



Environment and Rural Development Committee

20th Meeting, 2005

Tuesday 28 June 2005

The Committee will meet at 2.00 pm in Committee Room 2

1. **Item in private:** The Committee will consider whether to take item 5 in private.
2. **Inquiry into rural development:** The Committee will take evidence from—
 - Ross Finnie MSP, Minister for Environment and Rural Development;
 - Malcolm Chisholm MSP, Minister for Communities; and
 - Allan Wilson MSP, Deputy Minister for Enterprise and Lifelong Learning.
3. **European issues:** The Committee will take evidence on the Scottish Executive's priorities for the environment and rural development portfolio for the forthcoming UK Presidency of the EU from—
 - Ross Finnie MSP, Minister for Environment and Rural Development.
4. **Subordinate legislation:** The Committee will consider the following negative instruments—
 - the Air Quality Limit Values (Scotland) Amendment Regulations 2005, (SSI 2005/300);
 - the Loch Crinan Scallops Several Fishery Order 2005, (SSI 2005/304);
 - the Nitrate (Public Participation etc.) (Scotland) Regulations 2005, (SSI 2005/305);
 - the Wildlife and Countryside Act 1981 (Variation of Schedule) (Scotland) Order 2005, (SSI 2005/308);
 - the Genetically Modified Organisms (Transboundary Movements) (Scotland) Regulations 2005, (SSI 2005/316);
 - the Financial Assistance for Environmental Purposes (Scotland) Order 2005, (SSI 2005/324);

the Prevention and Monitoring of Cetacean Bycatch (Scotland) Order 2005, (SSI 2005/330);

the Plant Protection Products (Scotland) Regulations 2005, (SSI 2005/331);
and

the Eggs (Marketing Standards) (Enforcement) (Scotland) Regulations 2005, (SSI 2005/332).

5. **Environmental Levy on Plastic Bags (Scotland) Bill:** The Committee will consider its approach to the Bill at Stage 1.

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

The following papers are attached:

<u>Agenda Item 2</u>	
Briefing paper (<i>for members only</i>)	ERD/S2/05/20/2a
Briefing from the Scottish Executive	ERD/S2/05/20/2b
<u>Agenda Item 3</u>	
Correspondence from the Minister for Environment and Rural Development	ERD/S2/05/20/3a
<u>Agenda Item 4</u>	
The Air Quality Limit Values (Scotland) Amendment Regulations 2005, (SSI 2005/300)	ERD/S2/05/20/4a
The Loch Crinan Scallops Several Fishery Order 2005, (SSI 2005/304)	ERD/S2/05/20/4b
The Nitrate (Public Participation etc.) (Scotland) Regulations 2005, (SSI 2005/305)	ERD/S2/05/20/4c
The Wildlife and Countryside Act 1981 (Variation of Schedule) (Scotland) Order 2005, (SSI 2005/308)	ERD/S2/05/20/4d
The Genetically Modified Organisms (Transboundary Movements) (Scotland) Regulations 2005, (SSI 2005/316)	ERD/S2/05/20/4e
The Financial Assistance for Environmental Purposes (Scotland) Order 2005, (SSI 2005/324)	ERD/S2/05/20/4f
The Prevention and Monitoring of Cetacean Bycatch (Scotland) Order 2005, (SSI 2005/330);	ERD/S2/05/20/4g
The Plant Protection Products (Scotland) Regulations 2005, (SSI 2005/331)	ERD/S2/05/20/4h
The Eggs (Marketing Standards) (Enforcement) (Scotland) Regulations 2005, (SSI 2005/332).	ERD/S2/05/20/4i
Extract from the Subordinate Legislation Committee 26th Report	ERD/S2/05/20/4j
<u>Agenda Item 5</u>	
Paper from the Convener (<i>for members only</i>)	ERD/S2/05/20/5a

Agenda Item 2

**Environment and Rural
Development Committee**

28 June 2005
ERD/S2/05/20/2b

BRIEFING FROM THE SCOTTISH EXECUTIVE

You have invited Malcolm Chisholm, Allan Wilson and myself to attend the Committee on 28th June to give oral evidence to its Rural Development Inquiry. Given the breadth of scope of the inquiry, and the limited time available to take oral evidence, it was thought that the Committee may find a background paper useful in advance of taking evidence.

Attached you will find a background paper which outlines, in brief, our general approach to acknowledging the needs and opportunities of accessible rural areas in policies and programmes and an outline of what the headline policies and programmes are for accessible rural areas.

I trust this information will be helpful and look forward to our meeting on 28 June.

ROSS FINNIE

cc: Malcolm Chisholm, Minister for Communities
Allan Wilson, Deputy Minister for Enterprise and Lifelong Learning
Mark Brough, Clerk to ERDC

MINISTERIAL ORAL EVIDENCE SESSION: BACKGROUND PAPER

1. The Scottish Executive's Approach to Rural Development

Rural Scotland: A New Approach, published in May 2000, provides the core statement of the Executive's priorities and vision for rural Scotland. A web link to that document is noted below and copies are available on request.

<http://www.scotland.gov.uk/library2/doc15/rsna-00.asp>

Ross Finnie, as Rural Development Minister, co-ordinates the development of policies across the Scottish Executive to ensure the opportunities and needs of people in rural Scotland are mainstreamed throughout all our policies and programmes. There are a number of mechanisms in place to help achieve this, including bilateral meetings between Ministers and the Minister's membership of various Cabinet Sub-Committees, and a Rural Core Network of officials.

Taking Stock – the first rural report – was launched in March 2003, designed to outline progress and set out the main achievements. The 2004 annual rural report is also enclosed.

Rather than arrive at a completely separate set of policies and programmes for rural areas, the Executive's approach has been to ensure flexibility is built into national policy and programmes. This provides us with a coherent and consistent set of policies that meet the Executive's long-term strategy for delivering prosperity across all parts of Scotland. Growing the economy is our top priority, and we are committed to support sustainable economic growth in ways that seek to close the gap in opportunity such that all communities, urban and rural, benefit. We tackle poverty and disadvantage through intervention to meet our Closing the Opportunity Gap objectives, which include a distinct rural objective to reflect the different challenges faced by areas of rural Scotland, accessible and remote, which need most help. We are developing a Scottish sustainable development strategy; its underlying principles will apply in all areas of Scotland.

To deliver on our policies and programmes we work in partnership with a variety of groups at a local level. We recognise that the community planning process is key to fulfilling the aims of rural communities, locally articulated.

Further details and examples of how these policies and arrangements translate in practice can be found in **Annex A**. Of course our policies, programmes and delivery arrangements (across the Executive and bodies such as the Enterprise Networks, Communities Scotland and others) are kept under review and developed to ensure they are relevant, effective and deliver the intended outcomes.

2. Accessible Rural Areas

Around 660,000 people (about 13% of the Scottish population) live in accessible rural areas, defined as settlements of less than 3000 people and within 30 minutes drivetime of a town of 10,000 or more people. The map at **Annex B** and associated table shows where our accessible rural areas are located and what proportion of Scottish Local Authorities are accessible rural.

The 2001 Census has shown that accessible rural areas had a net gain in population due to migration in the year leading up to the Census. The ratio of in-migrants to out-migrants is 1.21, the second highest in Scotland, with only the large urban areas having a higher ratio. Over 50% of in-migrants to accessible rural areas came from the large urban and other urban areas. 16% of in-migrants to accessible rural areas worked in higher managerial and professional occupations, compared to the Scottish average for employment in this occupation of 12%. Research has shown that accessible rural areas have strong links with urban centres, with regards to commuting flows, migration movements, and spending behaviour. There is nearly an equal flow of commuters into and out of accessible rural areas. The majority (83%) of out-commuters from accessible rural areas travel to a work location in either the large urban areas or other urban areas. However, the flow into accessible rural areas suggests that these offer a range of employment opportunities, as well as workers for the urban areas.

Evidence suggests that residents in accessible rural areas are generally quite affluent. Households in accessible rural areas are more likely to have a net income of over £20,000 than other geographic areas. 45% of accessible rural households fall within this income band compared with 35% of households in the rest of Scotland and 36% in remote rural areas. Relative to the Scottish average, accessible rural residents are also more likely to own their home outright. 29% of accessible rural residents, compared to a Scottish figure of 23%.

Again, relative to the Scottish average, accessible rural areas do well according to indicators around health, education and crime. Of those living in accessible rural areas, 16% suffer a disability or long-term illness, compared to a national average of 20%. Residents in accessible rural areas are less likely to have no qualifications relative to other areas, with only 17% of residents having no qualifications. This compares to a figure of 21% in remote rural areas and the rest of Scotland. Compared to a national average of 75% of people feeling very safe when at home alone at night, 84% in accessible rural areas feel very safe.

3. Conclusion

The evidence indicates that, generally, accessible rural areas are doing well and that we should be looking at ways to maximise their potential, not just as healthy, prosperous places for their residents but also as places for people from urban areas to work in and enjoy. The Scottish Executive has a responsibility to improve prosperity in Scotland. We do not underestimate the contribution accessible rural areas can make to this and believe that our policy responses enable the potential of accessible rural areas to be realised.

We do, nonetheless, recognise the variation in accessible rural areas and, although we prioritise the areas of greatest opportunity and need, which the evidence tells us are primarily our larger urban and remote rural areas, we do not ignore the distinct needs of our accessible rural areas and will continue to work with partners to address them.

Annex A Key Policy Priorities

1. *Economic development*

Growing Scotland's economy is the Scottish Executive's top priority. *The Framework for Economic Development in Scotland* (FEDS) looks directly at how economic development can be achieved within the global economy, where change is rapid and where the capacity to learn and apply knowledge is critical to success. Scottish Enterprise and Highlands and Islands Enterprise (the Enterprise Networks) have a specific contribution to make. *A Smart, Successful Scotland* (SSS) details the challenges facing the Scottish economy and the contribution that the enterprise networks will make under the broad themes of growing businesses, skills & learning and global connections. FEDS and SSS are Scotland wide strategies that recognise the need to exploit opportunities, contribute to regional development and reduce disparities. Their focus on supporting sustainable economic growth in ways that seek to close the gap in opportunity is intended to benefit all communities.

SSS identifies city regions as a conceptual framework that brings together our cities and their rural hinterlands. The concept is not about urban and rural. It is about achieving scale, exploiting diversity and better connectivity between areas with complementary assets. Cities provide hubs around which people, production of goods and services and technological development can concentrate. The wider region, with its accessible rural communities, brings its own economic vibrancy, market opportunities and diverse environment. Thinking in terms of cities and their regions brings together the labour, housing, cultural and social elements needed for successful local economies. It also provides the opportunities needed to tackle the challenges we face in some areas such as declining population and deprivation

Factors, such as remoteness, scarcity of population and out-migration, that impact on economic development in rural areas are recognised. Flexibility in delivering mainstream programmes, along with the network of locally-based enterprise companies, helps ensure that the skills and local knowledge, needed to tackle barriers to growth and address economic development opportunities, is present where needed.

A number of other policies and programmes complement this approach. For instance, in terms of access to services, by the end of this year, every community in Scotland will have access to broadband through the Broadband for Scotland's rural and remote areas initiative.

The Scottish Planning Policy 15: Planning for Rural Development was published in February. This includes a planning vision for rural Scotland, emphasising a more welcoming stance to development in sustainable locations and a proactive approach by planning authorities and agencies to providing land for development. This policy document is supported by 2 Planning Advice Notes (PANs), one of which (PAN 73 Rural Diversification) illustrates how the planning system can assist new enterprises and help broaden the economic activity of our rural areas.

Going for green growth: a green jobs strategy for Scotland was published on 16 June 2005. The strategy highlights the wealth of business and employment opportunities arising from the global shift towards a sustainable future. There is considerable potential for 'green' industries to have a real impact in rural areas, leading to more high quality job opportunities while helping to reduce damage to the natural environment

We recognise the key role of the primary sectors in growing the economy and so provide support for diversification in agriculture through the Farm Business Development Scheme and the Agriculture Business Development Scheme, which benefit farm businesses in accessible and remote rural areas.

European Ministers recently agreed a new Rural Development Regulation which will enhance the competitiveness of rural businesses, give scope for greater diversification and support environmental land management. The agreement provides the means to take forward pioneering approaches to strengthen rural businesses and enhance the management of our countryside.

2. *Community Regeneration*

The £318m Community Regeneration Fund combines and replaces the Social Inclusion Partnership Fund, Better Neighbourhood Services Fund and Tackling Drugs Misuse Fund. The principal purpose of the CRF is to help Community Planning Partnerships achieve Closing the Opportunity Gap target J which is "To promote community regeneration of the most deprived neighbourhoods, through improvements by 2008 in employability, education, health, access to local services and quality of the local environment". Additionally, Community Planning Partnerships will develop 3-year Regeneration Outcome Agreement which will provide the strategic and operational framework for CPPs to deliver their objectives. These funding streams target the areas of most need, areas of concentrated and multiple deprivation. However, regeneration of our deprived urban areas, whether small town or city, benefits any surrounding rural areas, for example in providing jobs and better services.

The Scottish Rural Partnership Fund supports communities across rural Scotland, including in accessible rural areas, to take forward rural development activities and help communities to find local solutions to local problems. This includes provision of new or upgraded community facilities, such as village halls, through the Local Capital Grants Scheme. Some £3.7 million has been awarded to 98 projects in rural communities from the 2004/2005 round. These include many projects in accessible rural communities, such as a new village hall in Howgate in Midlothian and the Newtyle Path Network in Angus.

3 *Closing the Opportunity Gap (CtOG)*

The Executive is committed to tackling poverty and disadvantage and the Minister for Communities chairs the Cabinet Delivery Group on Closing the Opportunity Gap (CtOG), which co-ordinates our strategy for dealing with this. The Minister for Environment and Rural Development is also a member of the Delivery Group.

The Minister for Communities announced our 6 high level CtOG objectives in July 2004 and our 10 more detailed CtOG targets in December last year – refocusing our Social Justice Strategy on the key issues that we determined we needed to tackle in order to tackle poverty and disadvantage in Scotland today.

Our analysis of the scale, nature and location of the problems told us that, in general, problems of poverty and disadvantage are concentrated in urban areas. Nevertheless, we are committed to ensuring that, where possible and where relevant, we disaggregate the data for the CtOG targets by the 6 fold urban/rural classification.

In addition, we recognise that poor individuals and households do exist in rural communities, and can be masked on high level indicators. Therefore, we have specific rural target to tackle those suffering from deprivation and poor access to the services that they need: *By 2008, improve service delivery in rural areas so that agreed improvements to accessibility and quality are achieved for key services in remote and disadvantaged communities.*

Twenty Rural Service Priority Areas have been identified for this work. Some of these are in accessible areas or have accessible areas within them, such as Brechin and those in East Ayrshire.

4 *Affordable housing*

The Executive recognises that affordable housing is a key issue for the sustainability of rural communities, and that a suite of actions is necessary in order to deliver affordable homes in the right places. The Executive is investing a record £1.2 billion in affordable housing over the next three years, and has raised its target from 18,000 to 21,500 new homes over the same period, many in rural areas. The levels of investment in affordable housing in rural areas in the last year, and again for this year, are at a historic high.

The Executive has:

- given local authorities flexibility to raise additional income from reduced Council Tax discounts on second homes, to invest in affordable housing or in the removal of development constraints;

- almost doubled investment in 2004/05 in Rural Home Ownership Grants to £2.6m;

- published the new Planning Advice Note PAN 74: Affordable Housing, which sets a benchmark of 25% of all new housing developments to be affordable homes;

- introduced a new Forestry Commission Scotland policy for the preferential release to Registered Social Landlords of surplus forestry land for affordable housing; and

- approved over £3 million for a pilot innovative land banking fund for the Highlands to secure land for affordable housing.

5 *Transport*

Transport is particularly important in rural areas. Higher levels of car ownership, expenditure on fuel and distance travelled to work in accessible rural areas indicates that mobility is key to the economic and social well-being of residents.

Since 1998 we have been supporting rural transport services through the Rural Transport Fund, which aims to improve transport provision in rural Scotland by providing grants to local authorities to introduce new and enhanced scheduled services, provide support to community transport projects and to rural petrol stations. To date the fund has provided £49m in new investment for rural transport measures. The fund deals with settlements of up to 10,000 population, which includes small towns that may have a substantial accessible rural hinterland.

We are currently developing a revised national transport strategy that will ensure that the needs of people in rural areas will be taken into account.

6 *Sustainable Development*

In March this year, the Scottish Executive joined the UK Government and the Devolved Administrations in Wales and Northern Ireland in signing up to a new, shared framework for

sustainable development. Work is now in hand to translate this into a Scottish sustainable development strategy setting out how the Executive and its partner organisations will work together to translate the framework goal, priorities and principles into action in Scotland.

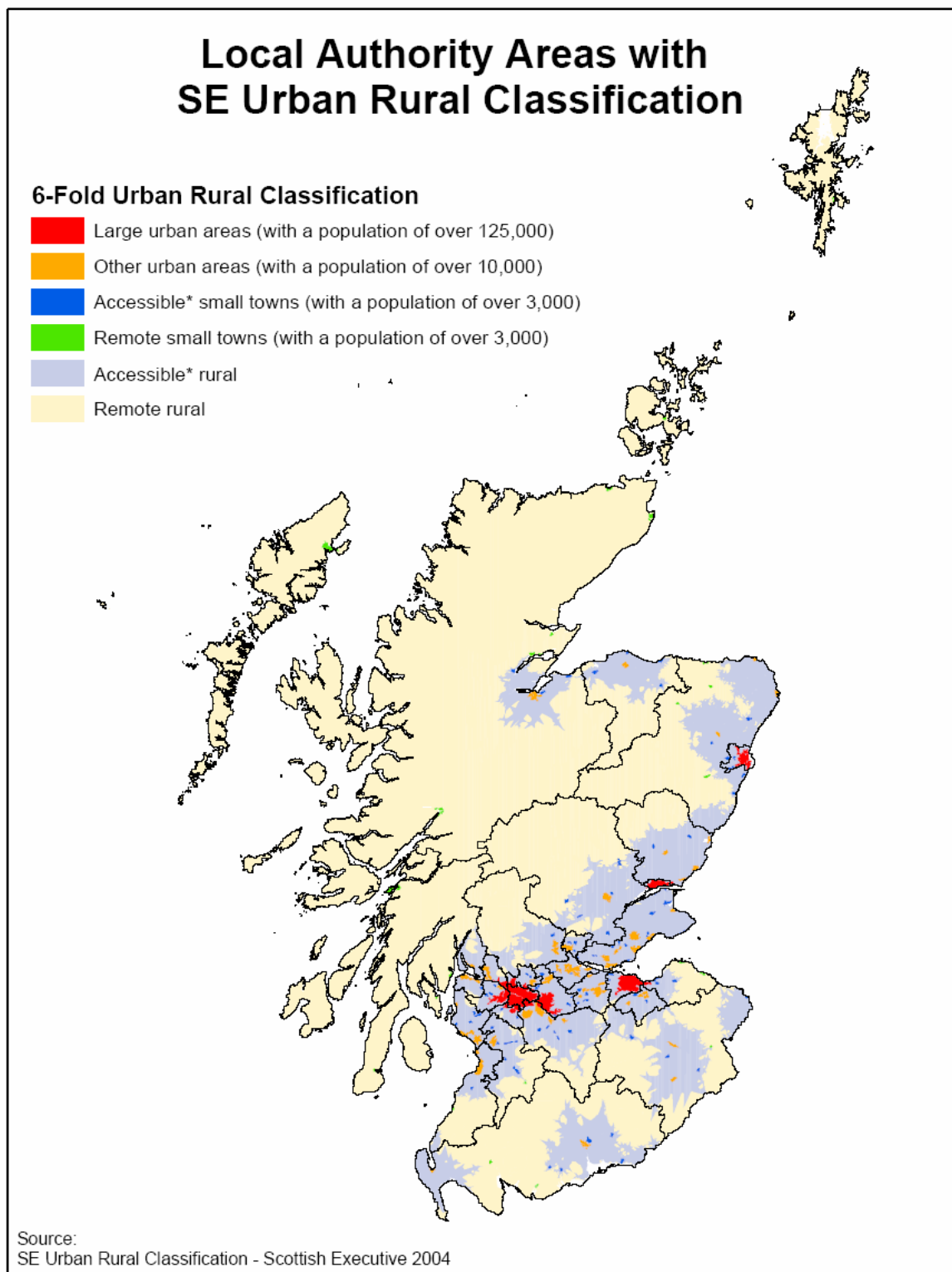
The framework commits the Executive to work towards enabling all people throughout the world to satisfy their basic needs and enjoy a better quality of life without compromising the quality of life of future generations.

It identifies four broad priorities for action – sustainable production and consumption, climate change and energy, natural resource protection and environmental enhancement, and sustainable communities – and five principles against which policies should be assessed – living within environmental limits; ensuring a strong, health and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly.

Scottish Natural Heritage recently published a report on the role of the natural heritage in generating and supporting employment opportunities in Scotland. This work demonstrates the value of the natural heritage providing jobs in the protection and management of the natural heritage, producing products and services and the reliance of the tourism and recreation industries on the quality of the natural heritage.

Also, Scotland now has some of the most progressive access legislation in Europe. This can bring many benefits, including an increased public understanding of the natural heritage and agriculture.

Annex B Map of Accessible Rural Areas & Table of Local Authority Areas by Rural Classification



Local Authority areas by Rural Classification

Local Authority	<u>6-Fold Urban Rural Classification</u>					
	Large Urban Areas	Other Urban Areas	Accessible Small Towns	Remote Small Towns	Accessible Rural	Remote Rural
Aberdeen City	93.0	0.0	5.0	0.0	2.0	0.0
Aberdeenshire	0.0	18.2	16.8	10.0	39.0	16.0
Angus	7.5	53.8	12.1	0.0	25.9	0.6
Argyll & Bute	0.0	18.0	0.0	29.9	12.1	39.9
Clackmannanshire	0.0	53.7	31.0	0.0	15.3	0.0
Dumfries & Galloway	0.0	28.4	17.9	4.8	28.2	20.8
Dundee City	99.5	0.0	0.0	0.0	0.5	0.0
East Ayrshire	0.0	36.3	35.7	2.6	23.1	2.3
East Dunbartonshire	59.1	26.9	7.1	0.0	6.8	0.0
East Lothian	24.5	0.0	33.7	14.0	16.7	11.1
East Renfrewshire	86.0	0.0	9.3	0.0	4.7	0.0
Edinburgh, City of	95.9	0.0	2.8	0.0	1.4	0.0
Eilean Siar	0.0	0.0	0.0	30.4	0.0	69.6
Falkirk	0.0	85.7	4.6	0.0	9.6	0.0
Fife	0.0	62.1	17.3	0.0	20.6	0.0
Glasgow City	99.6	0.0	0.0	0.0	0.4	0.0
Highland	0.0	21.1	10.1	18.0	14.1	36.7
Inverclyde	0.0	87.4	4.8	0.0	7.8	0.0
Midlothian	0.0	66.2	15.0	0.0	18.8	0.0
Moray	0.0	24.0	32.6	0.0	34.0	9.4
North Ayrshire	0.0	70.5	17.2	0.0	8.5	3.7
North Lanarkshire	65.0	15.7	10.9	0.0	8.4	0.0
Orkney Islands	0.0	0.0	0.0	32.2	0.0	67.8
Perth & Kinross	1.2	32.2	20.5	0.0	34.9	11.3
Renfrewshire	75.3	9.8	9.5	0.0	5.4	0.0
Scottish Borders	0.0	27.1	19.9	4.8	39.4	8.7
Shetland Islands	0.0	0.0	0.0	31.1	0.0	68.9
South Ayrshire	0.0	67.9	4.1	6.2	19.0	2.8
South Lanarkshire	22.1	56.2	9.4	0.0	12.0	0.3
Stirling	0.0	52.3	9.2	0.0	33.4	5.1
West Dunbartonshire	49.6	48.9	0.0	0.0	1.5	0.0
West Lothian	0.0	70.1	14.2	0.0	15.7	0.0
Scotland	39.0	29.1	10.4	2.8	13.1	5.7

LETTER FROM ROSS FINNIE MSP, MINISTER
FOR ENVIRONMENT AND RURAL DEVELOPMENT,
TO THE CONVENER, 22 JUNE 2005

You wrote to me on 3 June asking for briefing on a number of European issues in advance of my appearance before the Committee on 28 June. The purpose of this letter is to provide the Committee with that briefing material. I am also writing to you separately with respect to your request to Mr Chisholm, Mr Wilson and myself to appear on the same day before your Rural Development Inquiry.

REACH

The Committee is correct in noting that the REACH chemicals policy is expected to take the form of a directly-applicable Regulation. Although the Commission's proposals are still under negotiation, it is clear that a central European Chemicals Agency would coordinate the overall REACH system and each Member State would be required to appoint a national Competent Authority to carry out certain functions and to enforce the regulation appropriately. The Member State functions include substance and dossier evaluation, annual reporting on evaluations, a restrictions process, Committee membership, participation in a forum for exchange of information, enforcement activities, and the establishment of help desks.

DEFRA is the lead Department taking the REACH legislation forward and in establishing a future UK Competent Authority. DEFRA has consulted the SE and other stakeholders throughout the process and its approach was split into three phases: a review of current UK resources for assessment of chemicals, an evaluation of the functions required to deliver REACH, and the development of a range of options for the structure of a future Authority.

Although REACH will take the form of a directly-applicable Regulation, the establishment of a UK Competent Authority is likely to require some form of domestic Regulations to be put in place. No detailed discussion has yet taken place as to establish what form such regulations would take or whether they would be UK wide Regulations, separate Scottish Regulations or a combination of both.

At present the REACH proposals will have their first reading in October 2005 and it is hoped that political agreement can be reached by November 2005. A second reading could be expected in either Spring or Autumn 2006 with the Regulation coming into force in 2007.

Climate Change

Our review of the Scottish Programme is considering the scope for strengthening existing measures and for introducing new ones to ensure Scotland continues to contribute to UK commitments, including the UK's ambitious domestic goal to reduce carbon dioxide emissions by 20% by 2010 and, in the longer term, to put the UK on a path to reductions in carbon dioxide emissions of some 60% by around 2050.

Scotland's greenhouse gas emissions reduction between 1990 and 2002 compares favourably with the average reduction of EU Member States contributing to the EU Bubble sharing commitment under the Kyoto Protocol. While our reduction over this period is less than the UK average, it has to be remembered that Scotland has a less carbon intensive energy base, with significant hydro and nuclear power generation, and did not experience the significant shift from coal to gas generation experienced elsewhere in the early 1990s. Furthermore, emissions associated with electricity generated in Scotland for export to other areas of the UK, which increased to 17% in 2003, are attributed to Scotland and not the final user.

The Committee's report on its recent climate change inquiry is assisting consideration of additional action that might be taken by the Executive.

The Executive fully supports the UK Government's commitment to make climate change a priority for its Presidency of the EU in the second half of 2005. The Spring Council held under the Luxembourg Presidency gave a clear steer – the Union should be exploring with other parties the possibilities for emissions reductions in the order of 15-30% by 2020, and in doing so should consider how these reductions might be achieved.

The UK intends to maintain the forward momentum generated by previous Presidencies towards the development of a medium and long term strategy for addressing the problem of climate change. The Executive supports this approach and as a measure of our own commitment is considering the issue of Scottish climate change targets as part of the Scottish Climate Change Programme review.

Marine environment strategy

I wrote to you separately on this issue on 14 June (copy attached).

WEEE Directive

The Directive itself makes distributors (i.e. retailers) of electrical and electronic equipment responsible for taking back WEEE when selling new equipment. Early in the implementation process it became clear that many retailers were not keen to do this, particularly in-store. This is why, with DTI, we developed the option of an alternative route of compliance for retailers, where they could fulfil their obligation through a compliance scheme, that would support a collection infrastructure largely arranged through civic amenity sites. The producers remain responsible for the treatment and recycling of WEEE, once it is separately collected. Sustainable design is addressed in part by the separate Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment. This relates to issues of product standards, which are reserved, and DTI are carrying them forward with manufacturing industry. There is also an economic pressure from producer responsibility for waste, that encourages producers to make their products more easily recyclable.

Our criterion for transposition by Scottish Statutory Instrument was the efficient application of all the implementing legislation. As you are aware, we have been working towards a unitary implementation scheme across the UK. Full Scottish

transposition of a UK scheme would entail otherwise coherent Regulations of the UK Government being partially disapplied as regards Scotland. Similarly, Scottish Regulations would require to cross-reference the UK Government Regulations to quite an extensive degree. That would mitigate against the clear application and enforcement of both pieces of legislation without there being any consequent policy benefits. On the other hand, the transposition of the permitting elements can be done as a discrete matter, and we are therefore doing so. This will also allow our regulations to be consonant with the other differences that have emerged between our waste management licensing regulations and the equivalent regulations elsewhere in the UK. We expect to consult on the draft Regulations in July and make them towards the end of the year.

Batteries Directive

It is now expected that the second reading of the draft Batteries Directive in the European Parliament will take place towards the end of this year under the UK Presidency (the first reading took place in April 2004) and this is to be followed by conciliation during the Austrian Presidency. It is expected that the Directive will come into force domestically in 2008, as there are currently 24 months for Member States to implement the Directive on a national basis. We can therefore expect to bring forward detailed proposals for implementation in Scotland in autumn 2006.

Shetland Box

With specific regard to the Shetland Box, I have ensured that the European Commission has taken full account of the Scottish perspective in the review of access rules required by Article 19 of Article Regulation (EC) 2371/2002. In particular, my contributions to the CFP Reform debate which preceded the agreement of Article 19 included numerous bilateral discussions of the issues raised, supplemented by formal interventions of the United Kingdom in the Council and the submission of two reports to the Commission: one on the continuing socio-economic benefits of the Shetland Box to peripheral, fisheries-dependent communities and another on the conservation value of the current regime.

In the course of the subsequent review under Article 19, all of these matters have been reiterated through several further bilateral discussions, and I have further contributed by the provision of detailed fishing effort data from our control authorities in support of analytical work undertaken by North Atlantic Fisheries College (NAFC), Scalloway, as commissioned by SHOAL (Shetland Ocean Alliance). The NAFC analysis has informed the more detailed analysis of the regulation's conservation effects that was undertaken by FRS Marine Laboratory in Aberdeen, for which I have ensured the provision of sufficient scientific resource.

I have also ensured that adequate scientific resources from FRS Marine Laboratory have been made available to the Commission's own expert working group for attendance and chairing of international scientific meetings charged with producing a full scientific report of the Shetland Box's conservation impacts, and for the drafting and presentation of that report.

Further, I have facilitated the visit to Shetland of a Commission official to meet a group of concerned stakeholders, and – in response to a communication from the Commission – I have ensured that the United Kingdom formally and timeously submitted a positive reaction to the Commission’s Scientific, Technical and Economic Committee on Fisheries’ (STECF) recommendation that the current Shetland Box regulations remain unchanged. My written comments drew attention to the scientific expert’s report, which had convincingly demonstrated that the Shetland Box represents a sensitive biological area, of importance in the life history and distribution of several demersal species, especially haddock, whiting and monkfish, and that *“changes which might lead to an increase or redistribution of fishing effort to target high productivity areas like the Shetland Box should be avoided”*. The Commission’s report on the rules concerning access to waters and resources is not now expected until after the Regional Advisory Council for the North Sea has delivered its opinion in this matter, and the Commission has had the opportunity to consider that opinion alongside the comments of Member States.

Closed Areas

My position on closed areas is clear, and I find myself in agreement with the UN’s FAO Committee on Fisheries, that closed areas do play a significant role to play in protecting well identified habitats or specific stages – like spawning or juvenile - in the life cycle of fish, but that the more general use of closed areas as a tool for reducing fishing effort is entirely case specific and potentially counter-productive. For these reasons, clear, unambiguous scientific advice would need to be provided before I could support the introduction of completely closed areas in the North Sea as part of a cod recovery package.

Timing of Stock Management decisions

I appreciate that there is increasing interest in the idea of changing the fisheries management year. Whilst there would undoubtedly be benefits in such a move, I have yet to be convinced they would outweigh the disadvantages. If we shift the major decisions from a December Council to, for example, an April Council, there will be more time to consider the scientific advice and to engage stakeholders in the decision making process, but the scientific stock assessments underpinning Council decisions would be more out of date. Indeed, for several key demersal fisheries, the impact of decisions made could then be felt after the fishing season had started and, for key stocks in several areas, the critical decisions might not be reached until two further spawning periods after the stocks had been assessed. These delays would be compounded by delays required for the purpose of administrative preparations or adequate stakeholder notification. Under any circumstances, a change to the fishing management year by the EU Ministers would also require the co-operation of the Faeroese and Norwegian authorities, and probably therefore Russia, too. An easier solution to annual uncertainty would be to agree precautionary harvest control rules in all of our fisheries, thereby offering sufficient confidence of sustainability to permit the establishment of multi-annual management regimes. I believe that this should constitute our strategic approach, because multi-annual strategies would extend the currently compressed period of decision-making even further than changing the management year, at least in most cases, for most years. However, I acknowledge that it will be difficult to agree multi-annual management strategies with all of our

European partners, especially in mixed fisheries, so in the interim period I remain open minded on the subject of a changed annual cycle.

Support for aquaculture

For the 2000-2006 programming period European funding for fisheries is provided through the Financial Instrument for Fisheries Guidance (FIFG). This fund will be replaced by the European Fisheries Fund (EFF) for the period 2007-2013. The final terms of the EFF regulation and the resources available to Scotland have yet to be finalised. While enlargement of the Community is likely to result in a smaller Scottish EFF programme than under FIFG it also seems likely that grant aid will continue to be available to assist activities that currently represent Scottish priorities under FIFG. These centre on capital investment in fish and shellfish farm infrastructure with priority given to those projects that can deliver benefits for the environment including improved disease control. Stimulating and encouraging diversification away from salmon into new species such as halibut and cod has also been a priority for the FIFG programme. Provided there are good market prospects for diversification into such species then this will continue to be an eligible activity for the new EFF programme. Given that the finance and expertise required for diversification is concentrated within the salmon sector the success of the latter is likely to determine the rate and extent to which production capacity for new species develops. In Scotland good progress has been made, notably in Shetland, towards the commercial production of farmed cod and these activities have received considerable grant support.

Rural Development Regulation and Less Favoured Areas

The Commission published the draft Rural Development Regulation (RDR) for 2007-13 in July 2004. Since then my officials have worked closely with DEFRA and other UK administrations to ensure the particular interests of Scottish land managers and others in rural communities were reflected in the UK negotiating position. Following Agriculture Ministers' agreement on the Rural Development Regulation in Luxembourg on Monday 20 June, I am able to report that we have achieved considerable success in amending the text of the regulation to meet Scotland's needs. These changes include, in particular, positive developments in relation to support for the competitiveness of Scottish businesses, and for amenity and environmental afforestation. Importantly too, after intense lobbying the UK has secured Commission agreement that our ability to continue to apply national voluntary modulation will be on the agenda for future budget discussions.

Discussions on the redefinition of Less Favoured Areas (LFAs) have been ongoing as part of the wider discussions on the new RDR. The need for this re-designation flowed from a critical report of the European Court of Auditors which levelled accusations of overcompensation and the continued application by some member states of out of date socio-economic criteria from the mid seventies. Another criticism was the wide range of criteria being applied across the EU.

The Commission is aiming to establish a harmonised EU wide system of designation based on objective criteria relating only to natural conditions, which do not tend to change over time. However, while various factors such as soil productivity,

topography and climate have been considered, it has not proved easy to identify a practical way of implementing such criteria across the EU. Following an EU wide impact assessment of the Commission's initial proposals for implementation that was conducted earlier this year, the Commission withdrew their proposals as unworkable and politically unacceptable.

Without an alternative to offer, in the compromise text tabled on 20 June the Commission proposed to delay the implementation of LFA redesignation until 2010, with proposals for that redesignation due to come forward in 2008. Given the potential scale of the redesignation task in Scotland this delay is welcome as it provides both an opportunity to influence thinking on the future shape of an objective system for LFA classification across the EU and more time to evaluate the impact of any proposed changes on land holdings across Scotland. A stakeholder working group with wide representation is considering future LFA arrangements and these important discussions will continue.

Turning to our other successes in the European negotiations, we had been pressing hard for some time for a significant increase in the support for amenity and environmental afforestation and had gathered support not only from the rest of the UK but also from other member states, but little movement from the Commission. However, following a bilateral with the Commission in May and an exchange of correspondence, we have seen the proposed support rates rise from 40% and 50% of eligible investment in non-LFA and LFA areas respectively in the initial draft RDR to 70% and 80% in the final Commission compromise agreed on 20 June. The ability to support amenity and environmental afforestation is a fundamental plank of the Scottish Forestry Strategy. Furthermore, woodland creation is a valuable tool in the armoury for responding to climate change under the Kyoto Protocol. I am satisfied that the final agreement will allow us to deliver on these important objectives.

Similarly we pressed hard for better support for competitiveness and have had significant success in securing changes to the text that will allow us to continue to support developments in our food processing industry and in the introduction of an additional measure to Axis 1 of the regulation that will allow us to support co-operation for the development of new products and processes in the agriculture and forestry sectors.

An overarching concern for the UK throughout the negotiations has been the likelihood of an inadequate allocation of funds for rural development. While there is some recognition by the Commission and member states that the historic basis for allocation is grossly unfair to the UK, there was little prospect of increasing our share of a finite budget during negotiations. So, while pressing for a better allocation we also worked hard to secure access to national voluntary modulation to ensure that we can continue to fund Land Management Contracts and other rural development activity beyond 2006 through the transfer of resources from Pillar I (the Single Farm Payment) to Pillar II (Rural Development) of the CAP. In the closing stages of the negotiations on the RDR, the Commission finally made a Declaration that access to national voluntary modulation would be considered in the context of discussions on the Financial Perspectives for 2007-13. While the overall discussions on the budget remain contentious and while total funding available for rural development is contingent on agreement of the overall EU budget, this declaration is a very

significant improvement on our earlier position and gives some reassurance that we can now plan to deliver a workable and worthwhile rural development programme for Scotland.

Now that political agreement on the RDR has been secured and national voluntary modulation is on the table for discussion, work will start in earnest on drawing up the new Scottish Rural Development Programme for 2007-2013. I have seen and agreed proposals for the stakeholder consultation process and I hope that process will lead to the development of pioneering approaches to strengthen rural businesses and enhance the management of our countryside. This programme will provide the basis for spending on agri-environment schemes, on rural diversification and regeneration projects, and in ways that will help our agriculture and forestry businesses to enhance and improve their economic prospects for 2007-13 while doing business in an environmentally sustainable way.

Finally on this subject, could I take this opportunity to let you know that I shall be making a fuller statement on the final shape of the Rural Development Regulation and how we propose to take this forward in the development of the Scottish Rural Development Programme in a press briefing at the Royal Highland Agricultural Show on the morning of Thursday 23 June. I hope this event will provide opportunity for a lively discussion of my vision for rural development and the implementation of Land Management Contracts with farmers.

Organic Farming

The Committee is right to note that the Commission is expected to propose a new regulation on organic farming. The intention is simplify the existing Regulation (2092/91) and to express it more in terms of principles, rather than the extensive detail set out in the current Regulation. The Commission also intends to replace the current rules on imports of organic produce with a new, permanent system. However, the Commission has not yet drafted any proposals and it is not yet clear when these will be ready for discussion. In the meantime, the Commission has published a Regulation proposing to extend the current rules for organic imports (Article 11(6) of Regulation 2092/91) for a further year, to 31 December 2005.

Clearly, in the absence of any Commission proposals, it is difficult to say how they might impact on Scotland. However, I share the Committee's concern to see a successful organic sector in Scotland, firmly based on high quality Scottish produce. As explained in the Scottish Organic Action Plan, EU regulations set out the minimum mandatory standards for organic production and these can be augmented by Member States. In the UK, the Advisory Committee on Organic Standards (ACOS), which replaced UKROFS, considers the standards that should apply across the UK. ACOS consists of organic producers and other industry stakeholders and the Executive has ensured that Scotland has effective representation. We also hosted a visit to Scotland by ACOS earlier this year to give a wider range of Scottish producers an opportunity to discuss issues of particular importance to Scottish organic producers. With the help of ACOS and our own Organic Stakeholders Group, we will ensure that the interests of Scottish producers are represented in discussions about whatever proposals eventually emerge from the Commission.

Welfare of broiler chickens and effect on connected industries

Current general animal welfare legislation applies to meat chickens but the sector is not covered by the species specific programme of EU farm animal welfare standards. Legislation on marketing of meat chickens is laid down in EU rules which define free range and organic systems of keeping meat chickens but these only represent a small percentage of the market.

The proposals in the draft Directive aim to introduce improvements in the welfare of intensively farmed chickens by means of technical and management requirements including enhanced monitoring on the farms and an increased flow of information between the producer, competent authorities and the slaughterhouse, based on a welfare-specific monitoring of the flocks after slaughter.

The proposal sets conditions for the keeping of chickens for meat production from the time chicks are brought to the production sites until they leave for slaughter. It does not cover parent flocks nor brooding and hatching of chicks. The proposal focuses on the welfare problems in intensive farming systems with a minimum threshold of 100 chickens.

Two sets of standards are set using stocking density as a criterion for the level of intensity of production. Firstly, producers who stock up to a maximum of 30 kg liveweight per m² have to comply with standards relating to drinkers, feeding, litter, ventilation and heating, light, inspection, cleaning, record keeping and mutilations. Producers who seek to stock beyond a limit of 30 kg liveweight per m² (up to a maximum of 38 kg liveweight per m²) will have to comply with standards, including a self assessment of their production site, specific training requirements and a surveillance system based on welfare indicators collected at the slaughterhouse.

The Directive would be transposed by amending the Welfare of Farmed Animals (Scotland) Regulations (WOFAR) 2000 (as amended) which are made under the Agriculture (Miscellaneous Provisions) Act 1968. The Regulations lay down general requirements in respect of welfare, inspection, housing and feeding for all farm animals. They contain specific schedules for pigs, calves and laying hens and it is expected that a new schedule for meat chickens would be added. In addition, amendment to the regulations dealing with inspection at the slaughterhouse will be required.

We welcome the proposal as an innovative and praiseworthy attempt to address a difficult issue of public concern. The Farm Animal Welfare Council and welfare groups have long had concerns over the welfare of meat chickens. There is a history of skeletal, cardio-vascular, and skin problems, which they claim is associated with the intensive way they are kept, and modern genotypes. UK meat chicken production is expected to continue at around 850 million birds per annum for the next 2 years with a value of about £880 million per annum. So it is a significant economic activity and also important as one of the cheapest and most popular sources of meat protein for consumers. Chicken represents over 30% of meat sold by weight. The proposals will help to deliver equivalent standards to enable fair competition across the EU where standards (legislative and voluntary) currently vary greatly.

However, we have some reservations both on the justifications for some of the technical detail (lighting, periods of darkness, mortality levels), and on whether overall the benefit that the Directive will deliver justifies the economic, compliance, enforcement, and administrative costs. We doubt that the inspection and enforcement regime as envisaged in the proposal is feasible and will be looking for a more pragmatic mechanism. We are developing a Regulatory Impact Assessment (RIA) to help make this assessment. There is no indication that the application of improved welfare conditions would have a significant effect on industries which use chicken litter as fuel. These proposals will have no effect on the sizable egg production industry in Scotland nor on the chicken litter produced from that sector.

The Luxembourg Presidency held a first Working Group meeting on the proposals on 14 June. The first Working Group meeting under the UK Presidency is scheduled for 14/15 July. One Working Group a month is planned from September to December. It is unlikely that the dossier will be finalised during the UK Presidency, although the Commission will be looking to the UK to get it close to completion.

Overarching developments at EU level and their effect on the Single Farm Payment and the CAP budget

There are 2 main areas that are under discussion at EU level, namely, the future financing of the EU, and CAP Reform. There is also the separate issue of WTO negotiations.

The precise budget position from 2007-13 has yet to be agreed by the Council of Ministers. The accession of Bulgaria and Romania is likely to result in their farmers receiving lower, transitional rates of aid compared with farmers in EU-15.

On CAP Reform, this is likely to proceed within the timetable already agreed by Member States and the European Commission. The next major area for reform is the sugar sector, and this has been given a high level of priority by the UK Government for its Presidency of the EU for the 6 months beginning on 1 July 2005. The effect of reform would possibly be to reduce sugar prices for EU (and Scottish) consumers, which are currently some 3 times higher than the world market price.

The reforms are significant for the Least Developed Countries and the African, Caribbean and Pacific Group whose economies are more dependent on sugar prices and could suffer from increased competition. The UK recognises the concerns of those countries and supports the view that these must be taken seriously.

Finally, there is the next round of WTO negotiations. As matters stand at present, agricultural subsidies paid out under the Single Farm Payment Scheme (SFPS) are not thought to be subject to change by future discussions. This is because SFPS aid is decoupled from production, and it is mainly coupled support that attracts challenges from the US, Australia and others.

On the wider issue of CAP Support, the EU must address those regimes that are now known to be incompatible with WTO, i.e. sugar; and those where there is fully coupled support, i.e. tobacco, cotton and olive oil. Such regimes have no impact on

Scottish farmers, because we have no such production, but might impact on Scottish consumers if it genuinely opens up the market and leads to lower prices.

I trust the foregoing information will be helpful and I look forward to our meeting on 28 June.

ROSS FINNIE

LETTER FROM ROSS FINNIE MSP, MINISTER FOR ENVIRONMENT AND RURAL DEVELOPMENT, TO THE CONVENER, 14 JUNE 2005

A MARINE AND COASTAL STRATEGY

In your letter of 3 June, inviting me to give evidence on priorities for the UK Presidency of the EU, you asked for a briefing on, among other things, progress on developing a Scottish strategic framework for the marine environment.

I will respond to your letter fully within the next few days but I am planning to make a broad press announcement of my plans for a marine and coastal strategy tomorrow, Wednesday 15 June. In view of that timing, I thought your Committee would welcome a briefing on progress on the strategy in advance of the other briefing you have requested. I attach a briefing accordingly and will be more than happy to speak to it at the meeting on 28 June.

The main elements of my announcement on Wednesday will be:

Confirmation of the vision for Scotland's marine and coastal environments, as endorsed through consultation;

An outline of the concept behind and main elements of my strategy, founded firmly on the guiding principles of sustainable development;

Exploring more fully the potential for marine spatial planning, in part through pilot projects to be run in Shetland, the Clyde and Berwickshire; and

Identifying and evaluating potential candidate sites for Scotland's first coastal and marine national park

The announcement will be reasonably broad at this stage. I am currently working on the details of the strategy, including the remit and membership of a new stakeholder group I intend to chair to take the work forward, and I plan to publish a fuller document over the summer.

You may also like to note that I expect to make a fisheries related announcement in the last week in June, following up on the speech I gave at the Convention of the Highlands and Islands on 21 March. I would welcome the opportunity to let the Committee have more information when we meet on 28 June.

ROSS FINNIE

MARINE STRATEGY

A. Developments in Scotland

Background

1. The Executive's 2004 consultation on developing a strategic framework for Scotland's marine environment attracted over 100 substantive replies. There were a further 730 postcards and e-mails inspired by a WWF campaign supporting our proposed vision for the marine environment and calling for a Marine Act.
2. Coincidental with the conclusion of the consultation period, a number of reviews into conservation and fisheries management reported; the Scottish Biodiversity Forum produced a marine biodiversity implementation plan and I took receipt of a draft Scottish coastal strategy from the Scottish Coastal Forum. Taken together, the common emerging themes from all of those were that a new strategy should comprise:
 - A clear **vision**
 - The identification of **pressures** on our coast and seas (largely as described in the 2004 consultation paper)
 - Clear **objectives**, building on existing commitments
 - **Indicators** of performance against the vision and objectives
 - A new **delivery mechanism** for the above
3. The main focus was on **delivery** where common themes were:
 - Marine spatial planning
 - Marine protected areas/zones
 - A Marine agency
 - A Marine Bill

Policy Direction

4. I have been considering those themes carefully with Cabinet colleagues. I have concluded that a new strategy should encompass both the marine and coastal environments, and activities impacting on them, and that it should be firmly grounded in the guiding principles of sustainable development:
 - Living within environmental limits
 - Ensuring a strong, healthy and just society
 - Achieving a sustainable economy
 - Promoting good governance
 - Using sound science responsibly
5. This will ensure that socio-economic, ecological and environmental factors are fully integrated into decision making processes so that marine and coastal resources are used sensibly in a way that allows them to replenish for future use.
6. Within that context, the strategy will give effect to a **vision**, now endorsed through consultation, that will secure:

Clean, healthy, safe, productive and biologically diverse marine and coastal environments, managed to meet the interests of nature and people

7. That vision is currently supported by some specific sector based strategies and by regulation based processes. While there are advantages to that there are also weaknesses:

- a sectoral approach, while of benefit to specific sectors, can overlook cumulative impacts of a range of sector based activity on wider marine and coastal ecosystems and on other users of the coast and sea. The impacts of one sector on another can also be overlooked
- regulation-based processes can create tensions between socio-economic and environmental/ecological objectives. That tension needs better management.
- some existing sectoral objectives and outcomes are, rightly, focussed on reducing specific inputs to the coastal and marine environments. But we need to do more to set consolidated baseline data for, and measure improvements to, overall coastal and marine ecosystem health and quality on which much social and economic activity depends
- broad level changes, such as those induced by climate change, impact on all sectors and might be dealt with more effectively through a co-ordinated response across the piece, rather than on an individual sector by sector basis.

8. The marine and coastal strategy should address those issues by providing:

- a more sophisticated approach to **understanding the cumulative impacts** on marine and coastal resources on which more than one sector depends, and of the **cross sectoral impacts** of one activity on another
- a basis for action by establishing a **governing framework** to manage those inter relationships, bringing greater coherence and co-ordination to a range of policies and activities relevant to our coasts and seas
- a more holistic, **ecosystem based approach** to marine and coastal resource management and use

9. The main elements of a strategy would therefore be to provide the bond between sector specific strategies and objectives in order to ensure that cumulative and cross sectoral impacts are better managed; to provide appropriate mechanisms for conflict resolution at the relevant scale; and, through both of those, to ensure that the guiding principles of sustainable development are fully applied to all marine and coastal activity. The overall purpose will be to secure the long term mutual sustainability of the **environment, communities** and **industries**. The strategy will also provide the framework within which any future sector-specific strategies will sit.

The Scope of the Strategy

10. The devolved/reserved mix is complex in the marine environment. Scotland has full competence for nature conservation out to 12nms and, within the confines of the CFP, for fisheries management out to 200nm. We also have full competence for licensing deposits in the sea beyond 12nms (but with the exception of oil and gas or shipping related deposits). Defence related activity is fully reserved. Shipping and oil and gas are largely reserved although we have executive devolution for renewable energy consents under section 36 of the Electricity Act 1989 (currently out to 12nms but to be extended beyond that by the Energy Act 2004); and legislative competence for navigational safety matters under section 34 of the Coast Protection Act 1949 (with the exception of oil and gas related developments) and for port developments under the Harbours Act 1964.

11. Under the current devolution settlement the geographic scope of the strategy will therefore largely be limited to the extent of the Scottish sector of UK territorial waters, but it will reach beyond that in respect of those specific activities for which we have devolved powers beyond 12nms.

Next Steps

12. I intend to give effect to the strategy by:

- building on current **objectives** (including **marine protected areas**), and on some new proposals made in response to the 2004 consultation
- identifying **performance measures** and indicators for all objectives
- the development of **local and sectoral conflict resolution mechanisms** at the appropriate scale
- exploring more fully the potential for **marine spatial planning**, and other management measures, in part through **pilot projects in Shetland, Clyde and Berwickshire**, to increase the benefits of new management approaches to coastal communities
- making better use of **integrated coastal zone management**, through the work of the Scottish Coastal Forum
- identifying new **science and research** needs
- applying **strategic environmental assessments** to marine related sectoral strategies (we are already carrying out such an assessment for marine renewables)
- asking SNH to undertake a feasibility into the possibilities for Scotland's first **coastal and marine national park** and to make an assessment of potential candidate areas for designation

13. I intend to do that in partnership with relevant stakeholders through a new outcomes focused group that I will chair.

14. I will publish more details of my plans during the summer.

Stakeholder Expectations

15. These developments go a long way to meeting stakeholder expectations. The new group I shall chair will demonstrate my personal commitment to **better co-ordination; clear policy leadership; and good governance.**

16. I am not yet in a position to give a commitment to a Marine Bill or a Marine Agency that many respondents have called for. I have not ruled out new legislation, but I want to undertake further consideration of the issues summarised above before coming to a definitive view on the extent to which a Marine Bill might be needed to address them.

B. UK Developments

17. Many of our objectives, and our vision for, the marine and coastal environment are shared with the UK. We played a significant contribution towards the UK-wide report “Charting Progress”) published in March which set out an integrated assessment of the state of the seas around the UK as part of the ongoing Marine Stewardship reporting process.

18. The UK Government is pursuing many of the issues outlined in section A above and has already committed to a Marine Bill to take them forward, to be published in draft for consultation during the current UK Parliamentary session, while the underlying policy issues are settled. I have agreed to work in tandem with Defra Ministers as our respective policy development unfolds.

C. EU Developments

19. The Commission intend to launch their European marine strategy in July. With the UK Government, the Executive supports many of the Commission’s objectives which broadly reflect our own. The Commission are likely to propose a Marine Framework Directive requiring the achievement of “good environmental status”. They have, as yet, not defined that term and have not carried out any assessment of the cost and benefits. Costs are likely to be considerably higher than for the Water Framework Directive. In addition, the Commission intend to produce a wider ranging Maritime Green Paper in 2006, of which the marine strategy will form a key plank. The UK Government, with our support, will oppose a Marine Framework Directive unless and until an Extended Impact Assessment is produced by the Commission and on the grounds that legislative underpinning of a central element of a Maritime Green Paper is premature until the detail of the Green Paper is known. If a Marine Framework Directive is proposed despite those concerns, it will not feature as a priority for the UK Presidency.

ROSS FINNIE MSP

MINISTER FOR ENVIRONMENT AND RURAL DEVELOPMENT

SSI Title and No:	The Air Quality Limit Values (Scotland) Amendment Regulations 2005. (SSI 2005/300)						
Laid Date:	3 rd June 2005	Responsible Minister:	Lewis Macdonald, Deputy Minister for Environment and Rural Development				
SE Contact:	Claire Dodd, ext. 47699						
Standing Order:	10.4 – Subject to negative procedure within 40 days.						
RECOMMENDATION							
Lead Committee:	Environment and Rural Development		Other Committees:				
Clerk Contact Room & No:	Mark Brough 85240		Clerk Contact No:				
Reason:	These Regulations amend the Air Quality Limit Values (Scotland) Regulations 2003 to bring them into line with the requirements of Article 2 of the Public Participation Directive 2003/35/EC in respect of the drawing up of certain plans and programmes relating to the environment.						
Time Limit for Parliament to Deal with Instrument	15 th September 2005		1st SLC Meeting	14 th June 2005			
			SLC reporting deadline	23 rd June 2005			
Lead Committee To Report By:	12 th September 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.

SSI Title and No:	The Loch Crinan Scallops Several Fishery Order 2005, (SSI 2005/304)						
Laid Date:	3 rd June 2005	Responsible Minister:	Ross Finnie, Minister for Environment and Rural Development				
SE Contact:	Rob Roberts, ext. 44421						
Standing Order:	10.4 – Subject to negative procedure within 40 days.						
RECOMMENDATION							
Lead Committee:	Environment and Rural Development		Other Committees:				
Clerk Contact Room & No:	Mark Brough 85240		Clerk Contact No:				
Reason:	This Order confers on Scallop Kings (1997) Limited the right of several fishery for scallops in part of Loch Crinan for a period of 12 years. The Order also provides for the method of fishing to be used for the harvesting of scallops.						
Time Limit for Parliament to Deal with Instrument	15 th September 2005		1st SLC Meeting	14 th June 2005			
			SLC reporting deadline	23 rd June 2005			
Lead Committee To Report By:	12 th September 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.

SSI Title and No:	The Nitrate (Public Participation etc.) (Scotland) Regulations 2005. (SSI 2005/305)						
Laid Date:	3 rd June 2005	Responsible Minister:	Ross Finnie, Minister for Environment and Rural Development				
SE Contact:	Angela Paul, ext. 41413						
Standing Order:	10.4 – Subject to negative procedure within 40 days.						
RECOMMENDATION							
Lead Committee:	Environment and Rural Development		Other Committees:				
Clerk Contact Room & No:	Mark Brough 85240		Clerk Contact No:				
Reason:	These Regulations amend the Protection of Water Against Agricultural; Nitrate Pollution (Scotland) Regulations 1996 to bring them into line with the requirements of Article 2 of the Public Participation Directive 2003/35/EC in respect of the drawing up of certain plans and programmes relating to the environment.						
Time Limit for Parliament to Deal with Instrument	15 th September 2005		1st SLC Meeting	14 th June 2005			
			SLC reporting deadline	23 rd June 2005			
Lead Committee To Report By:	12 th September 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.

SSI Title and No:	The Wildlife and Countryside Act 1981 (Variation of Schedule) (Scotland) Order 2005, (SSI 2005/308)						
Laid Date:	7 th June 2005	Responsible Minister:	Lewis Macdonald, Deputy Minister for Environment and Rural Development				
SE Contact:	Duncan Isles, ext. 44435						
Standing Order:	10.4 – Subject to negative procedure within 40 days.						
RECOMMENDATION							
Lead Committee:	Environment and Rural Development		Other Committees:				
Clerk Contact Room & No:	Mark Brough 85240		Clerk Contact No:				
Reason:	This Order adds thirteen species of plant to the list of species of plants which may not be planted or otherwise caused to grow in the wild.						
Time Limit for Parliament to Deal with Instrument	19 th September 2005		1st SLC Meeting	14 th June 2005			
			SLC reporting deadline	27 th June 2005			
Lead Committee To Report By:	12 th September 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.

SSI Title and No:	The Genetically Modified Organisms (Transboundary Movements) (Scotland) Regulations 2005, (SSI 2005/316)						
Laid Date:	8 th June 2005	Responsible Minister:	Lewis Macdonald, Deputy Minister for Environment and Rural Development				
SE Contact:	Rosi Waterhouse, ext. 47578						
Standing Order:	10.4 – Subject to negative procedure within 40 days.						
RECOMMENDATION							
Lead Committee:	Environment and Rural Development	Other Committees:					
Clerk Contact Room & No:	Mark Brough 85240	Clerk Contact No:					
Reason:	These Regulations provide for the enforcement and execution of specified provisions of Regulation EC 1946/2003 concerning the transboundary movements of genetically modified organisms.						
Time Limit for Parliament to Deal with Instrument	20 th September 2005	1st SLC Meeting	14 th June 2005		SLC reporting deadline	28 th June 2005	
Lead Committee To Report By:	12 th September 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.

SSI Title and No:	The Financial Assistance for Environmental Purposes (Scotland) Order 2005, (SSI 2005/324)						
Laid Date:	9 th June 2005	Responsible Minister:	Lewis Macdonald, Deputy Minister for Environment and Rural Development				
SE Contact:	John Cummings, Forestry Commission, tel. 0131 334 0303						
Standing Order:	10.4 – Subject to negative procedure within 40 days.						
RECOMMENDATION							
Lead Committee:	Environment and Rural Development	Other Committees:					
Clerk Contact Room & No:	Mark Brough 85240	Clerk Contact No:					
Reason:	This Order provides for the Scottish Ministers to give financial assistance to, or for the purposes of, the Bio-energy Infrastructure Scheme for Scotland.						
Time Limit for Parliament to Deal with Instrument	21 st September 2005	1st SLC Meeting	14 th June 2005		SLC reporting deadline	29 th June 2005	
Lead Committee To Report By:	12 th September 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.

SSI Title and No:	The Prevention and Monitoring of Cetacean Bycatch (Scotland) Order 2005, (SSI 2005/330)						
Laid Date:	9 th June 2005	Responsible Minister:	Ross Finnie, Minister for Environment and Rural Development				
SE Contact:	Paul McFadden, ext. 44197						
Standing Order:	10.4 – Subject to negative procedure within 40 days.						
RECOMMENDATION							
Lead Committee:	Environment and Rural Development	Other Committees:					
Clerk Contact Room & No:	Mark Brough 85240	Clerk Contact No:					
Reason:	This Order makes provision for the enforcement of certain Community restrictions and other obligations relating to sea fishing by vessels in certain areas as set out in Council Regulation EC 812/2004. This Regulations provides for Member States to monitor the bycatch of cetaceans by the implementation of an observer scheme.						
Time Limit for Parliament to Deal with Instrument	21 st September 2005	1st SLC Meeting	14 th June 2005				
		SLC reporting deadline	29 th June 2005				
Lead Committee To Report By:	12 th September 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.

SSI Title and No:	The Plant Protection Products (Scotland) Regulations 2005, (SSI 2005/331)						
Laid Date:	9 th June 2005	Responsible Minister:	Ross Finnie, Minister for Environment and Rural Development				
SE Contact:	Mary Lourie, ext. 44403						
Standing Order:	10.4 – Subject to negative procedure within 40 days.						
RECOMMENDATION							
Lead Committee:	Environment and Rural Development	Other Committees:					
Clerk Contact Room & No:	Mark Brough 85240	Clerk Contact No:					
Reason:	These Regulations implement Council Directive 91/414/EEC which sets out the Community arrangements for the authorisation of plant protection products. The Directive establishes a system whereby plant protection products may not be placed on the market or used unless they have been authorised under the Directive.						
Time Limit for Parliament to Deal with Instrument	21 st September 2005	1st SLC Meeting	14 th June 2005		SLC reporting deadline	29 th June 2005	
Lead Committee To Report By:	12 th September 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.

SSI Title and No:	The Eggs (Marketing Standards) (Enforcement) (Scotland) Regulations 2005, (SSI 2005/332)						
Laid Date:	9 th June 2005	Responsible Minister:	Ross Finnie, Minister for Environment and Rural Development				
SE Contact:	Gerry Smith, ext. 45235						
Standing Order:	10.4 – Subject to negative procedure within 40 days.						
RECOMMENDATION							
Lead Committee:	Environment and Rural Development	Other Committees:					
Clerk Contact Room & No:	Mark Brough 85240	Clerk Contact No:					
Reason:	These Regulations make provision for the enforcement and execution of certain specified Community provisions which relate to the marketing standards for shell eggs and to the production and marketing of eggs for hatching and of farmyard poultry chicks.						
Time Limit for Parliament to Deal with Instrument	21 st September 2005	1st SLC Meeting	14 th June 2005				
		SLC reporting deadline	29 th June 2005				
Lead Committee To Report By:	12 th September 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 26th Report, 2005 (Session 2)

The Committee reports to the Parliament as follows—

Instruments subject to annulment

The Nitrate (Public Participation etc.) (Scotland) Regulations 2005, (SSI 2005/305)

1. The Executive was asked to explain the reference in regulation 2(2)(a) to the wording “published in 1997 by the Scottish Office” given that the wording appears to have been replaced by regulations 6(2)(a) of SSI 2002/27.
2. The Executive has acknowledged that this reference was made in error and has undertaken to rectify it at the earliest opportunity. **The Committee draws the attention of the lead Committee and Parliament to the instrument on the grounds of defective drafting, as acknowledged by the Executive.**

The Wildlife and Countryside Act 1981 (Variation of Schedule) (Scotland) Order 2005, (SSI 2005/308)

3. The Committee asked why no Executive Note was provided with this instrument.
4. The Executive has stated that the content and effect of the Order were considered to be “self-evident” and that the text of the Order was “self-explanatory” and therefore an Executive Note was not required. The Committee found the Order neither self-evident or self-explanatory and finds the Executive’s justification for not providing an Executive Note in this instance unacceptable.
5. There is a strong presumption that an Executive Note should always be provided except where it is “clearly superfluous”. The Committee’s view is that in this case a note was not clearly superfluous and would have been of use in the scrutiny of the Order. The Committee noted, for example, that neither the instrument or the Explanatory Note mention that the instrument is connected with criminal offences and penalties.
6. **The Committee draws this instrument to the attention of the lead Committee and Parliament on the grounds of failure to follow proper legislative practice.**

The Genetically Modified Organisms (Transboundary Movements) (Scotland) Regulations 2005, (SSI 2005/316)

7. The Executive was asked to comment on whether the provisions in paragraph 6 of Schedule 2 could breach the right of a person not to incriminate oneself as guaranteed by Article 6 of ECHR.

8. The Executive has indicated that the inspectors enforcing the Regulations will be bound by the terms of the Human Rights Act and cannot lawfully exercise their powers so as to breach it.

9. While the Committee accepts the Executive's position, it is still the case that persons affected by the instrument would not necessarily be aware that the requirement to answer questions put by an inspector is subject to the general right not to be compelled to incriminate themselves. This issue would have been addressed had this right been made absolutely clear in the Regulations.

10. The Committee therefore draws the attention of the lead Committee and Parliament to the instrument on the grounds of an unduly limited use of the power by way of failure to include an appropriate protection on the face of the Regulations.

The Prevention and Monitoring of Cetacean Bycatch (Scotland) Order 2005, (SSI 2005/330)

11. The Committee asked the Executive to comment on the delay in implementing the relevant EC legislation and the timing chosen for making provision for the enforcement of Council Regulation (EC) 812/2004.

12. The Executive has explained that the observing and monitoring scheme specified in Annex III to the Regulation was designed and implemented in Scotland by the deadline of 1st January 2005. The use of acoustic monitoring devices should have started by 1st June 2005 and the Executive regrets that it was unable to make this SSI by that deadline.

13. The Committee notes that any delay resulting from this will have been minimal in practice and draws the attention of the lead Committee and Parliament to the Executive's response as providing the information requested.

The Eggs (Marketing Standards) (Enforcement) (Scotland) Regulations 2005, (SSI 2005/332)

14. The Committee asked the Executive to comment on why Schedule 2 to the Regulations contains a list of the series of Regulations revoked and replaced by this instrument, and yet the principal Regulations were amended by SSI 2000/62, the relevant parts of which are not included in the Schedule.

15. The Executive explains that this was an unintentional omission but that there is no practical effect. It will endeavour to rectify this point at the next available legislative opportunity.

16. The Committee therefore draws the attention of the lead Committee and Parliament to this instrument on the grounds of failure to follow proper legislative practice.

APPENDIX 1

THE NITRATE (PUBLIC PARTICIPATION ETC.) (SCOTLAND) REGULATIONS 2005 (SSI 2005/305)

1. In its letter of 14th June to Catherine Hodgson the Subordinate Legislation Committee commented as follows-

“The Executive is asked to explain the reference in regulation 2(2)(a) to the wording “published in 1997 by the Scottish Office” given that this wording appears to have been replaced by regulation 6(2)(a) of SSI 2002/27.”.

The Scottish Executive responds as follows:

1. The Executive thanks the Committee for drawing this matter to its attention and acknowledges that the wording “published in 1997 by the Scottish Office” was indeed amended by regulation 6(2)(a) of SSI 2002/276 (rather than SSI 2002/27).

2. The Executive considers that this clerical error in regulation 2(2)(a) is such that the intended amendment to the definition of “code of good agricultural practice” can have no effect.

3. The absence of amendment to the definition of “code of good agricultural practice” in the 1996 Regulations will not produce any significant policy or legal issue either for government or the industry for the time being. The measure has no effect in relation to the transposition of the Public Participation Directive.

4. In the circumstances, the Executive intends to bring forward amending Regulations at the earliest opportunity after the summer recess.

APPENDIX 2

THE WILDLIFE AND COUNTRYSIDE ACT 1981 (VARIATION OF SCHEDULE) (SCOTLAND) ORDER 2005 (SSI 2005/308)

In its letter of 14 June to Catherine Hodgson, the Subordinate Legislation Committee commented as follows –

“The Executive is asked to explain why no Executive Note was provided with this instrument.”

The Scottish Executive Environment and Rural Affairs Department responds as follows –

No Executive Note was provided on this occasion because the content and immediate effect of the Order were considered to be self-evident. The Order adds the plants species listed in the table in Article 2 of the Order to Part II of Schedule 9 to the Wildlife and Countryside Act 1981. The Explanatory Note explains that these are species which may not be planted or otherwise caused to grow in the wild. It was considered that, given the self-explanatory text of the Order itself and the further information provided in the Explanatory Note, a separate Executive Note was not necessary in connection with this particular Instrument.

APPENDIX 3

THE GENETICALLY MODIFIED ORGANISMS (TRANSBOUNDARY MOVEMENTS) (SCOTLAND) REGULATIONS 2005 (SSI 2005/316)

In its letter of 14 June to Catherine Hodgson, the Committee commented as follows

“The Committee noted that paragraph 6 of Schedule 2 gives inspectors powers to ask questions of anyone whom they have reasonable cause to consider are able to provide information relevant to any test or inspection under the Schedule. The Committee noted that failure to comply with this is a criminal offence.

The Committee considered that it is arguable that the provisions could breach the right of a person not to incriminate oneself as guaranteed by Article 6 of ECHR. The Executive is asked to comment.”

The Scottish Executive responds as follows -

The Executive notes the Committee’s comments and can confirm that there was no intention that the power conferred be used in a way incompatible with the Convention or Convention rights. Indeed the Department considers that the provision could not lawfully be employed so as to breach Article 6 of ECHR. In accordance with section 101 of the Scotland Act 1998, the provision requires to be read so as to be compatible with the Convention. In addition, the inspectors enforcing these Regulations are in accordance with the Human Rights Act 1998 themselves bound by the requirements of the Convention and cannot lawfully exercise their powers so as to breach it.

APPENDIX 4

THE PREVENTION AND MONITORING OF CETACEAN BYCATCH (SCOTLAND) ORDER 2005 (SSI 2005/330)

On 14th June the Committee considered SSI 2005/330 and asked for an explanation of the following matters:-

“The Committee considered that the relevant EC legislation is overdue for implementation, as the Council Regulation came into force in July last year. The Committee asks the Executive to comment on this delay and the timing chosen for making provision for the enforcement of Council Regulation (EC) 812/2004.”.

The Scottish Executive responds as follows:

1. The European Council adopted Council Regulation (EC) 812/2004 (“the Regulation”) on 26 April 2004 and the Regulation entered into force on 1st July 2004. The provisions of the Regulation which require to be enforced in domestic law are to be phased in over the course of the next two years.
2. The Regulation requires Member States to design and implement observer monitoring schemes in various fisheries specified in Annex III to the Regulation by the dates specified in Annex III. The earliest date specified is 1st January 2005. The observer monitoring scheme was designed and implemented in Scotland by the 1st January deadline set in the Regulation.
3. The Regulation also provides that the first phase of mandatory use of acoustic monitoring devices (“pingers”) should start in certain fisheries specified in Annex I of the Regulation by 1st June 2005. The Executive made and laid the SSI making provision for the enforcement of the Regulation as soon as possible. The Executive regrets the fact that it was unable to make the SSI by the 1st June deadline.

APPENDIX 5

THE EGGS (MARKETING STANDARDS) (ENFORCEMENT) (SCOTLAND) REGULATIONS 2005 (SSI 2005/332)

On 14th June the Subordinate Legislation Committee raised the following point with the Executive in relation to the above instrument.

1. The Executive is asked to explain the omission of SSI 2000/60 from Schedule 2 of the Regulations.

The Scottish Executive responds as follows:

1. We assume that the Committee is referring to SSI 2000/62. The Executive is grateful to the Committee for raising this point. This was an unintentional omission. Fortunately, there is no practical effect, however we will endeavour to rectify this point at the next available legislative opportunity.