to prepare accounts under the Housing SORP in other parts of the United Kingdom.

Consultation

51. A full public consultation was undertaken between 18 June and 18 September 2015 by OSCR and the Charity Commission in England and Wales in developing the Update Bulletin to the Charities SORP (FRS 102). Given that there are only a very small number of cross-border charities who are registered as social landlords in England, Wales or Northern Ireland but not Scotland, and OSCR has advised that these bodies would welcome this measure, a full public consultation has not been undertaken on the amendment to the definition of “registered social landlord”. OSCR has been fully consulted and is supportive of this instrument.

Financial effects

52. There will be costs to OSCR associated with monitoring compliance and also with regard to training but these were always included in the assumptions and estimates of its running costs and were to be met within existing budgets. There will be no additional costs associated with cross border charities that are only registered as social landlords in England, Wales or Northern Ireland preparing their accounts in accordance with the Housing SORP.