



Environment and Rural Development Committee

14th Meeting, 2004

Wednesday 2 June 2004

The Committee will meet at 11.00 am in Committee Room 4.

1. **Subordinate legislation:** The Committee will consider the following negative instruments—
 - the Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) (Scotland) Order 2004, (SSI 2004/209); and
 - the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment (No.2) Regulations 2004, (SSI 2004/220).
2. **Strategic Framework for Scottish Aquaculture:** The Committee will consider its future representation on a working group to monitor progress under this framework.
3. **Inquiry into the implementation of CAP Reform (in private):** The Committee will consider a draft report.

Tracey Hawe
Clerk to the Committee
Direct Tel: 0131-348-5221

The following papers are attached:

<p><u>Agenda Item 1</u></p> <p>The Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) (Scotland) Order 2004 (SSI/2004/209).</p> <p>The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment (No.2) Regulations 2004, (SSI 2004/220).</p> <p>Extract from the Subordinate Legislation Committee's 23rd Report</p>	<p>ERD/S2/04/14/1a</p> <p>ERD/S2/04/14/1b</p> <p>ERD/S2/04/14/1c</p>
<p><u>Agenda Item 2</u></p> <p>Correspondence with the Deputy Minister for Environment and Rural Development.</p>	<p>ERD/S2/04/14/2a</p>
<p><u>Agenda Item 3</u></p> <p>Draft report on CAP reform (<i>for members only</i>).</p>	<p>ERD/S2/04/14/3a</p>

Subordinate Legislation Committee
Extract of 23rd Report, 2004

1. At its meeting on 25th March the Committee determined that it did not need to draw the attention of the Parliament to the instruments listed in the Annexe to this report on any of the grounds within its remit.

1. The report is also addressed to the following committees as the lead committees for the instruments specified:

Environment and Rural Development

SSI 2004/209

Instruments subject to annulment

The Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) (Scotland) Order 2004 (**SSI 2004/209**)

Introduction

1. The Committee asked the Executive two questions on this Order.

Question 1

2. Article 4(1) appears to allow derogation in certain circumstances from the requirement on the buyer of fish to weigh the fish in the presence of a British sea-fishery officer. The Committee asked whether the derogation is in respect of the whole obligation or simply the requirement for the presence of a British sea-fishery officer.

3. The Scottish Executive's reply is reproduced at Appendix 1. The Executive confirms that the derogation in article 4(1) of the Order is in respect of the obligation to weigh the fish in the presence of a British sea-fishery officer only. The Executive goes on to explain the effect of the relevant provisions.

Report 1

4. The Committee found the Executive's response helpful in clarifying the effect of the derogation. The drafting of article 4(1) appeared clearly ambiguous and to that extent could be clearer. **The Committee therefore reports the Order to the lead committee and the Parliament on that ground.**

Question 2

5. The Committee asked the Executive why the savings provision in article 15(2) was thought to be necessary when the position appears to be covered adequately by section 16(1) of the Interpretation Act 1978. The Executive accepts the point but explains that it wished to make it absolutely clear to those affected by the legislation that, despite the repeal of the 2003 Order by SSI 2004/209, a relevant offence under the 2003 Order can continue to be enforced and prosecuted and penalties can be imposed in respect of such an offence.

Report 2

6. Whilst the Executive's intentions may be worthy, the Committee nevertheless observes that it is not the practice to repeat the provisions of the 1978 Act in circumstances where they apply automatically. In the Committee's view, the place for the type of information provided in article 15(2) is in guidance or, if considered desirable, the Explanatory Note rather than in the Order itself.

7. Therefore, by including article 15(2), the order fails to comply with proper legislative practice and the Committee reports it on that ground.

Appendix 1

THE SEA FISHING (ENFORCEMENT OF COMMUNITY QUOTA AND THIRD COUNTRY FISHING MEASURES) (SCOTLAND) ORDER 2004 (SSI 2004/209)

1. On 17th May the Subordinate Legislation Committee considered the above instrument and requested an explanation of the following matters-

“The Committee notes that article 4(1) appears to allow derogation in certain circumstances from the requirement on the buyer of fish to weigh the fish in the presence of a British sea-fishery officer. The Committee asks whether the derogation is in respect of the whole obligation or simply the requirement for the presence of a British sea-fishery officer.

The Committee asks the Executive why the savings provision in article 15(2) was thought to be necessary when the position appears to be covered adequately by section 16(1) of the Interpretation Act 1978”.

The Scottish Executive responds as follows:

First Question

1. The derogation in article 4(1) of the Order is in respect of the obligation to weigh the fish in the presence of a British sea-fishery officer only.

2. Paragraph 12 of Annex IV to Council Regulation 2287/2003 provides for an obligation on buyers and holders to weigh fish. Sub paragraph 8 of paragraph 12 of Annex IV provides that the competent authorities of a Member State shall ensure that landings of more than 10 tonnes of herring, mackerel or horse mackerel are weighed in the presence of a controller. In implementation of that, article 4(1) of the Order provides that where over 10 tonnes of herring, mackerel or horse mackerel are landed in Scotland, buyers or holders of fish must weigh the fish in the presence of a British sea-fishery officer unless the buyer or holder has arranged for some other person or organisation to act as the controller for the purposes of sub paragraph 8 of paragraph 12 of Annex IV to Council Regulation 2287/2003. In that case the details of the arrangement and the buyers or holders who are party to it must be notified to the Scottish Ministers.

Second Question

3. The Executive accepts that section 16(1) of the Interpretation Act 1978 makes provision for general savings provisions.

4. Notwithstanding the provision made in the Interpretation Act 1978, in this instance the Executive included an express savings provision in the instrument to make it absolutely clear to those affected by the legislation that despite the repeal of the 2003 Order by S.S.I. 2004/209 a relevant offence under the 2003 Order can continue to be enforced and prosecuted and penalties can be imposed in respect of such an offence.

Scottish Executive Environment and Rural Affairs Department

19th May 2004

Strategic Framework for Scottish Aquaculture

11 May 2004

Ms Sarah Boyack MSP
Convenor
Environment & Rural Development Committee
Scottish Parliament
George IV Bridge
Edinburgh
EH99 1SP

Dear Sarah

I enclose a copy of a letter I have received from Allan Wilson MSP in connection with the Strategic Framework for Scottish Aquaculture.

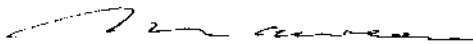
As you may recall, I represented the former Transport & Environment Committee on the group. It is envisaged that the Executive will reconvene and chair a working group, representing stakeholder interests, to monitor progress with the priorities for action every 12-18 months.

You will see in the letter it is proposed that the group meets before the summer recess and a date of Wednesday 16 June has been chosen to assess progress of the framework so far.

I write to ask whether you and other members of the committee wish me to remain as a representative for the Committee on the group, and if so, would the committee be happy for me to attend the meeting on Wednesday 16 June.

Best wishes

Yours sincerely



MAUREEN MACMILLAN MSP

Enclosure

Maureen Macmillan
Member of the Scottish Parliament for the Highlands & Islands
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SCOTTISH EXECUTIVE

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7/5/04

30th April 2004

De Maureen

STRATEGIC FRAMEWORK FOR SCOTTISH AQUACULTURE

The Strategic Framework Document (Part 4) envisages that the Executive will reconvene and chair a working group, representing stakeholder interests, to monitor progress with the priorities for action every 12-18 months. It is also anticipated that the group will publish a revised version of the priorities for action (Appendix 3 of the current document) and where targets have been exceeded or rescheduled, the reasons will be explained.

I am writing to invite you, on behalf of your organisation, to participate in the reconvened working group, which I myself intend to chair. Similar invitations are being issued to those who participated on behalf of the other stakeholder organisations represented in the Group which developed the Strategic Framework Document.

I want the group to meet before the summer holiday season and have therefore opted for **Wednesday, 16 June**, which will be some 15 months after the launch of the framework and a reasonable period of which to assess progress.

The meeting will take place in Edinburgh and will start at 10.30 am, the venue will be confirmed shortly.

Having been involved in the development of the framework I hope you personally will be able to participate on this occasion. But of course, I realise, that over time personalities and responsibilities change, and it may be that your organisation will wish to nominate someone else. I would be grateful if you, or your nominated representative, could advise Gordon Hart (Tel No. 0131 244 6226, E-Mail: gordon.hart@scotland.gsi.gov.uk) to confirm your interest and participation.

1.

Papers for the meeting will be issued nearer the time. It is clear from the monitoring that has been undertaken by my officials that some good progress has been made across a number of the priorities for action. In some cases, however, due to the unforeseen complexities associated with the issues or, because of conflicting priorities and resource constraints, targets have had to be adjusted. And since publication of the framework some new issues have arisen which I expect the group will also wish to consider and maybe reflect in any revised list of future priorities for action.

I think therefore our meeting in June will be timely, interesting and certainly worth doing. And it will allow us to report publicly so as others with an interest in the development of aquaculture can be informed of the progress being made.

Your sincere
Allan Wilson

ALLAN WILSON