



Environment and Rural Development Committee

15th Meeting, 2005

Wednesday 25 May 2005

The Committee will meet at 9.45 am in Committee Room 5.

1. **Water Environment and Water Services (Scotland) Act 2003:** The Committee will consider the Water Environment and Water Services (Scotland) Act 2003: Annual Report to the Scottish Parliament – 2004, and take evidence from—

Lewis Macdonald MSP, Deputy Minister for Environment and Rural Development.

2. **Subordinate legislation:** Lewis Macdonald MSP (Deputy Minister for Environment and Rural Development) to move motion S2M-2748— That the Environment and Rural Development Committee recommends that the draft Water Environment (Controlled Activities) (Scotland) Regulations 2005 be approved.
3. **Environmental Assessment (Scotland) Bill (in private):** The Committee will consider a draft Stage 1 report.

Mark Brough
Clerk to the Committee
Direct Tel: 0131-348-5240

The following papers are attached:

<p><u>Agenda Item 1</u></p> <p>Implementation of the Water Environment and Water Services (Scotland) Act 2003: Annual Report to the Scottish Parliament - 2004</p> <p>Briefing paper (<i>for members only</i>)</p>	<p>ERD/S2/05/15/1a</p> <p>ERD/S2/05/15/1b</p>
<p><u>Agenda Item 2</u></p> <p>The draft Water Environment (Controlled Activities) (Scotland) Regulations 2005</p> <p>The Water Environment (Controlled Activities) (Scotland) Regulations 2005: Policy Statement and Regulatory Impact Assessment</p> <p>Extract from the Subordinate Legislation Committee 19th Report</p>	<p>ERD/S2/05/15/2a</p> <p>ERD/S2/05/15/2b</p> <p>ERD/S2/05/15/2c</p>
<p><u>Agenda Item 3</u></p> <p>Draft report (<i>for members only</i>)</p>	<p>ERD/S2/05/15/3a</p>

SSI Title and No:	The Water Environment (Controlled Activities) (Scotland) Regulations 2005, (SSI 2005/draft)						
Laid Date:	25/04/2005	Responsible Minister:	Ross Finnie, Minister for Environment and Rural Development				
SE Contact:	Joyce Carr, SEERAD, 47623						
Standing Order:	10.6.1(a) subject to approval by resolution before being made.						
RECOMMENDATION							
Lead Committee:	Environment and Rural Development		Other Committees:				
Clerk Contact Room & No:	Mark Brough, 85240		Clerk Contact No:				
Reason:	These regulations establish measures to regulate activities for the purposes of protection of the water environment as required by Articles 10, 11 and 23 of the EC Water Framework Directive. They will facilitate the achievement of the environmental objectives set out in river basin management plans.						
Time Limit for Parliament to Deal with Instrument	03/06/2005		1st SLC Meeting	03/05/2005			
			SLC reporting deadline	15/05/2005			
Lead Committee To Report By:	30/05/2005		*Other Committees To Report to the Lead Committee:				
SSI Attached	X	Draft Motion Attached if Required		Date Motion and Designation Form E-Mailed to the Bureau		Laying Clerk Advised of Designated Lead Committee	

* 10 days before the lead committee reporting date. "Other" committees may wish to negotiate timing of their report with the lead committee.



Subordinate Legislation Committee

Extract from the 19th Report, 2005 (Session 2)

The Committee reports to the Parliament as follows—

The Water Environment (Controlled Activities) (Scotland) Regulations 2005, (SSI 2005/draft)

1. The Committee asked the Executive to confirm that all the powers cited will be commenced before the instrument is made. The Executive has confirmed that this is the case and the attention of the lead Committee and Parliament is drawn to the Executive's confirmation for information.
2. The Committee had also asked the Executive for clarification as to how regulation 20 is intended to operate. The Executive has replied that regulation 12 is applied in regulation 20 to ensure that SEPA can recover a charge in respect of a variation initiated by it. This is in line with SEPA's general duty to recover the costs associated with its regulatory functions, and complies with the "polluter pays" principle of Community Environmental law.
3. **The Committee accepts the Executive's explanation of the way in which regulation 20 will operate in practice but is of the view that the drafting of the provision could be clearer and draws it to the attention of the lead Committee and Parliament on this ground.**

APPENDIX

The Water Environment (Controlled Activities) (Scotland) Regulations 2005, (SSI 2005/draft)

In its letter of 3rd May to Catherine Hodgson the Subordinate Legislation Committee sought an explanation of the following matters.

The Committee seeks confirmation that the enabling powers cited in the preamble which are not yet commenced will be commenced before the earliest commencement date provided for in Regulation 1 of the Regulations.

The Department responds as follows:

We confirm that all enabling powers cited in the preamble will be brought into force before the Regulations are made.

The Committee also asks for an explanation of the purpose of regulation 20(1) in so far it applies regulation 12 to variations initiated by SEPA

The Department responds as follows:

Regulation 12 is applied in regulation 20 to ensure that SEPA can recover a charge in respect of the variation. This is in line with SEPA's general duty to recover the costs associated with its regulatory functions, and complies with the "polluter pays" principle of Community environmental law. Regulation 12 is also applied to ensure that SEPA can obtain the information it requires to enable it to make such variation as is appropriate in the circumstances of the case