



The Scottish Parliament
Pàrlamaid na h-Alba

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

AGENDA

7th Meeting, 2016 (Session 4)

Wednesday 24 February 2016

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Decision on taking business in private:** The Committee will decide whether to take item 6 in private.
2. **Local government benchmarking framework:** The Committee will take evidence from—

Malcolm Burr, Chair, SOLACE (Scotland);

Colin Mair, Chief Executive, and Emily Lynch, Programme Manager, Performance Management & Benchmarking, Improvement Service.

3. **Subordinate legislation:** The Committee will take evidence on the Assessment of Energy Performance of Non-domestic Buildings (Scotland) Regulations 2016 [draft] from—

Marco Biagi, Minister for Local Government and Community Empowerment;

Gavin Peart, Head, Strategy Unit, and Steven Scott, Team Leader, Energy, Sustainability, EPBD and Climate Change Team, Building Standards Division, Scottish Government.

4. **Subordinate legislation:** Marco Biagi (Minister for Local Government and Community Empowerment) to move—S4M-15457—That the Local Government and Regeneration Committee recommends that the Assessment of Energy Performance of Non-domestic Buildings (Scotland) Regulations 2016 [draft] be approved.
5. **The Commission on Council Tax Reform:** The Committee will take evidence from—

Marco Biagi, Co-chair, The Commission on Council Tax Reform and Minister for Local Government and Community Empowerment;

David O'Neill, Co-chair, The Commission on Council Tax Reform and President, COSLA;

Robin Haynes, Emma Close, and Adam Stewart, Secretariat, The Commission on Local Tax Reform.

6. **The Commission on Council Tax Reform:** The Committee will consider the evidence it has received.

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The papers for this meeting are as follows—

Agenda item 2

PRIVATE PAPER

LGR/S4/16/7/1 (P)

PRIVATE PAPER

LGR/S4/16/7/2 (P)

[Further information about the Committee's consideration of the local government benchmarking framework](#)

Agenda item 3

Paper by the clerk

LGR/S4/16/7/3

Agenda item 5

PRIVATE PAPER

LGR/S4/16/7/4 (P)

Local Government and Regeneration Committee

7th Meeting, 2016 (Session 4), Wednesday, 24 February 2016

Subordinate legislation

Introduction

1. This paper seeks to inform members' consideration of the [Assessment of Energy Performance of Non-domestic Buildings \(Scotland\) Regulations 2016](#).

The Assessment of Energy Performance of Non-domestic Buildings (Scotland) Regulations 2016

Background

2. The instrument was laid on 18 January 2016, and re-laid on 25 January, and this Committee has been designated the lead committee. The lead committee must report on the instrument by 29 February 2016.

3. The above instrument is made in exercise of the powers conferred by section 63 of the Climate Change (Scotland) Act 2009. The instrument is subject to affirmative procedure.

4. Members will note this is an affirmative instrument. At the meeting, members will have an opportunity to question the Minister for Local Government and Community Empowerment and his officials on the instrument. Afterwards the Minister will be invited to speak to the instrument and move a motion recommending that the instrument be approved. The Committee will then be able to debate the motion for up to 90 minutes. At the end of the debate, the Committee will be asked to agree the motion.

Policy objectives

5. The Climate Change (Scotland) Act 2009¹ ('The Act') established a framework to drive greater efforts at reducing greenhouse gas emissions in Scotland. The provisions in the Act set a long-term target to reduce Scotland's greenhouse gas emissions by at least 80% by the year 2050. This long-term target is supported by a 2020 interim target and a framework of annual targets intended to drive the policies necessary for achieving the long-term target. A range of climate change mitigation and adaptation policies have been identified which do require legislation and the Act contains provisions in Part 5 to allow these to be taken forward.

6. The principle aim of the instrument, in response to the provisions within section 63, is to reduce emissions and energy use in existing non-domestic buildings. 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".

¹ <http://www.legislation.gov.uk/asp/2009/12/contents>

7. The instrument introduces a requirement for owners of specified existing non-domestic buildings (those over 1,000 m² in area) to undertake an assessment of the greenhouse gas emissions and energy performance of their building. Assessment is based upon that undertaken for Energy Performance Certificates which is already required for such buildings under the Energy Performance of Buildings (Scotland) Regulations 2008, as amended.

Consultation

8. A consultation setting out proposals for regulations requiring the assessment and improvement of existing non-domestic buildings was issued on 7 October 2011. Views and opinions on the proposals were sought from over 600 key stakeholders and users of the building standards system in Scotland. Public, private and third sector organisations, Non Departmental Public Bodies (NDPBs) and individuals were advised of the consultation by letter and that the documents were accessible on the Building Standards Division (BSD) website. E-mail notification of the consultation was also made to around 2,000 organisations and individuals who have registered to receive the BSD newsletter. All were invited to submit comments by 20 January 2012. 43 responses were received from a wide range of affected stakeholders. The Consultation Report and Scottish Government Response is published online at: <http://www.gov.scot/Resource/0040/00402393.pdf>

9. A subsequent consultation sought views on the form that regulations might take, in the context of existing related regulatory requirements, took place between 28 March 2013 and 23 May 2013. 24 responses were received. That Consultation report and Scottish Government Response are published online at: <http://www.gov.scot/Resource/0044/00448418.pdf>. The consultation included the proposal that regulation made under section 63 of the Act be combined with the Energy Performance of Buildings (Scotland) Regulations 2008. Despite industry support, it was determined that new regulations should be progressed as a separate statutory instrument to enable implementation of domestic and EU policy on emissions and energy reduction to be managed more effectively.

Impact assessment

10. An Equality Impact Assessment was undertaken and identified that there were no equality impact issues arising from the subject of the instrument. The assessment is published online at: <http://www.gov.scot/Topics/People/Equality/18507/EQIASearch/S63ClimateChange>.

11. A pre-screening exercise, ref PRE-00379, was carried out to determine if proposals for the assessment and improvement of existing non-domestic buildings would require a Strategic Environmental Assessment. This determined that proposals will result in 'no or minimum environmental effects' and that under section 7 of the Environmental Assessment (Scotland) Act 2005, further assessment was not required. A copy of the pre-screening report is published at: <http://www.gov.scot/seag/seagDocs/PRE-00379/11313.pdf>

12. A Privacy Impact Assessment (PIA) was not undertaken as the regulations and the processes they introduce do not involve the creation or use of personal data, or any other activity which could have an impact on the privacy of individuals. As policy development preceded the introduction of the Child Rights and Wellbeing Impact

Assessment (CRWIA), no formal assessment of impact in that respect was undertaken.

Financial effects

13. The subject of this instrument has a material financial impact on the owners of existing non-domestic buildings, where qualifying buildings are offered for sale or lease to a new tenant. Costs will be incurred by the requirement to assess the building and produce an Action Plan. Further costs will be incurred either in undertaking building improvement measures or in annual reporting of operational ratings.

14. Where a building owner undertakes building improvement measures to meet the improvement targets identified in the Action Plan, this will result in reduced energy costs for the building. The level of improvement sought in generating the improvement targets is based upon measures that, if implemented will pay back the cost of works in reduced energy bills within a period of five to seven years.

Issues the Committee may wish to consider

15. The Delegated Powers and Law Reform Committee considered these Regulations at its meeting on 2 February 2016 and agreed that it had no comment to make.

Recommendation

16. Members are invited—

- To take evidence from the Minister for Local Government and Community Empowerment on the draft instrument (item 2); and then
- Debate and then consider motion S4M-15457 (item 3).