



Environment and Rural Development Committee

32nd Meeting, 2005

Wednesday 7 December 2005

The Committee will meet at 10.00 am in Committee Room 4

1. **Item in private:** The Committee will decide whether to consider item 6 in private.
2. **Animal Health and Welfare (Scotland) Bill:** The Committee will take evidence at Stage 1 from—

Panel 1

Professor Christopher Wathes, Chairman, Farm Animal Welfare Council;

Peter Stevenson, Political Adviser, Advocates for Animals;

Panel 2

Mike Robson, President, Scottish Branch, British Veterinary Association;

Lynne Hill, President, Royal College of Veterinary Surgeons;

Dr Mark Eisler, Head of Division of Animal Health and Welfare, Royal (Dick) School of Veterinary Studies, University of Edinburgh;

Panel 3

Peter Scott, Consultant Veterinary Officer, Performing Animals Welfare Standards International;

Christopher Dickie, Secretary, Scottish Exotic Animal Society;

Matt Collis, Parliamentary Officer, International Fund for Animal Welfare; and

David Windmill, Chief Executive, Royal Zoological Society of Scotland.

3. **Subordinate legislation:** The Committee will consider the following negative instruments—

the Plant Health Fees (Scotland) Amendment Regulations 2005, (SSI 2005/555); and

the Less Favoured Area Support Scheme (Scotland) Regulations 2005, (SSI 2005/569).

Not before 11:30 am

4. **Subordinate legislation:** Rhona Brankin MSP (Deputy Minister for Environment and Rural Development) to move motion S2M-3563—

That the Environment and Rural Development Committee recommends that the draft Contaminated Land (Scotland) Regulations 2005 be approved.

5. **Animal Welfare Bill – UK Legislation:** The Committee will consider a memorandum from the Scottish Executive on the Animal Welfare Bill, currently under consideration in the UK Parliament, and take evidence from—

Rhona Brankin MSP, Deputy Minister for Environment and Rural Development.

6. **Animal Welfare Bill – UK Legislation:** The Committee will consider the evidence received.

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/S2/05/32/2a
Submission from the Farm Animal Welfare Council	ERD/S2/05/32/2b
Submission from Advocates for Animals	ERD/S2/05/32/2c
Submission from the British Veterinary Association	ERD/S2/05/32/2d
Submission from the Royal College of Veterinary Surgeons	ERD/S2/05/32/2e
Submission from the Royal (Dick) School of Veterinary Studies	ERD/S2/05/32/2f
Submission from the Association of Circus Proprietors of Great Britain (to accompany evidence from Performing Animals Welfare Standards International)	ERD/S2/05/32/2g
Submission from the Scottish Exotic Animal Society	ERD/S2/05/32/2h
Submission from the International Fund for Animal Welfare	ERD/S2/05/32/2i
Submission from the Royal Zoological Society of Scotland	ERD/S2/05/32/2j
<u>Agenda Item 3</u>	
The Plant Health Fees (Scotland) Amendment Regulations 2005, (SSI 2005/555)	ERD/S2/05/32/3a
The Less Favoured Area Support Scheme (Scotland) Regulations 2005, (SSI 2005/569)	ERD/S2/05/32/3b
Response from the Minister for Environment and Rural Development	ERD/S2/05/32/3c
<u>Agenda Item 4</u>	
Extract from the Subordinate Legislation Committee's 43rd Report	ERD/S2/05/32/4a
The Contaminated Land (Scotland) Regulations 2005, (SSI 2005/draft)	ERD/S2/05/32/4b
<u>Agenda Item 5</u>	
Note from the clerk (<i>for members only</i>)	ERD/S2/05/32/5a

SUBMISSION FROM THE FARM ANIMAL WELFARE COUNCIL

**EVIDENCE TO THE ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE
ON THE ANIMAL HEALTH AND WELFARE (SCOTLAND) BILL**

Thank you for the opportunity for the Farm Animal Welfare Council (FAWC) to provide its views on the Animal Health and Welfare (Scotland) Bill. This evidence is largely based on a written submission sent to SEERAD in July 2005.

Overall, FAWC sees significant improvement issues represented in the Bill including:

- Modernisation of existing law for both farmed and companion animals;
- Real strengthening in respect of companion animals (although this is outside our remit);
- Establishing the basic principle of 'ensuring an animal's welfare';
- A real strengthening of the provisions and sanctions for animals likely to be in distress/likely to suffer in addition to those in actually in distress/suffering, including not just Court penalties but a very positive stance on deprivation and disqualification;
- Bringing clarity to when a defendant is in breach of a disqualification order;
- Greatly enhanced enforcement powers for inspectors and constables and delegated powers of prosecution for Local Authorities to deal with the welfare of animals.
- A substantial role for the veterinary profession to promote animal welfare

We believe that all of these improvements are absolutely essential to the impact of the eventual legislation and it will be critical to ensure that they survive the debates between now and enactment. We will be happy to provide advice and assistance during this process.

This Bill places considerable reliance on the veterinary profession delivering an informed opinion on both matters of health and welfare. It is critically important that welfare is seen as an important issue in its own right, as opposed to only good health. We are confident that the veterinary profession is adequately trained and experienced to handle matters relating to health and disease in relation to animal welfare, we are seeking some reassurance from the RCVS with regard to what is being taught and examined in the veterinary schools and being available and required of the practising arm of the profession through Continuing Professional Development.

S18 prohibits activities classed as mutilations unless there is a specific order by the appropriate national authority (subsection 5) and we agree that surgical amputations and mutilations should not be permitted in any species unless there is a well-proven and justifiable reason. For example, tail-docking and teeth-clipping are currently permissible on pig farms in some circumstances under veterinary supervision. However, the causes of the underlying problems in pigs (e.g. tail-biting) are not fully

understood and are under current research. It is important for welfare reasons that the ability to continue with teeth-clipping and tail-docking where circumstances are deemed appropriate under veterinary health plans is in place at the same time, i.e. by a national order as described, before this part of the Bill is introduced.

S22 - FAWC notes and welcomes the translation of many aspects of the Five Freedoms into the legislation. However, omitting some aspects, e.g. freedom from thirst, may lead to confusion amongst animal keepers. It is hoped that the application of these needs, and others, will have real positive impact on the welfare of farmed animals.

S24 - The potential, through the enabling Act, to require licensing of activities involving animals is a powerful piece of legislation. FAWC would draw attention to its recent Report on the Welfare of Farmed Animals at Gatherings which calls for a single piece of legislation to protect the welfare of farmed animals at all gatherings and specifically recommends “that the licensing of all gatherings should be subject to welfare provisions and to inspections based on risk.” It would be a great step forward if Scotland were to take these recommendations forward.

There may be some confusion about the licensing and enforcement roles of local authorities. These different roles may be taken up by different tiers of local authority for different classes of animals (e.g. farm and companion animals). This would benefit from clarification. S32 – FAWC has some concern about the need for policemen and other agents who may become involved in emergency killing of animals to have adequate training to fulfil this role successfully.

S33 - FAWC notes the provision enabling Scottish Ministers to establish by statutory means a body to provide it with advice on matters concerning the welfare of animals. Council hopes it can continue to discharge its primary responsibility to the Scottish Executive by offering advice on farm animal welfare issues in line with its remit.

Impact Assessment - Council is concerned about the apparent lack of any additional financial resources from Government to support this major legislative initiative. A Regulatory Impact Assessment suggesting no additional funding for the work of Local Authorities and other enforcement agencies understates and weakens the potential benefits that this legislation could bring to the welfare of animals. In order for the law to have the impact it deserves it must be effectively enforced and this will require funding from Central and Local Government.

I would bring your attention to two publications recently launched by FAWC: Report on the Welfare of Farmed Animals at Gatherings; and Report on the Welfare Implications of Farm Assurance Schemes. Copies are enclosed.

<http://www.fawc.org.uk/pdf/markets-report0505.pdf>

<http://www.fawc.org.uk/pdf/fas-report05.pdf>

SUBMISSION FROM ADVOCATES FOR ANIMALS

ANIMAL HEALTH AND WELFARE (SCOTLAND) BILL

Advocates for Animals (Advocates) welcomes much of the new Bill especially the proposed new duty of care, the increase to 16 of the minimum age at which a person can buy an animal and the prohibition on the giving of animals as prizes. Our particular areas of concern are as follows.

Extended powers of slaughter in Clause 1 of Bill

We are strongly opposed to the provisions that give the Executive even wider slaughter powers than those that it already has under the Animal Health Act 1981. Under the 1981 Act the Executive is able to slaughter animals that:

- are infected with certain diseases, or
- have been in contact with infected animals, or
- have been in any way exposed to the disease.

Under the Bill, however, the Executive will be able to slaughter animals in any circumstance without having to provide a justification. Paragraph 7 of the proposed new Schedule 3A to the 1981 Act (inserted by Clause 1 of the Bill) allows Ministers to order animals to be slaughtered:

- ***whether or not*** they are infected with disease,
- ***whether or not*** they have been in contact with infected animals, and
- ***whether or not*** they have been exposed to the disease.

This wording is so broad that it makes it virtually impossible for people to challenge the Executive's use of its slaughter powers in the Courts. Similar powers given to English Ministers in 2002 are described in a paper from Cardiff Law School as seeking 'to make precisely that which was *ultra vires* in the past legal in the future, in complete disregard of the compelling reasons for the previous withholding of such powers.'

We recognise that preventing the spread of infectious diseases may involve the humane killing of infected animals and those that have been in close contact with them. However, many feel that in the 2001 FMD outbreak, the Executive misused its powers by slaughtering all animals within a 3km radius of any infected farm in what was known as the 'contiguous cull'; this led to the unnecessary slaughter of many healthy animals. Indeed, the 2002 *Lessons Learned* Enquiry concluded: "most contiguous premises were not infected and probably would not have become infected." We are concerned that the Executive now wants to give itself even wider slaughter powers.

The slaughter of all animals within a 3km radius of an infected farm is not justified by the science. Research by FMD experts at the Institute for Animal Health, Pirbright (a 'world reference laboratory' for FMD) shows that in most cases the maximum distance over which the virus can be spread by infected animals is

100-200 metres not 3km (nor the 180 km referred to by the Executive in the Explanatory Notes to the Bill).

Scientific thinking has changed considerably since 2001 and it is now widely accepted that emergency ring **vaccination** rather than mass killing should play a leading role in tackling any future FMD outbreaks.

The Royal Society's infectious diseases enquiry of 2002 concluded: "Emergency vaccination should be seen as a major tool of first resort, along with culling of infected premises and known dangerous contacts, for controlling FMD outbreaks." We wish to stress that the Royal Society only refers to culling "infected premises and known dangerous contacts", not all animals within a wide radius of an infected farm. The EU, in its 2003 FMD Directive encourages the use of emergency vaccination as one of the first resorts in an outbreak (Council Directive 2003/85/EC). The EU Scientific Committee on Animal Health and Animal Welfare (SCAHAW) has recommended emergency vaccination thereby "avoiding collateral mass culling".

Part of the opposition to vaccination arises from the difficulty, in the past, of distinguishing between vaccinated and infected animals. The concern is that animals that are infected (but not showing clinical signs of disease) prior to vaccination, or that subsequently become infected, could have their infection masked by the vaccination and so could become carriers of the disease. However, recently new vaccines and tests have been developed that make it possible to differentiate between vaccinated and infected animals in the case of FMD and Highly Pathogenic Avian Influenza. Moreover, recent research shows that the risk of vaccinated cattle transmitting FMD is "probably very low"; in sheep the use of a high-potency vaccine has been shown to prevent the 'carrier state'. The Royal Society has stressed that vaccinated animals that become infected are most unlikely to be capable of spreading FMD.

Experts do not claim that all the technical issues involved in vaccination have been solved, but the consensus from the Royal Society's infectious diseases enquiry, the *Lessons Learned* enquiry, the EU SCAHAW and the European Parliament is that existing vaccines and tests (to detect infection in vaccinated animals) are adequate for emergency vaccination to be used as part of the control strategy in future FMD outbreaks.

Nor is the role of vaccination limited to FMD. In 2004 the UN Food & Agriculture Organisation, the World Health Organisation and the World Organisation for Animal Health (OIE) recommended the use of vaccination to help control the growing Asian epidemic of Highly Pathogenic Avian Influenza. According to a consultation run by the FAO "A number of efficacious vaccines are commercially available...[which] provide excellent protection against clinical disease in chickens, reducing mortalities and the effect of the disease on production."

In conclusion, Advocates believes that the Executive's wish to have extended slaughter powers runs counter to the widely accepted view that vaccination rather than mass killing should play a leading role in tackling any future FMD outbreak.

We believe that:

- **the existing slaughter powers are already sufficiently wide and that the proposed new powers are open to abuse as they are so broadly drawn that they would allow the Executive to slaughter animals without having to give any justification.**
- **accordingly, an amendment is needed to delete the new powers contained in paragraph 7 of the proposed new Schedule 3A to the 1981 Act (inserted by Clause 1 of the Bill). At the least, an amendment should stipulate that the powers in paragraph 7 may be exercised only when Ministers are satisfied on the basis of veterinary advice that it is necessary to do so.**

Pet animals and animals in sanctuaries

There were some particularly distressing cases in 2001 when pet farm animals were killed even though there was no indication that they had FMD. In another case the Executive wished to slaughter sheep and goats in a sanctuary even though they had no signs of the disease. **We believe that Ministers' slaughter powers should be curtailed in the case of pet or sanctuary animals as the usual monetary compensation cannot compensate their owners for the loss of these animals. An amendment should stipulate that the slaughter powers are only exercisable in the case of pet or sanctuary animals if the animals actually are infected.**

Power to operate 'vaccination-to-die' policy in Clause 2

There are two forms of emergency vaccination: 'vaccination-to-live' (the animals live out their normal economic lives and their meat is then eaten) and 'vaccination-to-die' (animals around an infected farm are vaccinated to reduce the spread of infection and are then killed).

The Royal Society concluded that the "policy should be vaccinate-to-live, which necessitates acceptance that meat and meat products from vaccinated animals enter the food chain normally". However, Clause 2 gives the Executive the power to slaughter vaccinated animals purely for the purpose of securing a return to international trade slightly earlier than might otherwise be the case. Under OIE rules a vaccinate-to-live policy only delays a return to international trade by 3 months as compared with a mass culling policy. The EU Directive stresses that too much importance was attached to trade policy in 2001, with the result that vaccination-to-live was not carried out even when it had been authorised.

Advocates believes that:

- **the policy should be vaccinate-to-live**
- **accordingly, an amendment is needed to state that Ministers may not slaughter vaccinated animals in order to secure an earlier return to trade, but may only do so on the basis of veterinary advice that slaughter of vaccinated animals is necessary for effective control of the disease outbreak.**

Definition of "animal": Clause 14

To our disappointment, the Bill does not include cephalopods (e.g. octopus) and decapod crustaceans (e.g. lobsters and crabs) in its definition of "animal". Advocates has produced a report that reviews the scientific evidence which

shows that these animals have the capacity to experience pain and suffering. Accordingly, we urge Parliament to include these creatures in the Bill's definition of "animal".

Our report shows that:

- Cephalopods and decapod crustaceans have a nervous system. Indeed that of cephalopods is remarkably well-developed. Moreover, cephalopods have a complex brain as well as sense organs that rival those of vertebrates in their complexity.
- There is strong neurochemical and behavioural evidence that cephalopods and decapod crustaceans are able to experience pain and stress. For example, their opioid systems, which are involved in pain relief and response to injury, appear to function in the same way as in vertebrates. As regards behaviour, these animals clearly try to avoid painful or aversive situations or objects.
- Certain experiments are based on the assumption that decapod crustaceans and octopuses can experience pain as electric shocks are used in these experiments as an aversive stimulus.
- Octopuses are intelligent and show a wide range of complex and flexible behaviour including learning, problem-solving, tool use and play. Decapod crustaceans have the ability to learn, to remember, to make discriminations about their environment and to form stable social hierarchies.

It is anomalous that the common octopus is not included in the Bill as it is already included in the definition of "protected animal" in the Animals (Scientific Procedures) Act 1986.

A number of other jurisdictions have included all or some cephalopods and crustaceans in their animal welfare legislation. These include New Zealand, the Australian Capital Territory, Queensland and Norway. At the time the New Zealand Bill was being considered, the (then) Animal Welfare Advisory Committee considered that the scientific evidence relating to the behavioural and physiological responses of various invertebrates to painful stimuli as well as the complexity of their nervous organisation was sufficient to recommend the inclusion of cephalopods and crustacea in the Act.

We hope Parliament will follow the example of these other jurisdictions and insist on the inclusion of cephalopods and decapod crustaceans in the definition of 'animal'.

Tail-docking of dogs: Clause 18

We welcome the fact that the Bill prohibits mutilations, including the tail-docking of dogs, subject to certain exceptions to be made by the Executive. The Royal College of Veterinary Surgeons (RCVS), the British Veterinary Association (BVA) and the British Small Animals Veterinary Association are all opposed to the docking of dogs' tails.

A 2002 paper by the Department for Environment, Food & Rural Affairs in England concluded: "Tail-docking definitely causes pain in neonatal puppies". The BVA stresses that docking also deprives dogs of a vital form of canine

expression. We believe that submitting dogs to a procedure known to be painful, just to satisfy a centuries old custom, cannot be justified in a humane society.

Nearly all tail-docking is carried out for cosmetic reasons and as such is unacceptable.

Some argue that there should be an exception for prophylactic docking to prevent injuries to the tails of working dogs. We do not believe this to be necessary. Many working breeds are not docked even though they work in similarly rough environments to those breeds that are docked; this suggests that docking is in fact being done for cosmetic reasons, rather than out of any real need to protect working dogs.

The Executive intends to make available a draft Order specifying which mutilations will continue to be permitted at the time the Bill progresses through Parliament. **Advocates hopes that the only exception to the ban on tail-docking will be to permit the therapeutic docking by a vet of an injured or diseased tail.**

SUBMISSION FROM THE BRITISH VETERINARY ASSOCIATION

Introduction:

1. The British Veterinary Association (BVA) is the national representative body for the veterinary profession in the United Kingdom and represents circa 10,000 members. Our chief interest is to protect and promote the interests of the veterinary profession in this country and we therefore take a keen interest in all issues affecting the veterinary profession, be they animal health, animal welfare, public health or employment concerns.
2. The BVA welcomes the opportunity to comment on the Bill and has consulted widely within its divisions to formulate the response below. BVA welcomes the placing of a 'duty of care' on the owners and keepers of animals and the intention to publish biosecurity and other codes of Practice and/or regulations relating to the different types of animals. BVA would like to offer assistance in the preparation of such codes.

Animal Health

3. We believe that the powers concerning animal health are both appropriate and proportionate, striking the right balance between the need to act quickly to control the spread of disease in the event of an outbreak and the need for checks on these powers, providing for greater flexibility when dealing with exotic animal diseases. We would also like to stress that veterinary advice is vital and must always be sought at the beginning of an outbreak of disease.
4. Animal gatherings: We support the proposed powers to regulate animal gatherings and would like to offer assistance in the formation of biosecurity codes for farmed animals.
5. We support the powers to control the spread of Transmissible Spongiform Encephalopathies (TSEs), in particular the power to require the slaughter of animals of a certain genotype to breed resistance to TSEs. We would ask however that this excludes animals not kept for food production, such as rare breeds or pets.
6. Section 4: We welcome the re-testing or examining of samples, which have already been taken, for evidence of other infections or diseases. This will help to provide additional disease surveillance information.
7. BVA would still like to see a clause about 'knowingly selling disease' inserted into the Bill. If a person sells an animal knowing that it, or the flock/herd/group of origin, has a disease or hereditary problem, then that would constitute an offence.
8. Part one of the Bill pertains largely to farmed species and its relevance to companion animals appears to be restricted to unspecified disease. We assume that this includes Rabies which is a relevant disease of companion animals. We are aware that contingency plans might include the killing of in

contact dogs and cats and therefore urge that such measures should be used with discretion and sensitivity. If procedures such as contiguous slaughter were to be introduced for companion animals, there could be a significant likelihood of those animals being removed covertly with the attendant risk of spreading disease. We do not consider slaughter instituted as a result of vaccination of such animals to be an appropriate reaction. Consequently we suggest that the Bill is amended to make it clear that Part 1 is applicable primarily to farmed species and that there will be adequate safeguards for companion animals.

Animal Welfare

9. Section 14: There is significant scientific evidence that some invertebrates, primarily some Cephalopods and Crustaceans, are capable of feeling pain. We consider that the precautionary principle should be used when evaluating such evidence as it is often the case that scientific evidence is equivocal in such matters. Consequently we consider that some species should be included in the legislation now.
10. Section 16: Responsibility of ownership: It is imperative that an owner's responsibility cannot be relinquished by their assumption that someone else had been asked to look after their animal.
11. Section 17: We support the retention of the offence of 'unnecessary suffering' but consider that it should be further defined to include physical and mental suffering. The current interpretation is to include physical suffering only and yet it is generally accepted now that mental suffering can be as severe. While it is possible to argue that the provisions of section 22 are sufficient to cover mental welfare, we consider the greater penalties available under this section should apply to actions which result in deliberate mental cruelty.
12. Section 18: We support the definition of the term 'mutilation' as proposed by the Royal College of Veterinary Surgeons and look forward to improvements in the welfare of farm animals undergoing minor mutilations for husbandry reasons. However, we strongly urge the Executive to include a total ban on the docking of dogs' tails in the Scottish Statutory Instrument to be introduced with the Bill. We consider the scientific evidence that puppies perceive pain at the time of docking to be sound, and that the long-term inability to properly communicate with other dogs resulting from the loss of the tail to be significant. We do not consider that there should be any exception to the general ban as there is insufficient evidence to show increased liability to damage to the tail in working dogs compared to damage to other appendages.
13. We also consider it vital that there is no discrepancy between this legislation and any proposed in England. Any such discrepancy could lead to neonatal puppies being shipped considerable distances to have their tails docked which would have further adverse effects on their welfare.
14. Section 21: We consider animal fights to be abhorrent and so support the tenor of this section. However some of the financial benefit from animal fights is the sale of recordings of the fight. We therefore consider that the making of any recording, or the sale or possession of such a recording should be an

offence. This would then provide a parallel to the legislation on child pornography.

15. Section 22: We strongly support the introduction of the duty of care enshrined in this section and the detail provided in sub-section (3).
16. Section 23: We are aware that some reservations have been expressed about the ability of Scottish Ministers to make regulations of considerable breadth under this section. However we consider that animal welfare legislation requires regular updating to keep abreast of current scientific knowledge and best practice. The legislation is rarely a high priority for any government and so the introduction of additional primary legislation has often in the past been left to Members to introduce. This has resulted in the much amended and often out of date legislation currently in place which this Bill is to replace. The ability to make secondary legislation will allow Scottish Ministers to relatively easily amend legislation to ensure it is coherent and current.
17. Section 24: We consider licensing and registration to be important elements in ensuring good welfare. We are concerned that the Executive propose to license pet fairs as we do not consider such events are likely to ensure good welfare. The stress induced, particularly in birds and reptiles, by travelling and close proximity with humans and other animals is significant and often unrecognised by persons with little experience. In addition such fairs lead to poor accountability of peripatetic vendors and the provision of poor care information to purchasers who may buy on impulse. We do not consider such events to be legal under current legislation and see no reason to legalise them.
18. We continue to support the proposals introduced by Christine Grahame MSP on the transport and sale of puppies. We consider this trade to significantly adversely affect the welfare of the dogs and wish to see it banned in its current form.
19. Section 25: We also consider that it is impossible to properly provide for the welfare of primates in domestic premises. We therefore welcome the ability for Scottish Ministers to ban specified species.
20. Section 32(2): We are concerned that an inspector or constable, with no or minimal training, should be taking a decision to destroy an animal without the advice of a veterinary surgeon. Taking such action without a diagnosis of the disease or injury is unreasonable. Under the Veterinary Surgeons Act, only a veterinary surgeon is legally empowered to make a diagnosis and we therefore consider that a veterinary surgeon should always be consulted. With modern communication systems we cannot conceive any situation when such advice would not be available.
21. Section 36 (2): It is imperative that a disqualified person is banned, not only from owning or keeping an animal, but also from 'caring' for an animal.
22. Section 42: We consider that the increased penalties available to courts under section 21 should also be available under section 17. Those offences also imply a degree of deliberate cruelty, whether it be by neglect, or as a

deliberate act. Such offences are significantly more serious and therefore deserve the higher penalties.

23. Section 44: There is currently a very broad range of experience amongst inspectors as defined in the Bill. This leads to a significant variation in the quality of inspections and this particularly applies where the more unusual species, such as reptiles, are involved. Such variability can result in conditions which lead to poor animal welfare in premises inspected. We consider that there should be some assessment of competence of all inspectors, whether authorised by the Scottish Ministers or a local authority. We propose that the Scottish Ministers should establish a list of appropriate inspectors who have proven their competence. Such persons might be authorised for a variety of inspections or for a single species or task. Local authorities should then be required to appoint their inspectors from the Minister's list. Such a system is currently in place for licensing zoos and is very effective.

Enforcement

24. BVA would like to stress the importance of ring-fencing money for the enforcement of animal health and welfare legislation to avoid animal health and welfare offences being side-lined by local authorities who may conceive them to be a lower priority than other offences.

SUBMISSION FROM THE ROYAL COLLEGE OF VETERINARY SURGEONS

ANIMAL HEALTH AND WELFARE (SCOTLAND) BILL

Introduction

1. The Royal College of Veterinary Surgeons is the regulatory body for the veterinary profession in the UK. It supervises undergraduate education in the six UK veterinary schools, keeps the Register of qualified veterinary surgeons and supervises their professional conduct. RCVS also awards postgraduate veterinary qualifications and awards qualifications to veterinary nurses.
2. The College has no direct operational involvement in the control of animal disease (except to the extent that it has occasion to register veterinary surgeons coming from overseas to help control a major outbreak of infectious disease) or in the enforcement of the animal welfare legislation. Veterinary surgeons do, however, look to RCVS for advice on issues of professional conduct arising from their work in these areas, and the College has an interest in the involvement of veterinary surgeons as inspectors.

Part 1 of the Bill: animal health

3. The Bill would give Scottish Ministers powers similar to those in the Animal Health Act 2002 in relation to the control of infectious diseases and selective breeding to reduce the incidence of TSEs.
4. The new powers conferred under section 1 of the Bill to cause the slaughter of animals in order to prevent the spread of specified diseases would be exercisable even in the absence of evidence that the animals in question had been in contact with infected animals or exposed to the disease in any way. The Committee will be aware of the controversy over the resort to large-scale slaughter to control the outbreak of foot and mouth disease in 2001. It remains unclear whether the particular culling policies adopted then were necessary or shortened the duration of the outbreak. It is understandable that Ministers should wish to have ample powers available to control infectious animal disease through slaughter, so that rapid and effective action can be taken to bring an outbreak under control. The strategy adopted should, however, be based on veterinary epidemiology drawing on accurate and up to date information about livestock holdings, accurate and rapid diagnosis, and the assessment of risk in each locality.
5. The powers to be conferred under section 10 of the Bill in relation to TSEs raise rather similar issues over the protection of public health. The Policy Memorandum explains that, although the provisions relate to TSEs generally, the focus in the current state of knowledge is on scrapie in sheep. It is certainly

desirable to reduce the incidence of scrapie so far as possible in the interests of the welfare of sheep, but the National Scrapie Plan clearly has a different motive: the concern that there may be BSE in sheep in the UK. This becomes less likely as the years pass, and there is in any case only limited evidence that resistance to scrapie goes hand in hand with resistance to BSE. In view of the scientific uncertainty it is good that the Plan has been applied with some flexibility in respect of rare breeds with potentially valuable inherited characteristics, particularly hill sheep which often have medium to high scrapie risk genotypes. It is right that the Bill makes formal provision for persons on whom restriction notices are served to seek a review.

Part 2 of the Bill: animal welfare

6. RCVS welcomes the welfare provisions of the Bill. The consolidation of the existing legislation will make the law more accessible, and section 17 (on unnecessary suffering) and section 22 (the duty to ensure the welfare of animals) rightly shift the emphasis toward the safeguarding of welfare rather than intervention after suffering has taken place.
7. Section 18 adopts the right approach by prohibiting mutilations while providing for exceptions to be specified in regulations. The subject is complicated, because there are procedures which fall within the definition of prohibited procedures in section 18 but are used in livestock husbandry in the best interests of the animals themselves. It is sensible to secure flexibility by giving Ministers powers to prescribe permitted procedures, because views on what procedures are justifiable are liable to change over time and with changes in husbandry methods. On a point of detail, the definition of a mutilation excepts procedures carried out "for the purpose of medical treatment of the animal". The intention is clear, but the use of the word "medical" is unexpected in this context. A report on mutilations endorsed by the RCVS Council in 1987 referred to procedures carried out for non-therapeutic purposes; an alternative might be to refer to "veterinary treatment".
8. The Policy Memorandum mentions that it is intended to prohibit the docking of puppies' tails for cosmetic and breed standard reasons. RCVS supports this. The College has for many years been firmly opposed to the docking of dogs' tails, at any age, except when it is required for therapeutic or genuinely prophylactic reasons.
9. The power in section 24 for Ministers to make regulations requiring specified activities to be licensed or registered is a powerful tool. RCVS notes with concern, however, that the Explanatory Memorandum indicates (in paragraph 253 of the financial memorandum) an intention to increase the duration of local authority licences to three years. A lot can go wrong in three years.
10. RCVS supports the proposal in section 27 to prohibit the sale of animals to children under the age of 16.
11. The extension of the power to make codes of practice, allowing them to be made for animals other than farm animals (section 34), is warmly welcomed.

**SUBMISSION FROM THE ROYAL (DICK) SCHOOL OF VETERINARY
STUDIES, UNIVERSITY OF EDINBURGH****THE ANIMAL HEALTH AND WELFARE (SCOTLAND) BILL****Part 1 of the Bill*****Powers of slaughter***

This legislation needs to be considered in the light of scientific evidence, notably in relation to foot-and-mouth disease (FMD).

The FMD epidemic in the UK in 2001 was accompanied by novel pre-emptive culling of animals contiguous to infected premises (IPs), and culling of sheep within a 3km radius of IPs, without veterinary assessment. This resulted in the slaughtering of a substantial number of animals, over and above those slaughtered as IPs and veterinary-assessed Dangerous Contacts (DCs) as traditionally practised in all previous epidemics of FMD. For Dumfries and Galloway, alone, with only 177 IPs, this involved slaughter of over 640, 000 cattle and sheep on over 1,500 farms:

<i>Strategy</i>	<i>Premises</i>	<i>Cattle</i>	<i>Sheep</i>
IP	177	33,744	81,685
Slaughter on suspicion*	22	1,671	10,543
Vet. assessed DC	179	21,567	49,317
Pre-emptive contiguous cull	147	22,799	56,810
3km-cull	1,002	Not applicable	365,171
Totals	1,527	79,781	563,526

as well as over 2,500 pigs.

The ratios of laboratory-confirmed infected premises to premises slaughtered as a result revealed the substantial killing pressure, ranging from 1:13 in Wales, to 1:27 in Gloucestershire, and 1:109 in Wigtown. That is, up to 109 farms, with healthy animals, were killed out for each single affected farm. The substantial psychological damage, both in the UK and in affected parts of mainland Europe, is well-documented (Olf *et al.*, 2005).

It is noteworthy that the pre-emptive contiguous culling policy was driven by theoretical predictive mathematical models, which have never been subsequently validated. Moreover, subsequent analyses of the 2001 field data, reported in peer-reviewed journals, consistently refute the value, need, or desirability of such a culling policy (Honhold *et al.*, 2004a,b; Taylor *et al.*, 2004; Thrusfield *et al.* 2005a,b), whilst attesting to the effectiveness of the

* Animals slaughtered as being suspected of having FMD, but not classified as 'full IPs'.

traditional measures, and there has been no published refutation of the consistent conclusions of these analyses. ***Thus, the case for retaining this pre-emptive contiguous culling measure in new legislation is contentious, because the published scientific evidence indicates that it is probably ineffective, and therefore quite possibly inappropriate.***

References

- Honhold *et al.* (2004a) Evaluation of the application of veterinary judgement in the pre-emptive cull of contiguous premises during the epidemic of foot-and-mouth disease I Cumbria in 2001. *Vet. Rec.* **155**: 349-355
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- Taylor *et al.* (2004) Risk of foot-and-mouth disease associated with proximity in space and time to infected premises and the implications for control policy during the 2001 epidemic in Cumbria. *Vet. Rec.* **154**: 617-626
- Thrusfield *et al.* (2005a) The foot-and-mouth disease epidemic in Dumfries and Galloway 2001. 1: characteristics and control. *Vet. Rec.* **156**: 229-252
- Thrusfield *et al.* (2005) The foot-and-mouth disease epidemic in Dumfries and Galloway 2001. 2: serosurveillance, and efficiency and effectiveness of control procedures after the national ban on animal movements *Vet. Rec.* **156**: 269-278

Part 2 of the Bill

Any revision of the Protection of Animals (Scotland) Act 1912 and amendments should ensure that the new legislation to prevent cruelty must be prospective as well as retrospective. For example; the legislation to protect dogs and other domestic animals should include provisions to regulate circumstances 'likely' to cause unnecessary suffering.

The degree of protection provided for farmed animals situated on agricultural land by the Agriculture (Miscellaneous Provisions) Act 1968 and associated secondary legislation and for animals subjected to scientific procedures by the Animals (Scientific Procedures) Act, 1986 is of a different nature to that provided for most other types of animals managed by man. The main features of these Acts that offer this additional protection are:

1. regulations specifying the manner in which animals can be kept and the procedures that can be performed on them, e.g.
 - Environmental conditions and housing
 - Care of ill or injured animals
 - Inspection of animals and the keeping of records
 - Control of animal breeding
 - Nutrition, feeding and watering
 - Surgical procedures etc

2. inspection of premises where the animals are kept
3. a requirement on those keeping animals to ensure the welfare of the animals under their care
4. provision of welfare codes and a requirement for those responsible for the animals to be familiar with and have received instruction and guidance on the codes

At present, non-farmed animals are not offered this type of protection by animal welfare legislation and any revised legislation should adopt a similar approach to that contained within the orders made under the Agriculture (Miscellaneous Provisions) Act 1968 for farmed animals.

It would also be appropriate to extend the general provisions of care specified in the Agriculture (Miscellaneous Provisions) Act 1968 and orders made under this Act to farm animals not kept for farming purposes and for all situations (not just agricultural land).

Protection of Animals (Scotland) Act 1912 and amendments

This Act contains some important provisions in that it specifies various offences of cruelty and associated penalties and these should be retained (with some modernisation of the wording). The current regulation of a diverse range of activities should also be retained within any consolidated animal welfare act. It would be particularly helpful to the veterinary profession if the provisions for the treatment of severely diseased or injured animals contained within section 10 of the current Act could be extended to all animals and not just the horse, mule, ass, ox, sheep, goat or pig. It would also appear appropriate to introduce a similar provision to that contained within the English and Welsh Protection of Animals (Amendment) Act 2000 to provide for the care, disposal or slaughter of animals to which proceedings are in process under the Protection of Animals Acts.

Consolidation of the laws on acts of surgery on healthy animals:

Currently acts of surgery are regulated in a variety of different ways and by several different pieces of legislation including the: Veterinary Surgeons Act, Protection of Animals Acts, Welfare of Livestock (Prohibited Operations) Regulations, and Welfare of Farmed Animals Regulations.

There is a case for consolidating all the legislation relating to acts of surgery under the same umbrella. An act of 'surgery' [in which the integrity of an animal's body is deliberately disrupted] should not be carried out unless there is substantial evidence of overall benefit to the 'life-time' welfare of the animal. If such surgery is carried out, the most humane methods available should be used. Codes for acts of surgery permitted by the law should be regularly reviewed and updated in the light of new evidence.

Inspection and enforcement of animal welfare legislation

The effectiveness of animal welfare legislation in providing protection to the welfare of animals can be impaired by inadequate inspection of animals and premises and by inadequate follow-up action in terms of advice, warnings and

if necessary prosecution. The responsibility for enforcement action under the range of current animal welfare legislation is spread between the police, national and local government. There is a strong case for a national animal welfare inspectorate for Scotland. The advantages of this national inspectorate would be:

1. a body of highly trained and experienced inspectors
2. consistent and uniform enforcement across the country
3. common standards of animal welfare between different types and species of animals
4. a separate and adequate financial budget for recruitment of sufficient staff, frequency of inspection and where necessary the ability to pursue prosecutions (without undue concern for the financial implications on a small local authority).

There are excellent examples of animal welfare inspectors that are not members of the veterinary profession, however the most appropriately qualified people to undertake animal welfare inspections in terms of their scientific understanding, practical training and experience of animal husbandry, health and welfare are members of the veterinary profession. We therefore recommend that welfare inspections under the revised animal welfare legislation be undertaken by the veterinary profession. Where appropriate animal welfare inspections should be undertaken by a team of inspectors with a wide range of expertise, but led by a veterinary surgeon.

Licensing of animal establishments

At present there are a variety of different licensing requirements for various types of animal premises. There is strong case in any consolidated legislation to introduce a common provision for the licensing of animal establishments so that a uniform standard of welfare provision can be enforced. For example, there are licensing provisions under the Breeding of Dogs Acts 1973, 1991 and Breeding and Sale of Dogs (Welfare) Act 1999, but there is a lack of similar provisions for all other species of pet animals (why just dogs?) and inconsistencies between the acts. For example, the frequency and manner of inspections of breeding establishments is left to the individual authority, and inspection is not an essential part of being granted the license (or re-license) procedure. Persons carrying out the inspections do not necessarily have a veterinary or other appropriate qualification.

We do not have a consensus of opinion as to whether a licensing system should be introduced for livestock farms or livestock keepers. One view is that the licensing of livestock farms or livestock keepers would be a bureaucratic nightmare, an unnecessary additional cost to the industry and that the industry already has an existing scheme of self-regulation via farm assurance schemes. The other view is that a licensing system would ensure that farmed animals are provided with at least a minimal welfare standard and that if it is thought appropriate to introduce a licensing scheme for some categories of animal establishments it would be inconsistent to exclude farmed animals. A licensing system that required an annual inspection by a veterinary surgeon and a requirement for a minimal standard of training and/or experience by the

livestock keeper would be provide substantial improvements to animal welfare.

We do have a strong consensus that livestock farmers should be legally required to draw up and then implement an annual animal health plan. This should contain some standard provisions and must be approved by a veterinary surgeon, preferably by involvement in drawing up the plan or by an annual inspection. Consideration could be given to withholding all or part of the subsidy payments to livestock producers until a health plan has been approved.

An annual inspection of farms by a veterinary surgeon would provide benefits in addition to those of animal welfare through improved consideration of biosecurity and food safety issues.

SUBMISSION FROM THE ASSOCIATION OF CIRCUS PROPRIETORS

Animal Health & Welfare (Scotland) Bill

The Association of Circus Proprietors of Great Britain (ACP) was founded in 1932 and is recognised by Central and Local Government as the body representing the circus industry. It includes amongst its membership most but not all of the major touring circuses as well as several of the smaller circuses. It seeks to impose on its members the highest possible standards whether they relate to trading or to animal welfare and takes advice from leading veterinarians specialising in exotic animals. The animals used by circuses likely to visit Scotland fall into three categories. There are domesticated animals e.g. horses and dogs, exotic animals e.g. llamas, camels, elephants and other exotic cattle which are kept in stable like accommodation which provides for free movement and exercise and those animals, commonly called wild animals, which are kept in cages e.g. lions and tigers. The number of circuses using wild animals has fallen substantially within the last few years, as has the number of circuses using elephants or the larger exotic animals. However there are still circuses using exotic animals and which prove to be very popular in Scotland. It is interesting to note that in very recent years the number of exotic animals, particularly elephants, appearing in circuses in Ireland has increased substantially and there are no less than five circuses operating in Ireland with elephants. This appears to be in response to public interest.

The ACP considers that the present legislation relating to the keeping of performing animals is woefully inadequate as it licenses the trainer but not the animal and does not improve animal welfare standards. The ACP has for many years called for legislation which would relate specifically to all animals used in entertainment and which would provide for a compulsory system of licensing supported by inspections. The ACP considers it important that the standards should be set by independent veterinary advice and not from within the circus industry.

The decline in the use of animals by circuses has not resulted from any change in public opinion. It is a combination of the policy of many local authorities in not permitting circuses with performing animals to use one of its sites and the expense of providing the transport and particularly the accommodation which modern veterinary advice considers necessary in order to reach the best attainable standards. There is a large amount of public support and interest for performing animals and, of course, there are those bodies, often with a vociferousness which exaggerates their level of support but who have sincerely held opinions against the keeping of exotic or wild animals in circuses. In the middle ground there is a vast body of public opinion which may not visit a circus but feel strongly that animals should not

be banned and that the public should be allowed to decide what they want to see but should be subject to standards being improved and adequate supervision.

Part Two of the Bill gives powers for the Minister to make regulations which could lead to the prohibition of the keeping of certain animals or make regulations which would require the animal owner to hold a relevant license. The problem with the Bill is that it is far too skeletal and lacks any detail. The interpretation is that the Minister could make a decision to ban exotic animals which is based on personal disapproval supported by the views of animal welfare organisations which in themselves are not supported by independent scientific opinion. Effectively this would take away the living of those circus proprietors who use certain animals in their performances. It must be unacceptable that a ban could be imposed without independent scientific or veterinarian opinion to support it. Nor is it acceptable that seemingly the Minister could make an order to ban certain species of performing animals without their being an adequate public debate. In the course of this year there has been considerable publicity arising from the keeping of an elephant, Anne, by a circus which was touring Scotland. This publicity was fuelled by a publicity campaign orchestrated by an animal rights organisation which, it was stated, relied on the view of a so-called elephant expert who had not inspected the elephant but based his opinion on a video. As a result of this publicity which was driven by a certain newspaper, the elephant was inspected by a vet appointed by DEFRA and a vet appointed by the Scottish Executive both of whom found the elephant to be in a satisfactory condition and state of health. They found the stabling arrangements and the exercise area to which she had access to be acceptable. It was noted that the elephant was elderly and in her native surroundings was unlikely to have reached her present age. There is a grave danger of decisions being taken which are based on emotive claims without scientific support. The banning of any activity is seriousness. Not only does it affect the livelihood of certain people it takes away an element of choice which the public should be able to exercise. If that decision is based on these emotive arguments and other pressure then the decision cannot be acceptable.

The alternative possibility of a licensing system is attractive and could be acceptable if the conditions of licensing are going to be laid down by independent veterinary opinion and supported by a system of inspections. Circuses should be able to use only those animals for which they hold a license and the individual animal but must subject to inspection. The requirements would cover the transport and keeping arrangements as well as approval of the methods of training. Although detractors would argue to the contrary there is no mystique with the training of animals. It can only be satisfactorily achieved by a combination of kindness and reward and animal trainers are always willing to discuss and give demonstrations of their training methods. A system of licensing would be supported by other parts of the Bill which give grounds for a prosecution under the general welfare provisions of the Bill. This would not only cover the physical condition of a performing animal but, from our interpretation, would also cover the more general welfare aspects in the way that the animal was kept. It would then be for the courts to

decide whether an offence was committed and this must be preferable to what could be a political decision.

This Association would whole-heartedly support a system of licensing in Scotland by reference to regulations which are imposed by consultant veterinarians who would first discuss proposals with both the animal welfare organisations and the circus industry. Similarly the ACP would have no objection, in principle, for the licensing of any circus winter quarters in Scotland. The ACP is satisfied that circuses can work, and already do in most situations, to standards which would not be just the best which are attainable in a travelling situation but standards which are deemed to be acceptable in the light of the requirements of the particular animal.

It is worth commenting on the situation in England and the discussions which the ACP has had with DEFRA regarding the English proposed animal welfare legislation. There have been very full and detailed discussions and the consensus of opinion is that all animals used in entertainment i.e. animals ranging from performing animals in circuses to animals used in film and television work will be subject to a Code of Conduct and licensing and inspection through an independent body which may possibly be PAWSI. The animal welfare organisations are part of this discussion. The view appears to be that the banning of performing animals is not the preferred option but, under the new legislation, the courts could decide that a certain species or indeed a certain animal was not appropriate to be kept in a circus. This would give a certain independence to the decision making. Recently the ACP published a very comprehensive Code of Conduct for the keeping of animals in circuses which after discussion with other bodies may form the Code of Conduct for performing animals in England. The ACP has made it clear that it would welcome discussions on the Code from other interested bodies which may lead to amendments being made to the document. This Code has already had considerable input from Zoological veterinarians.

To sum up the views of the ACP are:-

1. The legislation is unfair as it is lacking in any substantial detail and leaves too much discretion to the Minister at the time. The banning of animals should be a matter of debate;
2. It should be accepted that acceptable standards for the keeping of performing animals are attainable and are largely in place at present;
3. The way forward is not through an arbitrary ban on any particular species of animals but instead by way of licensing and supervision coupled with independently assessed standards.

Finally may I express the disappointment at the short notice given of the meeting on the 7th December 2005 which unfortunately the Secretary is unable to attend as he was already committed to another meeting. This is an important issue for circus proprietors and trainers and it is unfair that in the light of the length of notice that an alternative date could not have been arranged which would have enabled a full discussion to take place on what is an important issue. We have asked Peter Scott, FRCUS who has

considerable knowledge of animals in entertainment to address the meeting. I would like to make it clear that Mr Scott is not speaking on behalf of the circus industry and holds his own views as an independent advisor.

Agenda Item 2

**Environment and Rural
Development Committee**

7 December 2005
ERD/S2/05/32/2h

SUBMISSION FROM THE SCOTTISH EXOTIC ANIMAL SOCIETY

Animal Health and Welfare (Scotland) Bill

The Scottish Exotic Animal Society is a relatively young society which aims to represent the interests and to hold meetings to discuss the keeping of exotic animals, particularly reptiles, amphibians, arachnids and insects. Our members and meeting attendees either have an interest in, or keep these animals. We aim to further the understanding and education within the exotics keeping community by hosting talks on various subjects. We are also taking a great interest in politics recently due to the Animal Health and Welfare (Scotland) Bill, on which we are consulting, we wish to ensure the best possible circumstances and opportunities both for current, and for future keepers as this legislation shall likely govern the keeping of animals for the next few decades within Scotland.

On that note I would like to thank the committee for inviting us to give a submission and to give evidence and we hope that our input is useful in this final consultation period on the primary legislation. We also hope to be actively involved in the consultations on secondary legislation which will be conducted in the coming years.

Finally I'd like to congratulate the Scottish Executive on introducing this much needed revise in animal welfare legislation.

Consultation Prior To The Introduction Of The Bill

In our opinion the consultation prior to the introduction of the bill was very rushed. If I remember correctly we were explicitly told that the consultation period was shorter than normal for reasons which I do not know.

We also feel more effort should have been made in order to publicise the bill. Although well publicised over a period of around two days (as shown in the Analysis of Responses) it was only for this short period of time. As far as I am aware our society would not have become involved in the bill if I had not seen a small clip on a television news programme – lasting no more than around one minute – and then spoke to a colleague in England who has consulted greatly on the English bill who was aware of the publication of our bill even though we were not.

Admittedly, as I have said we are a small and young society but at the Edinburgh consultation meeting there was a canine group which had been in operation for around forty years and they had not been consulted.

Confusion Created Between Part 1 And Part 2 Of The Bill

We are still not exactly sure how part one of the bill relates to domestic, rather than agricultural animals. At the Edinburgh consultation meeting we were eventually told after many similar questions that domestic animals, could, at the ministers discretion be affected by part one of the bill. We would seek further clarification on this.

Definition Of “Animal”

We agree with the definition and agree that if any invertebrates are shown to be sentient by a sufficient pool of scientific evidence then they too should be included.

However depending on what science comes to discover this could cause problems. For example if insects such as crickets, locusts, mealworms etc were found to be sentient then this could pose a real problem, these are some of the insects which are fed, not only to many reptiles and amphibians but also birds and mammals. If they were not allowed to be fed live, it is unlikely that these animals would adapt in captivity to eat dead insects. This would conflict with section 22 Ensuring welfare of animals 3(b) & (c) :

(b) its need for a suitable diet,

(c) its need to be able to exhibit normal behaviour patterns,

As it would no longer have a suitable diet and therefore suffer and also would not be exhibiting normal behaviour patterns of hunting the insects.

Responsibility For Animals

We raised this point in our original submission but see no change on the face of the bill to change this. Section 16, clause 3 of this section states:

“For the purposes of this part, a person who owns an animal is always to be regarded as being a person who is responsible for it.”

We feel that people should not be responsible for an animal if they have left the animal with a suitable keeper, business or organisation, which they believe to be fully competent in its care. For example if they had left their animal in a licensed boarding establishment there is the potential under this sub-section that they would be responsible for any neglect or cruelty that takes place as well as the boarding establishment. The person would have no control over the actions of the boarding establishment and therefore we feel they should not be held responsible.

Unnecessary Suffering

We have a major concern that this section could have a detrimental effect on many animals. This section would likely make it illegal to feed live vertebrates to any animal, which in some extreme cases is the only way in which to trigger a feeding response and begin the animal feeding before moving onto commercially available pre-killed frozen rodents. I am under the understanding that this is currently legal if agreed to by a vet however I am not totally sure of this. If this was made illegal then surely this is “unnecessary suffering” for the animal being fed as it is being deprived of food, one of the most basic needs of all animals.”

Animal Fights

We noted this in our previous submission and were assured that this would not occur but I cannot see a change on the face of the bill to prevent this possible misunderstanding of the law:

We agree that fights between most animals should be included in this section, however many reptiles naturally fight - to trigger a breeding response – before mating, either between rival males or between the breeding animals. This must not be included as this would make the breeding of many reptiles illegal. Also it would contradict Section 22 – Ensuring Welfare of Animals as it would be prohibiting natural behaviour, breeding being one of the most basic kinds of natural behaviour.

Prohibition on keeping certain animals

I am under the understanding that this is one of the main topics we shall discuss during the meeting. As we stated in our original submission: “We do not agree with this section. We see no reason for the Scottish Ministers to be given this power. Where an animal is endangered it is necessary to have CITIES papers for the animal, where an animal is dangerous it is included on the Dangerous Wild Animals Act and as such needs veterinary inspections to receive the licence. Where an animal is deemed unsuitable to be kept by the general public (for the protection of the animal) we feel it would be much more practical to add the animal to the DWAA list or to create a similar Act to protect animals falling under this description. This would prohibit the keeping of the animal without a licence and mean that a vet would check the facilities the person has to keep the

animal. Even this lesser measure to what is currently suggested would need much consultation with many groups of people. We feel this power is greatly dangerous to law abiding citizens, as it gives the potential for a Minister with a grudge against certain animals to push for this animal to be prohibited from being kept.”

I believe that one of the main reasons for this inclusion, at least initially, is to allow the possibility of the banning of private individuals keeping primates. Now, though I must admit some people treat animals, and sometimes primates especially, terribly this is no reason to prohibit every private individual from keeping them.

A good example of the disadvantage this could cause is of a Scottish couple, who were for the most part private keepers but opened a zoo for a few years before they emigrated. They kept primates, largely marmosets and Tamarins. These private individuals were amongst the first in the UK, possibly in the world to breed certain species and were certainly one of the first world wide to successfully hand rear some species, in fact they were so successful in doing so I believe that many zoos around the world now use their hand-rearing notes.

This is a perfect example of how private keepers can benefit the keeping of more unusual and harder to keep species. Often the private individual will have more time and a better “relationship” with the animals they keep as they may have been keeping the same animals for many years, tending to them daily and accumulating a great wealth of knowledge from such frequent contact. This along with the possibility of private individuals having more time and possibly money suggest reasons why private keepers should be allowed to keep such animals.

Inspectors

Again as we note in our original submission

“We have great concern over the authority given to “inspectors” under this bill. These “inspectors” will have a large amount of power; they can both confiscate animals and, in extreme cases, destroy animals before seeking veterinary advice. Our concern is that many of the “inspectors” appointed will not have sufficient knowledge in *all* kinds of animals. We have been told the “inspectors” will be members of the State Veterinary Service and as such are trained with all animals. However, we fear that they will know little about exotics, there is no formal training given to them on exotics unless they have a personal interest they are unlikely to know much about them. It is extremely hard to find a vet who is competent in the care of reptiles so where these “inspectors” will come from who must have a huge amount of knowledge about *all* animals will come from is somewhat of an interesting point. Because of the lack of knowledge of “inspectors” in exotics they may be in a situation in which the person whose premises they are entering knows much more about the care of the animals they keep. As such they may wrongly confiscate animal, or possibly destroy animals where they should not”

From reading recent literature it now seems apparent that both the SSPCA inspectors and staff of local councils will become inspectors. Again both, especially local council staff receive no specialist training which I am aware of in exotic animals. This raises the same concerns as we have above.

Agenda Item 2

**Environment and Rural
Development Committee**

7 December 2005
ERD/S2/05/32/2i

SUBMISSION FROM THE INTERNATIONAL FUND FOR ANIMAL WELFARE

1. The International Fund for Animal Welfare (IFAW) works to improve the welfare of wild and domestic animals throughout the world by reducing commercial exploitation of animals, protecting wildlife habitats, and assisting animals in distress. IFAW seeks to motivate the public to prevent cruelty to animals and to promote animal welfare and conservation policies that advance the well being of both animals and people.
2. IFAW have chosen to concentrate on the issues relating to animal welfare (Part 2 of the draft Bill), particularly those areas where we have concerns that the overriding principle of promoting animal welfare that underpins this part of the Bill, has not yet been met. These include: the ownership of primates (and other 'exotic' animals) as pets; animal sanctuaries; and the Internet trade in pet animals. Some of these issues can be addressed in the Bill, for example through section 25 (prohibition on keeping certain animals), and through the proposed secondary legislation. However, IFAW is concerned that some aspects (animal sanctuaries) have not been addressed fully and in some cases (Internet trade) not at all in the Bill or the proposed secondary legislation.

The general principles of the Bill

3. IFAW in general welcomes the provisions on animal welfare in part 2 of the Bill. The introduction of the new welfare offence should help reduce the number of animals suffering, as enforcement agencies will have new powers to intervene in cases of concern before suffering occurs and can proactively prevent or mitigate acts of cruelty. The Bill also provides a modern framework for the implementation of effective and enforceable legislation and regulations on animal welfare.

Ownership of primates as pets

4. In June 2005, IFAW published a report '*Born to be Wild: Primates are not pets*'. This report highlighted the suffering and distress primates endure when kept as pets. Evidence shows that there may be as many as 1,500–3,000 primates being kept as pets in the UK.¹
5. Primates are wild animals – whether bred in captivity or taken from the wild – and are not suitable as companions in the home, no matter how well-meaning the keeper. Primates suffer in captivity. Primates are long-lived, highly intelligent, and are likely to have a sense of suffering and distress similar in nature to that of

¹ The Monkey Sanctuary Trust cited in *Born to be wild: Primates are not pets*, London: IFAW, 2005, p.3.

<http://www.ifaw.org/ifaw/general/default.aspx?oid=134950>

A similar estimate is shared by pro-trade/ownership organisation the Pet Care Trust, who in a recent Defra consultation response, stated, "There are several thousand smaller primates held in private hands in the UK" (The Pet Care Trust, JOINT SUBMISSION TO DEFRA ON THE DISCUSSION PAPER ON ARTICLE 8.2 REG. 338/97 (Regulating the Keeping of CITES Specimens), Last accessed 23rd Nov 2005, p.4

<http://www.petcare.org.uk/images/stories/pdfs/regulating%20the%20keeping%20of%20cites%20specimens%20submission.pdf>

humans. They are complex social and emotional animals requiring a high level of husbandry and care that changes depending on their life-stage. Their high level of intelligence brings with it a greater capacity for unexpected or difficult behaviour as well as a greater capacity to suffer when relegated to a poor or inappropriate life-style. Those animals which are not abandoned or euthanised due to their owner's inability to provide appropriate care and environment, or due to the unwanted and unmanageable change in behaviour, often face abhorrent physical treatment and terrible conditions for the remainder of their life.

6. Subsection (3) of section 22 of the Bill (Ensuring welfare of animals) identifies animals' needs in order to ensure their welfare. These needs are identified as: a suitable environment; a suitable diet; to be able to exhibit normal behaviour patterns; to be housed with, or apart from, other animals; to be protected from suffering, injury and disease. With the exception of providing a suitable diet, it is virtually impossible to see how pet ownership of primates can provide fully for any of the needs specified in the Bill. **It is therefore imperative that the subordinate powers contained in the Bill are used to prohibit the keeping of primates as pets.**
7. IFAW would like to draw the Committee's attention to a recent MORI poll, which asked the public if they thought the keeping of primates as pets should be made illegal.² 85% of those surveyed in Scotland thought the keeping of primates as pets should be made illegal (compared with 79% in the UK overall), demonstrating an exceptionally high level of support in Scotland for such a prohibition.
8. IFAW is delighted to see the inclusion in the Bill of section 25, which allows for prohibitions on the keeping of certain animals on welfare grounds. Paragraph 81 of the policy memorandum identifies primates as animals of particular relevance to this section. Given the issues outlined above, **IFAW calls on the Environment and Rural Development Committee to urge the Scottish Executive to introduce regulations to prohibit the keeping of primates as pets under Section 25 of the Bill at the earliest opportunity.**

Other 'exotic' pets

9. IFAW would generally regard 'exotic animals' as any of the following:
 - a. Not domesticated over many generations; or
 - b. Rare or endangered (species listed on the CITES Appendices); or
 - c. With special dietary, social, behavioural or environmental needs that require the provision of special facilities and expert knowledge on the part of a keeper to properly meet those needs; or
 - d. Any animal that is the consequence of recent hybridisation with a wild species (e.g. dog-wolf hybrids).
10. Animals destined for the exotic pet trade are essentially wild animals. They are not domesticated animals, and thus if kept in captivity demand higher and more specialised standards of husbandry and care than domesticated pets. Such expertise is regularly beyond the capabilities and resources of the general public (and sometimes even the average veterinary officer). When problems arise the

² *Primates as Pets*, London: MORI, October 2005, commissioned by IFAW

animals are either left to suffer or die in captivity, or they face abandonment. IFAW maintains that preventing private ownership is the most effective means of addressing this situation.

11. However, IFAW also recognizes that in some instances a prohibition may not be currently realistic, and so therefore feels that the most pragmatic measure is to develop regulatory controls, which should work towards eliminating compromises of animal welfare and preventing cruelty. In the absence of outright prohibitions (under section 25), the Bill offers two possible (and complimentary) alternatives: licensing (section 24); and codes of practice (section 34).
12. From the accompanying documents to the Bill, however, it is clear that licensing is not being considered. IFAW would like to bring to the attention of the Committee, the recent example of Belgian legislation in this regard, where a list has been compiled of all those animals that may be kept without a licence, as opposed to creating an exhaustive list of species requiring a licence. This would allow the regulatory environment to keep pace with the changes of habits within the exotics sector as new species become fashionable, rather than constantly needing to revise lists and regulations to include new species for licensing.
13. In the absence of a prohibition or a licensing scheme for exotic pets, IFAW urges the Scottish Executive to prioritise the development of regulations and codes of practice to promote the specific welfare needs of those species involved in the exotic pet trade in the first instance. These regulations should address issues such as breeding, trading, transfer, minimum standards for housing and husbandry, hygiene, and protocols for the prevention and control of infectious or contagious (including zoonotic) disease.

Animal sanctuaries

14. The explanatory notes accompanying the Bill suggest that the 50 largest animal sanctuaries in Scotland will be registered with their local authorities subject to renewal every 5 years (paragraph 262). Registration will consist of an initial inspection but no further inspection will be required unless the details of the registration change or welfare concerns are raised. The registration requirement is likely to be introduced in 2008.
15. IFAW is concerned that there is currently no definition in the Bill or accompanying documents as to what constitutes a sanctuary for the purposes of animal welfare.
16. IFAW is also concerned as to why it is only the largest animal sanctuaries that are to be registered, especially when it is often smaller sanctuaries that struggle most to maintain high welfare standards. If the notion of risk, used elsewhere in the Bill, is adopted for sanctuaries, then this would suggest that smaller sanctuaries are likely to be in the higher risk category. IFAW is interested as to how the Executive has arrived at the number of 50. IFAW does not believe the regulation of sanctuaries should be dependent solely on the size of the sanctuary but rather should take into account both the number AND the species of animal kept at the sanctuary, which will identify the degree of husbandry and the facilities required.
17. Furthermore, IFAW does not believe a system of registration will be adequate to ensure the welfare of animals in sanctuaries. IFAW believes only a system of

licensing, subject to regular inspection, can ensure adequate welfare standards on a continuous basis. IFAW is pleased to see that at least the 50 largest sanctuaries will be subject to an initial inspection prior to registration. However, registration will only take place every 5 years and circumstances can easily change over such a time scale. 5 years in many cases may exceed the lifespan of animals in that sanctuary. While the proposals suggest that inspections will take place when welfare concerns come to light, it does not suggest how this will happen. Many sanctuaries are not open to the public. Therefore, without regular inspection or public scrutiny it is not clear how concerns would come to the attention of authorities unless there is a more rigorous inspection regime, such as that required under licensing.

18. The other criterion for triggering further inspection is that registration details change. This seems sensible but the Executive will need to provide clarification as to the kind of changes they envisage will trigger a further inspection.
19. Both licensing and registration should also ensure that sanctuaries have a policy of not breeding (to avoid capacity problems) and trading animals (which may end up in inappropriate accommodation and therefore exacerbate welfare problems).
20. IFAW is also concerned at the proposed date of introduction for regulations for sanctuaries. The Bill proposes to introduce registration for the 50 largest sanctuaries in 2008. The financial memorandum suggests the introduction of the welfare offence will produce an initial rise (approximately 10%) in the number of cases in the period immediately after the Bill is enacted (para. 252). It is reasonable to expect therefore that there will be an increase in the number of animals in need of re-homing following this initial rise in cases. However, IFAW is concerned that without any regulation of sanctuaries until 2008 and even then only larger sanctuaries, animals in need of re-homing may simply be diverted to sanctuaries with either poor welfare standards or without the capacity to house them. This would not improve the situation of the animals involved and would seem to run counter to the aims behind the new welfare offence.
21. Even if a licensing regime is not introduced as part of the Bill as IFAW believes it should, **IFAW advocates regulation for all sanctuaries be introduced at the earliest opportunity after the Bill is enacted. At the very least, preparatory work should begin immediately to agree a definition of a sanctuary; to establish accurately the capacity that exist in the sanctuaries sector, should more animals be in need of re-homing following the introduction of the welfare offence; and to produce codes of practice for sanctuaries.**

Internet sales

22. At Westminster, the Animal Welfare Bill proposes to license Internet traders of animals in England and Wales in the same way as pet shops. Annex B of the memorandum on delegated powers for the Animal Health and Welfare (Scotland) Bill contains an outline of the scope and content of proposed regulations for the selling of pets in Scotland. IFAW is concerned that this makes no mention of Internet selling, either for sites which actually sell animals via the Internet or sites which facilitate sales by private individuals, such as auction sites and chat rooms.

23. IFAW is concerned that this raises the possibility of Internet traders relocating to Scotland to avoid the necessity of a pet shop licence. IFAW does not think that it is desirable for such a cross-border issue to arise from this Bill.
24. IFAW does not believe the Internet is a suitable forum for the trade in live animals. Purchasers do not see the condition of animals prior to purchase; it may be difficult to determine whether an animal is actually of the species (or from the breeding stock) claimed by the seller (some species look very similar but have different legal status that may require certification to make a sale legal); the seller may not be able to determine the age of the purchaser; the quick and easy nature of the Internet encourages 'casual' purchases without due regard to the levels of care and husbandry that will be required for the animal purchased.
25. For these reasons IFAW would rather not see the sale of live animals over the Internet. However, for those site owners and ISPs who do allow the advertising and sale of live animals, there must be a statutory code of practice in place to ensure both the highest possible standards of welfare, and the legality of sales. Without such a code, the anonymous nature of sales on the Internet will undermine other aspects of the Executive's proposed legislation, such as raising the age limit to 16 for the purchase of pet animals, and the proposal in the regulations that vendors of all pet animals provide care leaflets to prospective buyers and have a minimum competency level for husbandry and care.
26. One of the reasons listed for the proposed regulation on the selling of pets is to "enable the regulation to be kept up to date and in line with developments in animal welfare and good practice in the area of pet vending".³ The sale of animals over the Internet is a growing phenomenon⁴. IFAW is concerned that the regulation is at risk of already being out of date if it does not consider Internet selling.
- 27. IFAW urges the Committee to recommend to the Scottish Executive that the issue of the Internet trade in animals is included within the scope of the proposed regulation on the selling of pets, either through the Animal Health and Welfare (Scotland) Bill or in partnership with Westminster through a Section 104 Order, so as to avoid any undesirable cross-border trade arising unintentionally.**

Disqualification orders

28. IFAW wishes to bring to the attention of the Committee the issue of disqualification orders. Section 36 of the Bill allows for persons convicted of an offence to be disqualified from undertaking certain activities in relation to animals (e.g. owning, dealing, transporting), in addition to any other penalties. The Animal Welfare Bill at Westminster contains provisions to ensure that those convicted of serious cruelty to animals and consequently disqualified from keeping animals in England and Wales are also disqualified in Scotland. In its call for evidence the Committee stated it intends to consider this matter as part of its scrutiny of the Scottish Bill, and so would welcome any comments on whether it is appropriate for the UK Parliament to legislate for Scotland on this.

³ Memorandum on delegated powers, Animal Health and Welfare (Scotland) Bill, para. 159

⁴ See 'Caught in the web: Wildlife trade on the Internet', London: IFAW, August 2005

http://www.caughtintheweb.co.uk/site/c.0mL4KkN2LtH/b.951745/k.736C/Caught_in_the_Web_Home.htm

29. IFAW believes this is an important step to ensure that cruel actions are not simply relocated across the border, and those disqualified in England and Wales are similarly disqualified in Scotland. However, it is unclear from the Scottish Bill whether a disqualification relating to a person convicted in Scottish courts would also be applicable in England and Wales, and therefore urges the Committee to seek clarification from the Executive on this matter.

Agenda Item 2

**Environment and Rural
Development Committee**

7 December 2005
ERD/S2/05/32/2j

SUBMISSION FROM THE ROYAL ZOOLOGICAL SOCIETY OF SCOTLAND

The Royal Zoological Society of Scotland welcomes the opportunity to provide evidence to the Environment and Rural Development Committee in their consideration of the Animal Health & Welfare (Scotland) Bill.

The Royal Zoological Society of Scotland is a charity and Society of 18,000 members. It owns Edinburgh Zoo and the Highland Wildlife Park (HWP) in Kincaig. It operates Scotland's only zoo.

The Society was established in 1909 and has operated Edinburgh Zoo on Corstorphine Hill since 1913. The Society was granted a Royal Charter in 1948. The Society houses the Scottish national collection of exotic animals.

The Society has three charitable aims; conservation, education and research related to wildlife. The Society's Mission is 'to inspire and excite our visitors with the wonder of living animals and so to promote the conservation of threatened species and habitats'.

Edinburgh Zoo attracts over 600,000 visitors per year and is Scotland's second largest paid visitor attraction. HWP receives 65,000 visitors. Over 99% of the Society's income is derived from its members and visitors. One third of the visitors are children and over 25,000 schoolchildren are taught in the Education centre each year.

The Society is custodian to over one thousand animals and over 150 species. 75% of its animal collection has a conservation status of vulnerable or worse as defined by the IUCN. The Society participates in over 50 *ex-situ* international breeding programmes. Five members of its staff have responsibility for managing individual programmes for the whole of Europe.

The Society is a member of the World Association of Zoos and Aquariums (WAZA), the European Association of Zoos and Aquariums (EAZA) and the British and Irish Association of Zoos and Aquariums (BIAZA) all of which have strict membership rules, inspection processes, and husbandry guidelines in place to ensure that the highest standards of care are provided for species of animals which are being managed in a joint approach by zoos across the world

Edinburgh Zoo and HWP are licensed and controlled by the Zoo Licensing Act 1981 (Amendment) (Scotland) Regulations 2002. The relevant regulations and codes of practice accompanying this legislation are set down in the Secretary of State's Standards of Modern Zoo Practice (SSMZP). These standards are reviewed and regularly updated by the UK Zoos Forum and therefore are the best available standards pertaining to the welfare of animals in zoos. It is

important that the specific needs of zoo animals are always addressed by those with expertise and experience in this specialised area.

In addition the Royal (Dick) School of Veterinary Studies of Edinburgh University provides a weekly veterinary monitoring and clinical service to Edinburgh Zoo.

We are greatly concerned that the Animal Health and Welfare Bill's intention to provide powers to the Scottish Executive to prohibit the keeping of some animal species (Clause 25) may impact negatively on RZSS's national and international role as a centre of excellence for animal conservation. For the Society to fulfil properly its charitable aims it is important that it is able to participate fully in international conservation breeding programmes. Prohibiting the Society from keeping certain animals could prevent Scotland's only zoo from carrying out that role.

This power could conflict with the Zoo Licensing Act and the accompanying standards. It is important that zoo experts and in particular the UK Zoos Forum are considered the expert body whenever there is a proposal to prohibit the keeping of certain species in zoos.

The Society has a Memorandum of Understanding with seven of Scotland's leading universities. Its purpose is to encourage non-invasive conservation research between academic institutions and the Society in order to combine the complementary strengths of each. This initiative would be compromised if decisions about which animals could and could not be held in the zoo were to be made by people not experienced in zoo management.

The Society agrees that the power to prohibit the keeping of exotic animals in domestic premises may be required for those species with complex care and welfare requirements, e.g. primates.

Similarly the care and welfare of exotic animals in zoos is fully addressed through the legislation and codes of practice described above. It would be counter-productive and overly bureaucratic to introduce further legislation on this matter relating to zoos.

The Animal Health and Welfare Bill currently being considered by the UK Parliament does not have the equivalent of Clause 25 (Prohibition of keeping certain animals) of the Scottish Bill. This raises the query as to why it has been included north of the border. Including this Clause in the Bill and using its powers in the context of Edinburgh Zoo would place the Society at a considerable disadvantage to English and Welsh zoos.

We propose that the Bill should be amended to exclude zoos and other organisations that hold wild animals, if they are members of BIAZA and/or EAZA, and are participating in international conservation breeding programmes.

SSI DESIGNATION FORM

SSI Title & No:	The Plant Health Fees (Scotland) Amendment Regulations 2005, (SSI 2005/555)						
Responsible Minister	Ross Finnie, Minister for Environment and Rural Development						
Standing Order	Affirmative	10.6.1(a)		Negative	10.4		✓
		10.6.1(b)			10.5		
	10.6.1(c)		Other	NL		NP	
Lead Committee	Environment and Rural Development		Other Committee				
Purpose of Instrument	These Regulations increase the charges made to industry in respect of licensing services chargeable under regulation 4 and Schedule 2 to the Plant Health Fees (Scotland) Regulations 1996.						

Laid Date	8 th November 2005	40 day date	17 th December 2005
1st SLC Meeting	15 th November 2005	20 day date	28 th November 2005
Lead Committee Report Due	12 th December 2005	Other Committee Report Due	

SE Contact	Bob King, tel. 44895
Committee Contact	Mark Brough, 85240

For SLC use:

Article 10 Compliance	Breaks 10(1) rule		Breaks 10(2) rule		PO Letter dated		PO Letter received	
Revocations	Revokes				Partially Revokes			
Executive Note	✓	Regulatory Impact Assessment	✓	European Regulations/ Directives				
Additional Information								

SSI DESIGNATION FORM

SSI Title & No:	The Less Favoured Area Support Scheme (Scotland) Regulations 2005, (SSI 2005/569)					
Responsible Minister	Ross Finnie, Minister for Environment and Rural Development					
Standing Order	Affirmative	10.6.1(a)		Negative	10.4	✓
		10.6.1(b)			10.5	
	10.6.1(c)		Other	NL		NP
Lead Committee	Environment and Rural Development		Other Committee			
Purpose of Instrument	These Regulations, which revoke and replace the Less Favoured Area Support Scheme (Scotland) Regulations 2004, make provision for the implementation of Council Regulation EC 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund.					

Laid Date	11 th November 2005	40 day date	20 th December 2005
1st SLC Meeting	22 nd November 2005	20 day date	1 st December 2005
Lead Committee Report Due	12 th December 2005	Other Committee Report Due	

SE Contact	Alison Greig, ext. 46417
Committee Contact	Mark Brough, 85240

For SLC use:

Article 10 Compliance	Breaks 10(1) rule		Breaks 10(2) rule		PO Letter dated		PO Letter received	
Revocations	Revokes	SSI 2004/70, SSI 2004/218, SSI 2005/64		Partially Revokes				
Executive Note	✓	Regulatory Impact Assessment		European Regulations/ Directives	EC 1257/1999			
Additional Information								



SCOTTISH EXECUTIVE

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Agenda Item 3

**Environment and Rural
Development Committee**

7 December 2005
ERD/S2/05/32/3c

December 2005

Thank you for your letter dated 30 November 2005 requesting further information on two of the statutory instruments being considered by the Committee.

The Plant Health Fees (Scotland) Amendment Regulations 2005, (SSI 2005/555)

The disparity in costs was indeed for the financial year 2004-5. They are assessed annually to ensure that fees cover full economic costs. The costs incurred depend on the amount of time needed to evaluate licence applications. As applications differ in their complexity the amount of time needed for evaluation varies. It is possible, therefore, that a disparity will occur again in the future. If, after analysing the costs next year they are found not to meet full cost recovery, then we will have to do another SSI. This is standard Scottish Executive Policy where fees are not meeting full cost recovery. It is likely that increases in line with inflation may also be necessary in the future.

We are not at liberty to waive fees in these circumstances. Charging in these cases allows transparency of the full costs of the activities for which the bodies may receive other sources of public funding.

A reduced level of cooperation is always a risk when increasing these fees. However, by keeping the increases to the absolute minimum we hope to continue to have good cooperation from licence holders. Other European member states take different approaches to licensing ranging from full economic cost recovery to not charging.

The Less favoured Area Support Scheme (Scotland) Regulations 2005 (SSI 2005/569)

The objectives of the scheme which is part of the Scottish Rural Development Programme (SRDP) are:

To ensure continued agricultural land use and thereby contribute to the maintenance of a viable rural community; to maintain countryside; and to maintain and promote sustainable farming systems which in particular take account of environmental protection requirements.

Most LFA beneficiaries are also recipients of other schemes delivered as part of the SRDP. LFASS has made an important contribution to the rural economy accounting as it has for between 9-12% of total agricultural support since 2000. The average area being farmed per recipient has also increased, reflecting the general trend towards larger units through amalgamation with no diminution of total area farmed in the Scottish LFAs.

The Stakeholder Group is made up of key organisations covering industry as well as environmental interests with each organisation entitled to two representatives. Their remit is to offer advice and views that will help inform policy considerations within the terms of the Rural Development Regulation. The weighting of the group seeks to achieve a balance of the range of interests and I place equal value on the contributions made by all those involved.

Virtually all of Scotland's LFAs – which comprises 85% of its agricultural land – is classed as Severely Disadvantaged (98%) with a wide diversity in both farm and croft size. The arrangements for LFASS 2006 were agreed by the stakeholder group for the last year of the current programming period. A public consultation will take place early next year on the new Scottish Rural Development Plan covering the period 2007 – 2013. LFA support from 2007 will form part of this consultation exercise.

Information on payments of agricultural subsidies

I announced last January that we would be releasing subsidy information on the new Single Farm Payment and the new Rural Development Regulation schemes. We expect to be doing that shortly after payments commence, probably early January 2006.

When we assessed FOI requests on access to subsidy information from previous years, we considered that it would be unfair to applicants to release this information without having forewarned them. Our position is different from that taken by DEFRA because of different views on the requirements of the Data Protection Act regarding the processing of personal information.

I hope the above information has been helpful.

ROSS FINNIE

Subordinate Legislation Committee

Extract from the 43rd Report, 2005 (Session 2)

Subordinate Legislation

The Committee reports to the Parliament as follows—

The Contaminated Land (Scotland) Regulations 2005, (SSI 2005/draft)

1. The Committee noted that the changes made to the Environmental Protection Act 1990 by these Regulations are complex and difficult to follow and asked the Executive whether it had considered including a Keeling Schedule¹ or other explanatory material to assist users of the legislation.
2. The Executive indicated that it was not thought necessary to include a Keeling Schedule in this case as these are the first amendments to the provision of the Act concerned. As the bulk of the amendments have the effect of substituting references to “controlled waters” with references to “the water environment”, the Executive hoped that these provisions were clearly expressed.
3. The Executive also informed the Committee that further regulations which seek to modify Part IIA of the Act have been issued for consultation and that further consideration will be given to the Committee’s comments regarding the clarity of the text, once the outcome of the consultation is known.
4. **The Committee therefore draws the attention of the lead Committee and Parliament to the Executive’s response (appendix 2) for information only.**

¹ A Keeling Schedule shows the text of an Act (or part of an Act) as amended and could be included as a Schedule to the instrument.

APPENDIX

The Contaminated Land (Scotland) Regulations 2005, (SSI 2005/draft)

In its letter of 15 November the Committee asked the Scottish Executive the following question in respect of the above instrument.

“The Committee notes that the changes made to the Act are complex and difficult to follow and asks the Executive whether it considered including a Keeling Schedule with these Regulations to assist users of the legislation.”.

The Scottish Executive responds as follows:

The Scottish Executive did not think it was necessary to include a Keeling Schedule in this case. The bulk of the amendments contained in the Regulations have the effect of substituting references to “controlled waters” with references to “the water environment”, and it was hoped that these were sufficiently clearly expressed. These are also the first amendments to the provision of the Act concerned.

Further Regulations which seek to modify either the terms or the effect of Part IIA of the Environmental Protection Act 1990 have now issued for consultation⁽²⁾. Once the outcome of that consultation is known, the Executive will take the opportunity to give further consideration to the Committee’s comments with regard to improving the clarity of the text.

⁽²⁾ Consultation on Proposed Radioactive Contaminated Land (Scotland) Regulations: Extension of Part IIA of the Environmental Protection Act 1990 to include Radioactivity- Paper 2005/30, dated October 2005.

SSI DESIGNATION FORM

SSI Title & No:	The Contaminated Land (Scotland) Regulations 2005, (SSI 2005/draft)						
Responsible Minister	Rhona Brankin, Deputy Minister for Environment and Rural Development						
Standing Order	Affirmative	10.6.1(a)	✓	Negative	10.4		
		10.6.1(b)			10.5		
	10.6.1(c)		Other	NL		NP	
Lead Committee	Environment and Rural Development		Other Committee				
Purpose of Instrument	These Regulations make a number of operational and technical amendments to Part 11A of the Environmental Protection Act 1990 and the Contaminated Land (Scotland) Regulations 2000 in light of the Water Environment and Water Services (Scotland) Act 2003.						

Laid Date	9 th November 2005	40 day date	18 th December 2005
1st SLC Meeting	15 th November 2005	20 day date	29 th November 2005
Lead Committee Report Due	12 th December 2005	Other Committee Report Due	

SE Contact	Bob Cuthbertson, ext. 40394
Committee Contact	Mark Brough, 85240

For SLC use:

Article 10 Compliance	Breaks 10(1) rule		Breaks 10(2) rule		PO Letter dated		PO Letter received	
Revocations	Revokes			Partially Revokes				
Executive Note	✓	Regulatory Impact Assessment	✓	European Regulations/ Directives				
Additional Information								