



## INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

### AGENDA

**28th Meeting, 2014 (Session 4)**

**Wednesday 3 December 2014**

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

1. **Declaration of interests:** James Dornan and Mike MacKenzie will be invited to declare any relevant interests.
2. **Choice of Convener:** The Committee will choose a Convener.
3. **Decision on taking business in private:** The Committee will decide whether to take item 6 in private.
4. **Transport:** The Committee will take evidence from—  
  
Keith Brown, Cabinet Secretary for Infrastructure, Investment and Cities, Derek Mackay, Minister for Transport and Islands, Ainslie McLaughlin, Director, Major Transport Infrastructure Projects, Donald Carmichael, Director, Transport Policy, Roy Brannen, Director, Trunk Roads and Bus Operations, and Stewart Leggett, Strategic Impacts Manager in Trunk Road and Bus Operations, Scottish Government.
5. **Subordinate legislation:** The Committee will consider the following negative instrument—  
  
Notice of Potential Liability for Costs (Discharge Notice) (Scotland) Order 2014 (SSI 2014/313)
6. **Draft Budget Scrutiny 2015-16:** The Committee will consider a draft report to the Finance Committee on the Scottish Government's Draft Budget 2015-16.

**ICI/S4/14/28/A**

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The papers for this meeting are as follows—

**Agenda Item 4**

PRIVATE PAPER

ICI/S4/14/28/1 (P)

**Agenda Item 5**

Background Note

ICI/S4/14/28/2

[Notice of Potential Liability for Costs \(Discharge Notice\)  
\(Scotland\) Order 2014 \(SSI 2014/313\)](#)

**Agenda Item 6**

PRIVATE PAPER

ICI/S4/14/28/3 (P)

**Infrastructure and Capital Investment Committee**

**28<sup>th</sup> Meeting, 2014 (Session 4), Wednesday, 3 December 2014**

**Subordinate legislation**

**Title of Instrument**

Notice of Potential Liability for Costs (Discharge Notice) (Scotland) Order 2014 (SSI 2014/313)

**Type of Instrument**

Negative

**Laid Date**

17 November 2014

**Minister to attend the meeting**

No

**SSI's drawn to the Parliament's attention by Delegated Powers and Law Reform Committee**

No

**Reporting Deadline**

5 January 2015

**Purpose**

1. Notices of potential liability for costs on burdened properties are provided by the Title Conditions (Scotland) Act 2003 and the Tenements (Scotland) Act 2004. The effect of such notices is that a new owner may become liable for costs incurred in relation to previous maintenance or other work. While the notice of potential liability expired after three years unless renewed, there was no provision in the legislation for the liability to be discharged within that time.

2. To allow for a statutory discharge procedure within the three year period, the two Acts were amended by The Housing (Scotland) Act 2014 to provide for a statutory discharge procedure under which notices of potential liability for costs may be discharged if the debt has been paid off or otherwise extinguished. The purpose of this Order is to prescribe the form of these discharge notices.

**Procedure**

3. Negative instruments are instruments that are "subject to annulment" by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the

instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

4. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

**Consideration by the Delegated Powers and Law Reform Committee**

5. At its meeting on 25 November 2014, the Delegated Powers and Law Reform Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

**Recommendation**

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

**Myra Leckie  
Committee Assistant  
November 2014**