



Environment and Rural Development Committee

33rd Meeting, 2005

Wednesday 14 December 2005

The Committee will meet at 10.00 am in Committee Room 1

1. **Item in private:** The Committee will consider whether to take Item 4 in private.
2. **Animal Health and Welfare (Scotland) Bill:** The Committee will take evidence at Stage 1 from—

Panel 1

Lou Leather, Chairman, Pet Advisory Committee;

Janet Nunn, Chief Executive, Pet Care Trust;

Helene Mauchlen, Scottish Development Officer, British Horse Society;

Diarmid MacLean, Manager, Scottish Sea Life Sanctuary;

Panel 2

Joseph Holmes, Honorary Veterinary Surgeon, Council for Docked Breeds;

Chris Laurence, Veterinary Director, Dogs Trust; and

Holly Lee, Public Affairs Officer, Scottish Kennel Club.

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

the Protection of Water Against Agricultural Nitrate Pollution (Scotland) Amendment Regulations 2005 (SSI 2005/593).

4. **Work programme:** The Committee will consider its future work programme.

Not before 11.45 am

5. **December 2005 Agriculture and Fisheries Council of the EU:** The Committee will take evidence from Ross Finnie MSP (Minister for Environment and Rural Development) on the December 2005 meeting of the Agriculture and Fisheries Council of the EU and related agricultural and fisheries issues.

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/S2/05/33/2a
Submission from Pet Advisory Committee	ERD/S2/05/33/2b
Submission from Pet Care Trust	ERD/S2/05/33/2c
Submission from British Horse Society	ERD/S2/05/33/2d
Submission from Scottish Sea Life Sanctuary	ERD/S2/05/33/2e
Submission from Council for Docked Breeds	ERD/S2/05/33/2f
Submission from Dogs Trust	ERD/S2/05/33/2g
Submission from Scottish Kennel Club	ERD/S2/05/33/2h
<u>Agenda Item 3</u>	
The Protection of Water Against Agricultural Nitrate Pollution (Scotland) Amendment Regulations 2005 (SSI 2005/593)	ERD/S2/05/33/3a
<u>Agenda Item 4</u>	
Paper from the Convener (<i>for members only</i>)	ERD/S2/05/33/4a
<u>Agenda Item 5</u>	
SPICe Briefing Paper (SB 05/78)	ERD/S2/05/33/5a
Briefing paper (<i>for members only</i>)	ERD/S2/05/33/5b
Letter from the Minister for Environment and Rural Development	ERD/S2/05/33/5c

SUBMISSION FROM THE PET ADVISORY COMMITTEE

Animal Health and Welfare (Scotland) Bill

Introduction

The Pet Advisory Committee (PAC) was established in 1974 as the Joint Advisory Committee on Pets in Society (JACOPIs), a title held until 1992. PAC is unique as it is made up of major animal welfare charities, veterinary organisations, environmental health, local authority and trade associations. Its remit is to examine the role of companion animals in society and to make recommendations to central and local government as to how pets can best fit into the environment, in the interests of the animal, its owner and the wider community.

The President of PAC is Lord Soulsby of Swatham Prior. The Vice-Presidents are Roger Gale MP, Tim Loughton MP, Ian Cawsey MP, Andrew Stunell MP, DR Nick Palmer MP, Robert Evans MEP, Caroline Jackson MEP and Caroline Lucas MEP.

The following PAC members have given support to the views expressed in this document:

Blue Cross
British Small Animal Veterinary Association
British Veterinary Association (*who have noted exception to the statement on shock collars*)
Cats Protection
Chartered Institute of Environmental Health
Dogs Trust
Feline Advisory Bureau
Local Government Association
National Office of Animal Health
Pet Food Manufacturers Association
Royal Society for the Prevention of Cruelty to Animals
Scottish Society for the Prevention of Cruelty to Animals
The Kennel Club

PAC broadly welcomes the introduction of the Animal Health and Welfare (Scotland) Bill and congratulates the Executive on the inclusion of a duty of care for animals. PAC is also, however, of the view that the Bill could better achieve its goal of improving existing animal welfare legislation if further consideration was given to the following areas:

- **Welfare Inspectors** – PAC seeks to ensure that a national qualification for animal inspectors will be put into place to ensure competent and trained animal inspectors.
- **Duty of Care** - PAC welcomes the introduction of an offence for the failure to take reasonable steps to ensure the welfare of animals.
- **Animal Fights** – PAC is concerned that recordings of fights, or the sale or possession of such a recording, is not classified as an offence.
- **Electric Shock Collars** – The Bill does not currently outlaw the use of owner operated Electric Shock Collars, despite independent scientific evidence proves that these products "are not only unpleasant but also painful and frightening" and "may influence the dog's well being in the long term in a negative way".

Specific Provisions

1. Part One: Animal Health

Part 1 of the Bill deals with animal health issues pertaining largely to farmed species but PAC assumes that this includes Rabies, which is a relevant disease of companion animals. PAC is aware that contingency plans might include the killing of in contact dogs and cats and therefore urges that such measures should be used with discretion and sensitivity. Procedures such as contiguous slaughter, if introduced, could lead to animals being removed covertly with the attendant risk of spreading disease. PAC does not consider slaughter instituted as a result of vaccination of such animals to be an appropriate reaction and consequently suggests 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.

2. Part Two: Animal Welfare

Section 17 – Unnecessary Suffering

PAC supports the retention of the offence of unnecessary suffering but seeks to ensure that it is further defined to include physical and mental suffering. The current interpretation is to include physical suffering only and yet it is generally accepted that mental suffering can be as severe.

Section 21 – Animal Fights

PAC is of the view that the Committee should seek to recommend amending Section 21 of the Bill to classify the possession of anything capable of being used in connection with an animal fight as an offence. PAC also calls for

recordings of fights, or the sale or possession of such a recording to also be classified as an offence.

Section 24 – Licensing etc. of activities involving animals

PAC considers licensing and registration to be important elements in ensuring good welfare and is concerned that the Executive proposes to license pet fairs, as it does not consider such events are likely to ensure good welfare. Stress induced by travelling and by being in close proximity with humans and other animals is significant and often unrecognised by persons with little experience. Such fairs often lead to poor accountability of peripatetic vendors and the provision of poor care information to purchasers who may, and do buy on impulse. PAC does not consider such events to be legal under current legislation and sees no reason to legalise them.

Section 32(2) – Resort to destruction of animals

PAC is concerned that an inspector or constable, with no or minimal training, would be able to take the decision to destroy an animal without the advice of a veterinary surgeon. Under the Veterinary Surgeons Act, only a veterinary surgeon is legally empowered to make a diagnosis, and PAC therefore considers that a veterinary surgeon should always be consulted.

Section 44 – Inspectors and Constables

PAC remains concerned that unlimited power is effectively being granted to Scottish Ministers and local authorities to decide who may act as an inspector. It believes that the Bill should at least specify the appropriate categories of person or 'characteristics' of persons who may be appointed to the role. The appointment of inexperienced or unqualified inspectors would undermine the effectiveness of the Bill and destroy trust in the inspection regime. PAC seeks assurances that:

- Inspectors will not have any conviction for animal cruelty or a record of having had an animal removed for its protection.
- Any 'person' or 'body' chosen as an authorised inspector will have to demonstrate competence and be trained to a set of common standards that ensures that the provisions contained in the Bill will be upheld and carried out to the highest possible standard.
- A national qualification for animal welfare inspectors will be put in place as soon as is practicably possible and that all persons appointed to these positions are required to complete this course before being allowed to carry out their duties under the Bill.

SUBMISSION FROM THE PET CARE TRUST

Introduction

The Pet Care Trust is a national charity charged with promoting responsible pet ownership, which involves extensive education and training in the pet care industry. We give high priority to educating and informing pet owners through pet retailers. This includes our Puppyindex scheme, for use by customers who wish to research which dog would be most compatible with their lifestyle and source breeders.

The Trust has in membership some 1400 businesses, overwhelmingly SMEs and micro-businesses, including retailers, manufacturers, wholesalers, kennels and catteries, dog groomers, hydro-therapists, and associated professional services including animal care colleges, all servicing the pet owning public. Of these, 104 member companies are Scottish.

Preamble

The Pet Care Trust welcomes the initiative behind Scotland's draft Animal Health and Welfare Bill and in particular introducing a general duty of care for animals. We also believe it is right to raise the minimum age for buying an animal to 16, in line with our own charter.

Part 1: section 5: animal gatherings

- The Trust would welcome the licensing of sales events with commercial animal dealers, in recognition of the size and pivotal importance of such events in the pet sector. It would be reassuring to all connected to such events to have them open to spot inspection.

- We do not think that licensing is appropriate for 'members only' and exhibition events where hobbyists meet to exchange information and surplus livestock. Our opposition to licensing is for a number of reasons.
 1. Firstly, a licence would shift the pre-requisites for hobby club meetings to require prior approval to make them legal, a culture shift that the Trust would find heavy-handed for a nation proud of its reputation as animal lovers.
 2. Secondly, the organisers of such events could conduct a risk assessment, with the aid of a vet (perhaps even one from the State Veterinary Service) without it being linked to a licence. Registration of such events with the local authority would make them known in advance and so open them to spot checks.
 3. Thirdly, while we note from the policy memorandum that "there is no proposal to charge for either the assessment or licence", attitudes can change with political parties, unlike registration procedures.

- The Trust is not aware of the terms of the risk assessment that led the policy makers to state in their memorandum that ‘licences would tend to be needed for events such as [...] livestock shows/exhibitions, but not for occasions such as Pony Club Gymkhanas, Common Ridings or Dog Shows.’ Elsewhere the Bill ‘offers registration as an alternative to full licensing’ as ‘sufficient for some small establishments and certain activities’ (para 79 of the policy memorandum regarding dog breeding, riding establishments, boarding establishments, sale of pets from pet shops and pet fairs).
- The proposal to insert as para 8A (6) provision to take powers to inspect also *after the fact*, premises where such gatherings have taken place, appears to open the way for poor inspection practice to be allowed. The Trust would prefer for this to be removed, so the onus remains on inspecting premises prior to and/or or during events.

There appears to be a dissonance between intention and costing in regard to charging for licensing of pet fairs, but not charging for the risk assessment or licensing of animal gatherings. The policy memorandum, which declares at para 28 ‘there is no proposal to charge either for the assessment or licence’ of animal gatherings and the financial memorandum, para 262, which calculates charges of between £50 and £100 for some 22 pet fairs held annually in Scotland as from 2007.

Section 6: Treatment

The Trust notes the proposed substitution of the words ‘officer of the Minister’ with the word ‘inspector’ and wishes to seek clarification as to whether this is preparing the way in Scotland for inspection to be taken away from statutory bodies and be outsourced to private agencies or other bodies. The Trust would not support such a move, as inspection needs to be seen by the public to be carried out by statutory inspectors, properly trained, with the public interest at heart and no ulterior financial motivation.

Article 36U Powers of entry

Para 1 (b) The proposal to confer on an inspector the power of “doing anything in pursuance of the exercise of that power” appears to condone any conduct and procedure, which might include an inspector arriving at unreasonable hours or with members of the media in tow. This cannot be right. We would wish to see this improved to convey that inspectors might enter any premises in Scotland for the purpose of taking all timeous and appropriate action.

We commend to you the wording of section 62H Warrants, para 7 that instructs that warrants must be executed ‘at a reasonable hour unless the inspector thinks the case is one of urgency.’

Article 36X: Interpretation

- The definition of ‘livestock’ does not allow for pets, however defined: domestic animals, companion animals, animals kept by people.
- As a general observation, it would be more helpful to readers seeking to understand the law if this section were inserted earlier in Part 1.

Section 13: Penalties and time limits

It is unreasonable to allow proceedings to be brought up to three and a half years after the commission of the offence, a period that is far too long to expect pet care businesses or pet keepers to keep all records that might be useful if they were unexpectedly asked to demonstrate they had discharged their duty of care on an incident alleged to have happened any time during the previous three years or more. We suggest this be changed to **no more than six months** after the offence was (last) committed, which should provide ample time for would-be prosecutors to bring a case and allow the accused a reasonable chance of still having any paperwork to back their defence. To start the clock ticking on the six month time limit only when the case is brought to the attention of the prosecutor, up to three years after the offence was (last) committed, constitutes institutional encouragement of wilful dilatory behaviour and should not be indulged. And if the duty of care is indeed not being properly discharged, the sooner the owner or person responsible is challenged on that, the better for the animal concerned.

Part 2 Animal Welfare

Promotion of welfare

Section 16: Responsibility for animals

It seems illogical and unfair to expect that an owner of an animal should continue to bear responsibility for that animal if they have temporarily passed that responsibility to another person, especially on a professional basis, for example in boarding premises.

Section 24: Licensing etc of activities involving animals

The Trust notes the facility to require qualifications to be held by applicants for licences but would more properly welcome the introduction of minimum competency levels for such licensees e.g. pet vendors, managers of kennel and catteries. We believe that this can be by way of holding a qualification such as City & Guilds' 7760 in Pet Store Management or equivalent or solid experience and a good track record, known to the local authority, could qualify.

We welcome the intention to include the boarding of rabbits, rodents, reptile and birds.

We would also urge that commercial home boarding (whereby animals are boarded in the minder's own home) not be allowed, owing to the health and welfare risks inherent in sequential boarding in a home setting with soft furnishings that don't lend themselves to rigorous disinfection. The Trust believes that pet sitting, whereby a pet is looked after by a trained minder in the pet's own home is the only viable alternative to professional boarding.

Section 25: Prohibition on keeping certain animals

The Trust does not agree with this proposal. As long as an animal's welfare is satisfactorily catered for, we see no reason for such a prohibition. We would support the responsible keeping of primates, of wild caught birds sustainably traded and dangerous wild animals, again, conducted responsibly.

The Trust opposes the policy proposal declared at para 81 of the policy memorandum to ensure that Scottish Ministers be given powers to ban, by regulation,

- the private keeping of dangerous wild animals, since they are covered by the DWAA 1976 and
- 'other animals which are endangered, but not dangerous', since the sustainable trade of endangered species is allowed and carefully controlled as part of the UK's commitment to CITES and the Convention on Biodiversity.

Section 29: taking possession of animals

Para 4 (b) We welcome the option for a constable or inspector to arrange care for the animal at the place where it was found and would wish this to be the default arrangement; further, that only where this is inappropriate for the second option to be become available. Such alternative housing ought not to include bodies that stand to gain by the transfer of activity owing to the close proximity of their business interest; such effects have motivated frivolous and malicious accusations brought in the past, to the Trust's knowledge. Nor should such temporary care be entrusted to a body opposed to the keeping of animals and in particular of non-domestic animals. Bodies with relevant expertise only should be used.

Section 41: Offences by bodies corporate

Para 1 provides for a body corporate to be found negligent and a person together with a body corporate to be found negligent, but not a person alone working for a body corporate. We do not believe that, say, an offence carried out by a disgruntled or negligent member of staff should automatically define the body corporate as also having committed the offence. Each case should be considered on its merits. It should be possible for a prosecutor to judge whether it is the systems and so mindset of a corporate body or partnership that are at fault or whether, if those systems are shown to be sound, if it is the actions and mindset of an individual employee that breached wilfully or negligently a duty of care. It is possible that both may be found lacking, but we believe this is likely to be the exception rather than the rule.

Section 44: Inspectors and constables

We believe that the inspection role should remain with statutory enforcement bodies. We would oppose any move by Scottish Ministers to allow local authorities to outsource the inspection role to non-statutory bodies. We note from para 110 b of the policy memorandum that the intention is for these inspectors normally to be a trading standards officer or an environmental health officer. We suggest that animal welfare officers of local authorities, mentioned at para 119 of the policy memorandum, would also be eligible. We would expect that all such officers will be competent and have been suitably trained, to help them better support pet businesses as they get to grips with the shift in culture that this Bill will introduce.

Financial memorandum

Part 1 Animal health

Cost on the Scottish Executive

Para 237: the memorandum makes provision for the biosecurity code to be sent to all farmers, but not, in the event of an outbreak of HP5N1 avian influenza outbreak,

for it to be sent to all pet shops selling birds and their suppliers. This appears to be a serious oversight; extra financial provision is needed.

Costs on local authorities

Removal of requirement for CoSLA to publish Orders

Para 242: While the Trust can understand the motivation for CoSLA to save £1 million through the removal of the requirement to publish Orders, licences and other instruments sent to local authorities by Scottish Ministers (summary costs table after para 277), it would be wrong to conclude that micro-businesses or even SMEs have internet access already. Of our pet retail membership, only one in four has internet access at work and only one in two of our kennel and cattery members have it. It would be premature and irresponsible to rely solely on electronic communication with such businesses and financial provision should be made for some hard copy communication to persist, at least.

Para 254-256: Beware: this contains much misleading information. Firstly, the range of licence fees used for pet retailers and boarders is factually incorrect, based on data we collated from a survey we conducted in January 2004 among members. Secondly, the figures to which a 150% increase is applied are miscalculated.

There will be some extra regulatory costs for pet vending or boarding businesses if they need to qualify at least one of their staff. C&G 7760 in pet store management now costs £168 (£148 to Trust members), so there will be a cost to members depending on how many are unqualified in Scotland at present, perhaps as much as £50,400 if only 60 of your estimated 360 native pet shop owners hold qualifications. Should you move to require qualifications rather than ask boarding establishment managers to demonstrate competence, there will be on costs involved for which no allowance has been made.

SUBMISSION FROM THE BRITISH HORSE SOCIETY

Evidence on the Animal Health and Welfare (Scotland) Bill for the Environment and Rural Development Committee

The British Horse Society Scotland (BHSS) welcomes the opportunity to answer questions from the Environment and Rural Development Committee for this important Bill, which promises to offer increased protection for equines in Scotland.

We hope local authorities will be given adequate financial backing to enable this Bill to fulfil its potential.

BHS SCOTLAND

BHS is Scotland's largest equine membership organisation, an educational charity working for the good of the horse. The BHS runs an inspection scheme for riding schools, we are the principal awarding body for professionals in the equine industry, and we hold the register of instructors and run the only quality assurance scheme for livery yards in the UK.

Besides our professional and business networks we have ten regional committees of volunteers who provide advice and practical assistance to improve the lives of horses in their localities.

ANIMAL HEALTH

BHSS agrees that education, traceability, biosecurity and movement controls combined with high welfare standards and good hygiene are the best defence against an outbreak of fast moving virulent diseases.

POWERS OF SLAUGHTER

Whilst BHS recognises there may be a need for the humane destruction of animals in fighting virulent epidemics or dealing with extreme outbreaks of notifiable diseases, the BHS has grave concerns regarding the powers of the Scottish Ministers to order the slaughter of equines in the event of such outbreaks as foot and mouth disease, poultry diseases, cattle plague and other diseases which horses are not directly affected by or carriers of. We would prefer the wording to be more specific and say "any susceptible (or carrier status) animals to be slaughtered".

The use of strict biosecurity procedures, including traceability could act to protect horses and ponies therefore advice and education will be key to minimising the spread suffering and death.

THE IMPORTANCE OF GOOD BIOSECURITY

A useful equine example of where biosecurity, sample taking and education can make a real difference is in tackling the unpleasant sometimes fatal disease, Strangles. This is highly contagious and affects horses, ponies and donkeys regularly in Scotland. Strangles is an infection of the equine lymph glands. The swollen glands can restrict the airways. It is caused by the bacterium *Streptococcus Equi*. Whilst Strangles is not a notifiable disease, it is strongly advised that owners and carers should be responsible and inform other horse owners of any suspected or confirmed cases as a matter of courtesy, to help prevent further spread of this disease. At the first sign of any of the above symptoms horse owners or carers should isolate the horse and contact their vet immediately.

Strict hygiene is essential as direct contact with infected horses is the simplest means of transmitting the disease.

In the event of an outbreak animals from an affected yard should not travel away from home and mix with horses from other yards. Strangles is diagnosed by a test known as nasopharyngeal swab. Horses known as "Carriers" are horses that carry the disease but show no symptoms.

DISEASES AFFECTING EQUINES IN SCOTLAND

Horses are also susceptible to a number of notifiable diseases including equine viral arteritis (EVA) where blood tests are crucial for diagnosis. Endemic diseases and conditions that cause suffering to equines in Scotland include laminitis, grass sickness, sarcoids and equine influenza. Laminitis is a disorder that can be caused by a number of factors, but it is mostly the result of poor management. Laminitis is a serious welfare problem for Scottish equines and many cases seen by veterinary practices end up being humanely destroyed; this is a very painful condition. The BHS has produced advisory material to help reduce the incidence of laminitis by educating owners.

ANIMAL GATHERINGS The BHS recognises that this Bill puts in place the ability to license gatherings of "any susceptible species". In the equine world gymkhanas, eventing, show jumping, endurance riding, mounted games, polo racing etc all take place under biosecurity guidelines within the remit of various sporting governing bodies including BEF and the British Horse Racing Board where risk assessments, equine passports and suitable measures are employed to ensure good biosecurity. We would however, thoroughly endorse the licensing of equine markets. These are not regulated at the moment and can tend to become the locus of disease spread with young, old and infirm horses that are not really fit for sale being passed between dealers.

ANIMAL WELFARE

Horses in Scotland will benefit from the sections of the Bill promoting responsibility towards animals, protecting them against unnecessary suffering and implementing a duty of care. In the 40 years of BHS working as an equine charity in Scotland we have often been frustrated when dealing with welfare concerns at having to witness the welfare of horses deteriorate because under The Protection of Animals (Scotland) Act 1912 no action could be taken until

the horse was actually suffering. The new Bill allows welfare organisations like ours help combat ignorance and neglect at a much earlier stage.

POISONING

The poisoning section of the Bill should include horse owners who knowingly expose their equines to plants, which can do them harm like Ragwort.

LICENSING OF LIVERIES

The BHSS welcomes proposals to license equestrian livery yards. We have experience of welfare problems emanating from the hundreds of unregulated livery businesses growing up all over Scotland. With DIY livery we have dealt with cases where owners tend to default on paying when they lose interest or simply fail to turn up to look after their equines which become neglected for days or become the responsibility of the livery owner.

The BHS would not consider registration to offer the same control as licensing. The BHS agrees with the proposed definition of a livery given in the policy memorandum we hope the final version will ensure the inclusion of equine dealers yards. Qualifications and equine knowledge are a necessary prerequisite to caring for horses.

The proposal to leave five years between checking of liveries is not acceptable the time period needs to be shortened to three years to make this a more effective protection for equines.

LICENCE FOR RIDING ESTABLISHMENTS

The financial Memorandum of the explanatory notes proposes extending the licensing visits for riding establishments to three years; this would not be acceptable to BHS. There are too many changes to staff and horses to make a three-year gap between visits a safe and effective welfare check. Similarly note 255 suggests a risk-based approach to inspection visits of high (annual), medium (18 months) or low risk (3 years).

Deciding on risk levels and granting a licence requires detailed equine knowledge, the BHS recognises that good safety is a necessary prerequisite to a high welfare premises. Riding schools approved by a body like BHS could be considered suitable for a three-year gap between inspections.

ANIMAL SANCTUARIES

The BHS thoroughly supports proposals to license animal sanctuaries. We deal with too many people who choose to put their elderly or infirm horses into sanctuaries instead of making the final decision to have them humanely destroyed. As a result we are aware of horses requiring a high standard of care living in sanctuaries – licensing will help ensure that the welfare standards are acceptable and that these animals in their care are protected.

CODES

Codes of practice are a good method of tackling welfare issues. The BHS agrees with proposals (Annex C of the Policy Memorandum) under section 34 of the Bill to put in place a code of practice for the tethering of equines. In

Scotland tethering is fortunately not common practice, however this Code offers correct minimum standards for those who choose to tether. As such this is very welcome.

Codes on shoeing are also welcomed. Regular attention from a registered farrier is a necessary prerequisite to good equine welfare.

SUMMARY

This Bill has a great deal of potential to improve the lives of Scotland's horses by bringing together and modernising existing animal welfare legislation. The capacity of the secondary legislation to ensure welfare by addressing current equine issues like the growth in the number of liveries or encouraging a reduction in preventable disease like laminitis is very welcome. Equine suffering will definitely be reduced by preventative action being taken before suffering occurs. And the emphasis on education is a practical and sensible way to encourage high standards of animal husbandry which in an equine setting is known simply as good horsemanship.

SUBMISSION FROM THE SCOTTISH SEA LIFE SANCTUARY

**Evidence on the Animal Health & Welfare (Scotland) Bill for the
Environment and Rural Development Committee**

The Scottish Sea Life Sanctuary welcomes the opportunity to answer questions upon the impact the Bill will have from the Environment & Rural Development Committee. We hope the correct stakeholders will be adequately funded to make a real impact in the future with the new powers granted with the new Bill.

The Scottish Sea Life Sanctuary

The Scottish Sea Life Sanctuary (SSLS) premier visitor attraction on the west coast of Scotland And the leading marine conservation centre in Scotland. For the past 26 years we have been at the fore-front of the rescue and rehabilitation of marine mammals, predominately seals, in Scotland. Staff members are active members of British Marine Life Rescue and hold regular training for individuals and groups.

We at the Scottish Sea Life Sanctuary are members of a larger organisation called Merlin Entertainments Ltd. Who own and operate a number of Sanctuaries through the UK and Europe: Hunstanton Sea Life Centre; Gweek Sea Life Sanctuary; Scarborough Sea Life Centre, and Blankenberge Belgium.

Proud holders of a Zoo Licence, we work diligently to adhere to and exceed all requirements to the business to operate under this Licence with regular inspection from independent vets.

Animal Health

SSLS commends the panel for being concerned with animal health within Scotland. As holders of a Zoo Licence we are strictly bound by many standards which are not relevant to the general aim of this draft Bill. However, we do applaud the move towards stricter control over the pet industry in general.

Powers of Slaughter

Powers of slaughter are a very emotive subject for us all, but more so for our organisation as we dedicate ourselves to the rescue and rehabilitation of these marine mammals. It is not clear from the Bill in its draft form whether species held by us would come under the terms of what constitutes an 'animal'. This should be made much clearer and the definition of disease we feel should be a disease communicable to humans or animals which are in

strict quarantine should be made exempt from slaughter or at least assessed on an individual basis by local vets before slaughter is carried out.

As the bill stands there seems to be no requirement for Scottish Ministers to provide evidence of risk before a slaughter order is evoked. A number of questions we feel should be addressed before the Bill moves forward:

- A group should be set up to fully assess risk and place the order for slaughter.
- What will the make-up of this group be?
- How tight will the parameters be to define an 'emergency'?

Compensation

The SSLS is a for profit organisation which is proud of its work over the past 2 ½ decades in the field of marine mammal rehabilitation and as such we rely heavily on the income received from our paying visitors. In the Bill we feel there should be tight guidelines for the calculation of compensation to any business affected by any orders of slaughter or strict quarantine orders placed on business sites. As it is vitally important to the continuation of any business which works on such small margins we feel that it is only prudent to be able to plan for any contingency.

Biosecurity

In recent history we have dealt with an outbreak of PDV. This communicable disease between Seals ravaged large sections of the seal population around the European coasts. Animals with signs of this disease should be removed from wild populations where possible and treated in a suitable rehabilitation centre such as ourselves.

During this outbreak we worked under strict quarantine conditions and also took the opportunity to carry out a study of the effectiveness of the a PDV vaccine on the resident population within the Merlin Entertainments group and then in the hope that this would be effective, we vaccinated all seals rescued from the wild.

The Bill should enforce the strict quarantine of any animals suspected to be infected with any disease which should be clearly defined within the Bill with a sub-section which would allow review.

If an establishment can demonstrate an effective quarantine of animals within their care, under the biosecurity codes should we then not be exempt from slaughter orders? This quarantine, as we have demonstrated in the past with PDV, is effective and scrutinised by independent veterinary surgeons we would feel should exempt us from any order of slaughter.

Animal Gatherings

The Bill provides provision for the licensing of 'Animal Gatherings' of any susceptible species. Surely all species are susceptible to communicable

disease and therefore require Licence. We do feel that this provision, outside of times of 'emergency, would be unworkable as a licensing exercise. The governing body appointed by Scottish Ministers would then be required to issue vast numbers of these licenses to individuals who would prior to this have to be inspected by appointed officers.

Testing and Gathering of Samples

An inspector may at anytime enter any premises in Scotland for the purpose of ascertaining (samples).

These provisions should be changed to hours of business and will the SSPCA have their powers extended to be able to enforce this provision. We do feel that because of the emotive nature of this provision that the 'inspector' should always be accompanied by a police officer to ensure their safety and to provide strong evidence for any future prosecution that may follow. Another possible improvement for this provision should be that they are accompanied by a vet to take the samples to ensure that they are taken and stored in a fashion that would be useful as evidence and not be contaminated.

Animal Sanctuaries

As a rehab centre we regularly take in sick and injured animals. Section 29-3 entitles an officer to remove an animal if it appears to be in distress. The officer is not required in this provision to be qualified to make this decision in anyway, and would harm any business that relies heavily upon their image as we do. The public perception of a business which has animals removed from its premises in this fashion will be extremely negative and almost impossible to recover in the short term. Would this then be considered under the provision for compensation in previous articles in this Bill?

Section 29-5 allows inspectors to use any equipment found on the premises to carry out duties under (4)(b)(i). These inspectors may not be trained with the use of any of this equipment and then it is open to discussion as who would be responsible for the Health and Safety of this individual while he is carrying out his duty with equipment that he is unfamiliar with. It would possibly be prudent to change this provision to allow the office to "direct a trained staff member to carry out his requirements while on site".

Further to the licensing of sanctuaries it should be made clear that there would be exemption for any establishment covered by the Zoo Licensing Act 1981 as their guidelines are as strict if not stricter than any proposed in this Bill. If not then there should be exclusions for any conflicts between the two Acts which should clearly define precedence.

Summary

The Bill in its present form has a great deal of promise. The emphasis on control of communicable disease in mammals is commendable and should be welcomed. Any conflict between this Bill and the Zoo Licensing Act should be

taken in to account early in the draft Bill stage, with any precedents clearly defined over which act would be taken as having precedent.

A useful equine example of where biosecurity, sample taking and education can make a real difference is in tackling the unpleasant sometimes fatal disease, Strangles. This is highly contagious and affects horses, ponies and donkeys regularly in Scotland. Strangles is an infection of the equine lymph glands. The swollen glands can restrict the airways. It is caused by the bacterium *Streptococcus Equi*. Whilst Strangles is not a notifiable disease, it is strongly advised that owners and carers should be responsible and inform other horse owners of any suspected or confirmed cases as a matter of courtesy, to help prevent further spread of this disease. At the first sign of any of the above symptoms horse owners or carers should isolate the horse and contact their vet immediately.

Strict hygiene is essential as direct contact with infected horses is the simplest means of transmitting the disease.

In the event of an outbreak animals from an affected yard should not travel away from home and mix with horses from other yards. Strangles is diagnosed by a test known as nasopharyngeal swab. Horses known as "Carriers" are horses that carry the disease but show no symptoms.

DISEASES AFFECTING EQUINES IN SCOTLAND

Horses are also susceptible to a number of notifiable diseases including equine viral arteritis (EVA) where blood tests are crucial for diagnosis. Endemic diseases and conditions that cause suffering to equines in Scotland include laminitis, grass sickness, sarcoids and equine influenza. Laminitis is a disorder that can be caused by a number of factors, but it is mostly the result of poor management. Laminitis is a serious welfare problem for Scottish equines and many cases seen by veterinary practices end up being humanely destroyed; this is a very painful condition. The BHS has produced advisory material to help reduce the incidence of laminitis by educating owners.

ANIMAL GATHERINGS The BHS recognises that this Bill puts in place the ability to license gatherings of "any susceptible species". In the equine world gymkhanas, eventing, show jumping, endurance riding, mounted games, polo racing etc all take place under biosecurity guidelines within the remit of various sporting governing bodies including BEF and the British Horse Racing Board where risk assessments, equine passports and suitable measures are employed to ensure good biosecurity. We would however, thoroughly endorse the licensing of equine markets. These are not regulated at the moment and can tend to become the locus of disease spread with young, old and infirm horses that are not really fit for sale being passed between dealers.

ANIMAL WELFARE

Horses in Scotland will benefit from the sections of the Bill promoting responsibility towards animals, protecting them against unnecessary suffering and implementing a duty of care. In the 40 years of BHS working as an equine charity in Scotland we have often been frustrated when dealing with welfare concerns at having to witness the welfare of horses deteriorate because under The Protection of Animals (Scotland) Act 1912 no action could be taken until

the horse was actually suffering. The new Bill allows welfare organisations like ours help combat ignorance and neglect at a much earlier stage.

POISONING

The poisoning section of the Bill should include horse owners who knowingly expose their equines to plants, which can do them harm like Ragwort.

LICENSING OF LIVERIES

The BHSS welcomes proposals to license equestrian livery yards. We have experience of welfare problems emanating from the hundreds of unregulated livery businesses growing up all over Scotland. With DIY livery we have dealt with cases where owners tend to default on paying when they lose interest or simply fail to turn up to look after their equines which become neglected for days or become the responsibility of the livery owner.

The BHS would not consider registration to offer the same control as licensing. The BHS agrees with the proposed definition of a livery given in the policy memorandum we hope the final version will ensure the inclusion of equine dealers yards. Qualifications and equine knowledge are a necessary prerequisite to caring for horses.

The proposal to leave five years between checking of liveries is not acceptable the time period needs to be shortened to three years to make this a more effective protection for equines.

LICENCE FOR RIDING ESTABLISHMENTS

The financial Memorandum of the explanatory notes proposes extending the licensing visits for riding establishments to three years; this would not be acceptable to BHS. There are too many changes to staff and horses to make a three-year gap between visits a safe and effective welfare check. Similarly note 255 suggests a risk-based approach to inspection visits of high (annual), medium (18 months) or low risk (3 years).

Deciding on risk levels and granting a licence requires detailed equine knowledge, the BHS recognises that good safety is a necessary prerequisite to a high welfare premises. Riding schools approved by a body like BHS could be considered suitable for a three-year gap between inspections.

ANIMAL SANCTUARIES

The BHS thoroughly supports proposals to license animal sanctuaries. We deal with too many people who choose to put their elderly or infirm horses into sanctuaries instead of making the final decision to have them humanely destroyed. As a result we are aware of horses requiring a high standard of care living in sanctuaries – licensing will help ensure that the welfare standards are acceptable and that these animals in their care are protected.

CODES

Codes of practice are a good method of tackling welfare issues. The BHS agrees with proposals (Annex C of the Policy Memorandum) under section 34 of the Bill to put in place a code of practice for the tethering of equines. In

Scotland tethering is fortunately not common practice, however this Code offers correct minimum standards for those who choose to tether. As such this is very welcome.

Codes on shoeing are also welcomed. Regular attention from a registered farrier is a necessary prerequisite to good equine welfare.

SUMMARY

This Bill has a great deal of potential to improve the lives of Scotland's horses by bringing together and modernising existing animal welfare legislation. The capacity of the secondary legislation to ensure welfare by addressing current equine issues like the growth in the number of liveries or encouraging a reduction in preventable disease like laminitis is very welcome. Equine suffering will definitely be reduced by preventative action being taken before suffering occurs. And the emphasis on education is a practical and sensible way to encourage high standards of animal husbandry which in an equine setting is known simply as good horsemanship.

Agenda Item 2

**Environment and Rural
Development Committee**

14 December 2005
ERD/S2/05/33/2f

SUBMISSION FROM THE COUNCIL FOR DOCKED BREEDS

**Written Submission to the Environmental and Rural Development
Committee, Animal Health & Welfare (Scotland) Bill.**

On behalf of the Council for Docked Breeds and personally, I would like to thank the Committee for allowing me both to present this "Written Statement" and to attend as a witness in person at the hearing on 14th December 2005.

MY CREDENTIALS AS A WITNESS.

I have been a practising veterinary surgeon for the last thirty years and I have had experience throughout the UK, South Africa and Australia. I have continuously docked puppies' tails throughout my career. I can therefore testify before this Committee on the basis of a very long and practical experience on the issue, involving hundreds if not thousands of successful docking operations.

I do not seek to change the opinions of the anti-docking lobby, (ADL), even though I profoundly disagree with it. However, I do object that the ADL should seek to impose its will on those who do not agree with it. As a member of the pro-docking lobby, (PDL), I strongly advocate that docking should remain legal when carried out by a veterinary surgeon. I support the status quo and freedom of choice on this controversial issue.

BACKGROUND:

For many years, dog breeders have docked puppies traditionally for three main reasons, as a cosmetic standard in certain breeds e.g. poodle, as a hygiene measure to prevent faecal dermatitis in long-coated breeds, e.g. the Old English Sheepdog and as a practical prophylactic measure to prevent injury in certain working breeds, e.g. springer spaniels. In the last case, undocked working dogs would otherwise face an increased risk of tail damage when working through thick undergrowth.

Tail tip injuries are both painful and do not respond to medical treatment. Amputation of the whole tail is mandatory. In adulthood, this operation incurs both the risk of a general anaesthetic and prolonged, sometimes painful, recovery.

Over recent years, dog breeders in particular and dog owners in general have divided into three groups, those who strongly oppose docking on both cosmetic and prophylactic grounds, (ADL), those who have no particular view on the issue and those who strongly support cosmetic and prophylactic

docking, (PDL). Both ADL and PDL have run spirited campaigns in the media, on the Internet and in both Westminster and Scottish Parliaments.

Both Governments had already decided to modernise Animal Welfare Legislation and as part of that process, have sought submissions on the issue of tail docking. Both ADL and PDL joined battle to persuade the Governments about their respective views.

After extensive consultation, the UK Government has recently expressed its preference that the current docking practice should remain unchanged, as both ADL and PDL opinions are sincere. The UK Government has also stated that it will listen to M.P.s before making a final legislative decision.

THE ANTI-DOCKING POSITION:

The ADL argument is essentially a mix of emotional hyperbole and pseudo science. For those who are against docking on emotive reasons, no amount of reasoned argument can alter their opinion. Assuming Government seeks to legislate on practical/ scientific evidence, I cannot see that a purely emotive anti-docking stance can or should affect the ultimate legislative decision.

In this regard, the Committee should be aware that both the RCVS, (Royal College of Veterinary Surgeons), and the SSPCA, (Scottish Society for the Prevention of Cruelty to Animals), have echoed ADL emotive opinion by terming docking to be an "unacceptable mutilation". I would ask if any "mutilation" worth the name can ever be "acceptable".

The RCVS Working Party, in 1992, realised that there was great difficulty in referring to tail docking as a "mutilation", while referring to routine dog castration as an "acceptable mutilation" on practical grounds. The re-convened Working Party confirmed that, *"although the term 'mutilation' was an emotive one, carrying with it, in common usage, implications of maiming and disfigurement, there was no satisfactory alternative term which would suffice for its purposes. Accordingly, it was agreed to continue to make reference to mutilations on the understanding that the term **should be understood as covering all procedures, carried out with or without instruments, which involve interference with the sensitive tissues or the bone structure of an animal and are carried out for non-therapeutic reasons**".*

However, this definition of "mutilation" also applies equally to the genetic manipulation of the dog before birth and therefore all dog breeding, (a procedure that interferes with the sensitive tissues/ bone structure of the dog, without instruments and for non-therapeutic reasons), must also be an "unacceptable mutilation". For example, breeding gives rise to Pekingese with compressed nasal passages and breathing difficulties, West Highland White Terriers prone to allergic skin dermatitis, Bulldogs prone to painful interdigital skin cysts and large breeds prone to bone developmental abnormalities, such as hip dysplasia. Furthermore, such genetically "docked" breeds as the Boston Terrier, Bulldog or French Bulldog also represent unacceptable (genetic) "mutilation". By the RCVS definition, any dog breed that has breed-specific

deformities/ weaknesses is an "unacceptable mutilation", yet neither the College nor the RSPCA seek a ban on these breeds.

The ADL website sets great store by the report of Robert Wansbrough, as published in the Australian Veterinary Journal in 1996. From a Committee perspective, this report may well appear "scientific" and authoritative as an ADL presentation. However, the report states at the outset:

"There have been no scientific studies or double blind trials conducted to compare the effects of tail docking in one sample of dogs with a similar sample of undocked dogs. Similarly, there have been no studies that measure the initial pain and the ongoing pathological pain inflicted on docked dogs".

This confirms that there is no scientific evidence, in the accepted meaning of the term, which proves either that docking causes appreciable immediate or long-term pain to the docked dog.

It follows that all of Wansbrough's claims about the "pain" associated with docking can only be personal opinion and may be discounted. In any event, even if the Committee were still concerned about the "pain" issue, I can testify that a small injection of pre-operative local anaesthetic at the tail base removes any operational "pain" completely.

Wansbrough then produces an extended and technical discussion on docking and lists a number of alleged negative effects of the procedure, e.g. loss of balance, loss of bowel/bladder control, loss of socialisation skills and a number of general, post-operative surgical complications. At first sight, this appears to form an impressive scientific case against docking, but it falls well short in two key areas:

(a) The scientific "conclusions" are not proven by experiment, but based merely on Wansbrough's theories. Thus, he repeatedly devalues his "scientific" conclusions by inserting words such as "may", "can" or "believe", e.g.

*"If the tail is removed from an immature puppy, the muscles of the tail and pelvis **may** fail to develop to their full potential".*

*"Removal of the tail in the mature dog **may** lead to atrophy and degeneration of these muscles. In addition, **if** these muscles lose their distal attachments, there **may** be a lessening of the support and anchorage of the rectum and anus. An absence of adequate function of these muscles **may** result in rectal dilatation, rectal sacculation and faecal incontinence".*

*"A similar relationship **may** exist between tail docking and submissive urinary incontinence in puppies".*

*"The position of the tail and the way it is moved **can** signal pleasure, fear, friendliness, dominance, playfulness, defensiveness, inquisitiveness,*

*aggression, nervousness and submissiveness. Thus, tail docking **can** affect the interaction of dogs with other animals and man.*

***Some** behaviourists **believe** the absence of a tail **may** predispose a dog to show unwarranted aggression to other dogs and man, or that they **may** be the victim of attacks by other dogs due to their failure to communicate".*

All of the above quotations are therefore allegations, unproven by any recognised scientific research.

(b) All of Wansbrough's negative assertions about docking are simply not borne out by practical experience. Many thousands of dogs have been docked throughout history, yet not a single dog has ever suffered from imbalance/ incoordination, urinary or faecal incontinence or inability to socialise with man/other dogs. I have never witnessed any of these symptoms in any dog, as a result of docking, in 30 years of practice.

Haemorrhage, ischaemia, infection, gangrene, toxæmia/septicaemia, meningitis, hypoglycaemia or hyperglycaemia can occasionally occur after any operation and are not therefore exclusive to docking. Such adverse symptoms are usually attributable to bad operative technique, not the operation itself.

THE PRO-DOCKING ARGUMENT:

I would underline that I do not seek to promote docking per se, but rather to ask that the Scottish Parliament should continue to allow freedom of choice as a private clinical decision between veterinary surgeon and client. Such clients are invariably caring breeders, who have promoted their particular docked breeds for years to the admirable standards beloved by breeder and buyer alike. No docking breeder or vet would countenance docking if it produced any of the unacceptable sequelae suggested by the ADL. They simply care for the breed too much.

The UK has a large national and international market for its show stock and a ban on cosmetic docking will doubtless have adverse economic repercussions for the industry. In any market, demand determines supply. If the general population does not wish to purchase docked puppies, docking will ultimately cease on economic grounds alone. Currently, however, this is not the situation. Prospective puppy purchasers actively seek out docked individuals and there are already cases where undocked litters remain unsold. In my long experience, I can absolutely testify that:

A tail docking operation lasts 5-10 seconds.

By using electrocautery, the tail is severed and the blood vessels are sealed simultaneously. There is no haemorrhage.

The puppy cries only during the operation. Immediately afterwards, it goes back to sleep.

There is no post-operative loss of condition, as would be expected with post-operative pain.

As the operation is performed before 7 days of age, memory is undeveloped, so the puppy has no recollection of the operative "pain" in later life. It is as if the puppy has never experienced the operation at all.

SUMMATION:

- Tail injuries in undocked breeds are chronically painful. Amputation under general anaesthesia is the only solution, with concomitant surgical and anaesthetic risk.
- The term "unjustified mutilation" has not been defined exclusively or at all in relation to docking. The term itself cannot, therefore, be justified.
- It is illogical to allow "unacceptable mutilation" of canine soft tissues/ bone structure by genetic means, yet seek to ban docking a few days after birth.
- There is no recognised scientific research to quantify either the initial or long-term "pain" associated with docking. A little local anaesthesia completely removes any docking "pain".
- No competent docking operation has ever produced imbalance, faecal/urinary incontinence or adverse social interaction. Docked and undocked dogs are equally happy.
- A legal ban on docking could force the procedure underground, where it would be almost impossible to police. Invariably, animal suffering would increase through incompetent technique.
- The operation should continue to be legal as a matter of free choice, carried out only by registered veterinary surgeons.
- Vets must use a standardised technique that promotes surgical comfort and rapid, uneventful healing. I testify that my technique, over many hundreds of operations, establishes that standard.

For these reasons and in these circumstances, I call on the Committee to resist a legal ban on both cosmetic and prophylactic tail docking.

SUBMISSION FROM THE DOGS TRUST

THE ANIMAL HEALTH AND WELFARE (SCOTLAND) BILL

1. Dogs Trust is the UK's largest dog welfare charity with fifteen Re-homing Centres across the UK caring for 12,500 dogs annually. The Centres include one in Scotland and a sixteenth due to open in Glasgow in 2006. We also provide reduced rate neutering for those on means tested benefits, veterinary care for dogs belonging to the homeless and responsible ownership education to children. We are probably best known for our strap-line 'A dog is for life not just for Christmas'. We are grateful for the opportunity to comment on the Bill. Our comments will be restricted to proposed legislation which will affect dogs.
2. Part 1 of the Bill deals with animal health issues pertaining largely to farmed species and its relevance to dogs appears to be restricted to unspecified disease. Dogs Trust assumes that this includes Rabies which is a relevant disease of dogs. 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 dogs during a Rabies outbreak, 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-induced high antibody levels in 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 dogs.
3. Section 17: Dogs Trust supports the retention of the offence of unnecessary suffering but consider that it should be further defined to include physical and mental suffering. Currently, courts appear to have convicted on 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 (and current legislation) are sufficient to cover mental welfare, we consider the greater penalties available under section 17 should apply to actions which result in deliberate mental cruelty.
4. Section 18: Dogs Trust supports the definition of the term mutilation as proposed by the Royal College of Veterinary Surgeons. Dogs Trust 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.

5. Dogs Trust is aware that the Scottish Executive is inclined to take a more robust line on this issue than there is in Westminster, and we applaud that. However we consider it vital that there is no discrepancy between this legislation and any proposed in England as 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. We have made this point also south of the border and will continue to lobby there for a total ban.
6. Section 21: Dogs Trust considers animal fights to be abhorrent and so supports 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.
7. Section 22: Dogs Trust strongly supports the introduction of the duty of care enshrined in this section and the detail provided in sub-section (3).
8. Section 23: Dogs Trust is 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 while retaining the ability of the Scottish Parliament to properly scrutinise it.
9. Section 24: Dogs Trust considers 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 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.
10. Dogs Trust continues 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.
11. Section 32(2): Dogs Trust is 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.

12. Section 42: Dogs Trust considers 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.

13. 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 animal welfare in premises inspected. Dogs Trust considers 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.

THE CASE FOR A BAN ON THE DOCKING OF DOGS' TAILS

Executive Summary

The cases both for and against docking arouse much controversy and emotion. The government's stated preference is that legislation should be based on sound science and this paper aims to show that there is good scientific evidence to support a total ban on docking.

- There is good evidence to show that the act of docking causes pain.
- There is some evidence to show that pain in neonates is enhanced compared to adults.
- A dog's tail is a major element of its means of communication with other dogs and other species.
- The removal of the tail may induce or exacerbate other medical conditions such as incontinence in bitches and perineal hernia.

Consequently we consider that the scientific evidence strongly supports the case for a total ban on docking other than for therapeutic reasons.

Introduction

All dogs are born with tails although in some breeds, such as the Pug, the tail is relatively rudimentary. For many years it has been the custom to remove the tails from dogs of some breeds at an early age, a process known as docking. This paper aims to make a case for banning the practice.

The procedure of docking a dog's tail has aroused much controversy and emotion over many years. Much anecdotal evidence has been provided about docking. However the government has stated frequently that legislation should rely on scientific evidence and not on anecdote. There is a significant body of peer reviewed scientific evidence in support of banning the practice and this paper aims to review that evidence. While there is also evidence of the effects of docking in other species we consider this to be less reliable, as extrapolation from species to species is often so. Evidence from other species is therefore included but is annotated to show that it is not from puppies.

The Royal College of Veterinary Surgeons (RCVS) defines a mutilation as 'all procedures, carried out with or without instruments, which involve interference with the sensitive tissues or the bone structure of an animal, and are carried out for non-therapeutic reasons.'ⁱ The working party also defined docking as a mutilation although it accepted that the term mutilation was emotive it could find no satisfactory alternative.

The usual stage of life for docking to be performed on a puppy is between three and seven days of age. Legallyⁱⁱ the process is restricted to being

performed by a veterinary surgeon registered with the RCVS. A veterinary surgeon may dock the tail without anaesthetic any time before the puppies' eyes are open.

There are three reasons to oppose docking: the pain caused by the process; the removal of an appendage used by the dog for communication; and the potential for long term side effects.

Pain

The perception of pain is entirely subjective and it is therefore impossible to prove beyond doubt whether an animal (or indeed another person) feels pain as a result of any procedure. However the perception of pain may be inferred by a number of methods:

Showing that the physical ability to feel pain is present;

Evaluating the reaction of the animal to any given stimulus at the time;

Evaluating the reaction of the animal to a stimulus in the future.

Whatever methodology is used the underlying principle of any evaluation of pain should be that, where there is doubt, the benefit of the doubt should be given to the animal. That principle is enshrined in legislation on animals used in research.ⁱⁱⁱ

The ability to feel pain relies on there being the appropriate pain receptors at the site of the procedure and a connection from that site to the brain. It is possible to trace nerves using microscopic techniques and this has been done.^{iv} We therefore conclude that a neonatal puppy has the ability to feel pain. In adult animals there is a suppression system to limit sensory input to the brain by specific descending nerve fibres. That system has been shown to be not yet functional in neonatal puppies^v. It is therefore likely that pain perception in neonatal puppies is enhanced when compared to perception in adult dogs.

Pain is a protective mechanism which leads to the withdrawal of the part of the body which perceives the pain. This withdrawal is involuntary and is frequently accompanied by a vocal response. In human terms, touching a hot object with a hand causes an immediate withdrawal and uttering a word such as 'ouch'. Animals are no different and most will squeal if they feel pain. Other physiological measures confirm that such behaviour is likely to be a reaction to the perception of pain.^{vi}

Puppies when docked squeal as the tail is cut^{vii} and this is inferred as their reaction to a painful stimulus. The squealing rarely continues for more than a few seconds once the procedure is complete. This might be interpreted as the puppy no longer perceiving any pain. However it should be born in mind that neonatal puppies are vulnerable to predators and that noise would attract such predators. It is therefore considered that, unless the pain is severe such as acute colic, for evolutionary reasons puppies are unlikely to continue to

make noise as a reaction to pain. We therefore consider there to be evidence that puppies' reaction at the time of docking indicates that they perceive pain caused by the procedure.

There is further evidence that the application of a painful stimulus to a neonatal animal will illicit a long term modification of the animal's response to future stimulation of the affected part. While it has not been shown that docked dogs' tails are more sensitive, the work, which was undertaken in rat pups which are at a similar stage of development to puppies as neonates, does provide strong evidence that pain was caused at the time of initial injury.^{viii}

It has also been postulated that so-called 'phantom limb' pain may be experienced following docking. There is no direct evidence for this and it is difficult to perceive how the hypothesis could be proven. However it is known that a neuroma (inflammation of a severed nerve) may develop and that may be painful.

Communication

Communication between dogs, and between dogs and humans is a complex process. While humans' communication is based on verbal language with body posture (language) as a secondary means, dogs do not have the ability to verbalise to any comparable extent. They are therefore almost entirely reliant on body language to communicate.^{ix}

Body language in dogs is based on facial expression, body posture and particularly the manner in which the tail is held and moved. All dog owners will be familiar with the wagging tail as a means of expressing pleasure. However the use of the tail has a far wider implication for communication than that. Low tail carriage implies fear or submission, 'normal' carriage implies a neutral stance or pleasure while high carriage may indicate inquisitiveness or aggression, depending on how it is moved. While the posture of other body parts also indicates similar responses, the tail is an extremely important element of expression in the dog.

A human, from a relatively elevated position, may find it easy to interpret the tail posture of a docked dog as, generally, the human will be viewing the dog from above and a vigorously wagged back end is as obvious as a wagging tail. However another dog is viewing the same dog from a more or less equivalent level and the absence of a tail may lead to misinterpretation of the dog's general posture particularly when the other dog is viewed from a head on position. While evidence that docked dogs find it more difficult to communicate with other dogs is anecdotal, no study appears to have been done on changes in other body postures in docked dogs to compensate for the lack of a tail.

Long term effects

There is some evidence that docking may lead to physical long term effects. The exact cause is not determined but there is some evidence that the incidence of urinary incontinence in bitches^x and perineal hernia^{xi} may be increased. It is likely that this may result from weakening of the muscles that are utilised to move the tail and also form the muscle wall at the rear of the pelvis.

In addition, poor technique of docking may lead to chronic inflammation at the site of docking as is likely with any trauma left to heal by second intention. That can result in both continued discomfort for the dog and may lead to a requirement for further surgery to allow the tail to heal.

Proponents of docking argue that the procedure will prevent injury to the tail. Dogs which are worked extensively frequently suffer damage to their bodies because of the abrasive nature of the objects with which they come into contact. That is also true of dogs that are not worked and they frequently suffer cuts to their feet, legs and flanks which require suturing in one form or another to enable them to heal. There is no evidence that the tail is any more prone to injury than any other body part.

Conclusion

There is strong scientific evidence to show that the docking of dogs' tails causes pain at the time of docking and for a period afterwards, that docked dogs are deprived of a major means of communication with other dogs and that adverse long term consequences may result.

We therefore consider that the scientific evidence supports a total ban on docking except for therapeutic reasons following injury or disease.

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Dogs Trust

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**SUBMISSION FROM THE KENNEL CLUB
AND THE SCOTTISH KENNEL CLUB**

The Kennel Club (KC) and the Scottish Kennel Club (SKC)¹ are the governing bodies for dog activity in the UK among whose main objectives are to promote in every way, the general improvement of dogs and encourage responsible dog ownership. The Kennel Club welcomes the Executive's intention to modernise and consolidate existing animal welfare legislation and believes it can better achieve this by giving further consideration to the following issues:

Tail Docking - The Kennel Club continues to support the case for choice in docking, as indicated by the current Kennel Club breed standards and welcomes the Westminster Bill's accompanying Regulatory Impact Assessment (paragraph 15, page 4), which states that it is the preferred option of Ministers to allow continued freedom of choice over docking.

Welfare Inspectors – The Kennel Club seeks to ensure that authorised inspectors will be competent and trained to a set of common standards by putting into place a minimum national qualification for animal inspectors.

Duty of Care - Although the Bill introduces an offence for the failure to take reasonable steps to ensure the welfare of animals, thereby imposing a duty of care on those responsible for animals, the Kennel Club would urge the Executive to define the terms 'duty of care' and 'reasonable steps' on the face of the Bill.

Electric Shock Collars – The Bill as drafted will not outlaw the use of Electric Shock Collars despite the fact that independent scientific evidence proves that these products "are not only unpleasant but also painful and frightening" and "may influence the dog's well being in the long term in a negative way".

Selling Puppies in Pet Shops – As yet there is no clause in the Bill to abolish the practice of selling dogs in pet shops. Puppies may be removed from their mothers before being fully weaned and transported to pet shops. The journey and the alien environment at which puppies arrive, is stressful for them and as a result puppies can develop physical and psychological problems.

Dangerous Dogs Act (DDA) – The Kennel Club wants this discredited Act reformed with the introduction of the new Bill. Not only has it cost several million pounds to implement and failed to prevent a number of attacks by dogs, it has had a detrimental effect on the welfare of some dogs, which have been euthanased simply because of the way they look.

¹ The Kennel Club in the UK and the Kennel Club in Scotland will be referred to collectively as the Kennel Club throughout this submission.

Specific Provisions

1. Part One: Animal Health

1.1 Animal Gatherings:

The Kennel Club notes the proposal in **Section 5** of the Bill to give Scottish Ministers the power to make an order that would make provisions for the licensing of 'animal gatherings' and is concerned that Paragraph 3 defines these as an occasion at which animals are brought together for any purpose. The Kennel Club is of the view however, that shows it licenses should be specifically exempted from the provisions in this clause, as highly developed Kennel Club regulations, drafted specifically to protect the welfare of dogs, already exist for such licensed events.

2. Part Two: Animal Welfare

2.1 Mutilation:

The Kennel Club remains concerned that Section 18 (4) which states that prohibited procedures include those which interfere with the sensitive tissues of the animal otherwise than for the purpose of medical treatment, encapsulates tail docking. The Kennel Club is disappointed that the Executive has not followed the example of Westminster (Paragraph 15 of the accompanying Regulatory Impact Assessment to the Animal Welfare Bill states "Our (the Government's) preference is that there should continue to be freedom of choice on cosmetic docking") for the following reasons:

- Scientists from across the globe agree that tail docking does not cause pain as research distinguishes between groups of newborn animals, including dogs, and confirms that they are relatively immature at birth and up to around two weeks of age and therefore cannot feel the same degree of pain as human babies, lambs and calves. Therefore it seems unnecessary to amend current legislation.
- Although some respondents to the previous consultation on the proposals to revise existing animal welfare legislation felt that an undocked puppy of a traditionally docked breed would be worth less or be more difficult to sell than a docked puppy, Kennel Club breed standards now provide a description of the tail for undocked dogs.

2.2 Animal Fights:

The Kennel Club is of the view that **Section 21** of the Bill is too narrow and would urge the Executive to consider classifying as an offence the possession of anything capable of being used in connection with an animal fight with a view to its being so used and anything that has been used in connection with an animal fight.

2.3 Ensuring Welfare of Animals:

While the Kennel Club welcomes provisions outlined in sections 22 and 23 of the Bill, it is concerned with **Section 23, Paragraph 3 (c)**. Although the Kennel Club regards microchipping as the best form of permanent identification, legislation making this compulsory would be difficult to enforce and it would not enhance animal welfare if dog owners micro-chipped pets without being informed about the benefits of permanent identification. The Kennel Club would rather the Executive required all vendors of pet animals, breeding establishments and veterinary surgeons to provide information to

dog owners about the benefits of microchipping and responsible dog ownership.

2.4 Licensing etc. of activities involving animals:

The Kennel Club is concerned that **Section 24** gives Scottish Ministers a power to make regulations for the introduction of licensing and registration regimes in relation to a range of activities. It understands that this section of the Bill is intended to protect pet shops, animal boarding establishments, livery yards and riding establishments but is concerned that it may encapsulate activities such as: Heelwork to Music, Agility, Flyball, and Obedience, as well as Working Trials, Field Trials, and other such activities. These are popular core areas of non-commercial activity and take place in line with well-developed Kennel Club regulations drafted to protect the dogs' welfare.

2.5 Abandonment:

The Kennel Club is concerned about the implications of **Section 26 Paragraph 3**, which states that consideration in determining whether a person commits an abandonment offence, relates to an animal's age and state of health because it fails to outlaw the abandonment of an elderly animal or an animal in poor health. As these animals are the most vulnerable and thereby require protection the Executive should better define 'abandonment' to prevent misinterpretation and ensure the best welfare standards for the animal in question.

2.6 Sale of animals to children:

The Kennel Club welcomes **Section 27** of the draft Bill which prohibits a person selling an animal to a person whom they have reasonable cause to believe to be under 16 years old. It does however remain concerned as to the implication of **Paragraph 2 (b)** of the Bill that it is a defence to sell an animal to somebody under-16 years of age if the vendor had no reasonable cause to suspect the buyer was under age based on their appearance. The Kennel Club is of the view that young people should be required to provide a vendor with proof of age in order to purchase an animal, and that a vendor's only defence would be if this were fraudulent.

2.7 Disposal orders where animals taken:

The Kennel Club agrees with the principle of increasing the powers of courts to deal with animals taken into possession, but remains concerned that under **Section 31 Paragraph 1**, the court may order that the animal be destroyed, sold, or disposed of in another manner. The Kennel Club understands that in exceptional circumstances this could be the most appropriate way of dealing with the animal concerned but would prefer the conditions under which they are carried out be better defined. For example, if the Court decided that an animal should be sold, it should not be to somebody with any conviction for animal cruelty.

Further, the Kennel Club would not welcome the provision in this, or any part of the Bill for the disposal of a dog as some methods employed include: drowning, shooting, clubbing and poisoning. The Kennel Club would prefer that the Court, like inspectors, have the power to arrange for the animal concerned to be cared for either at the place it was found, or at another such

place as an inspector or constable agrees is appropriate. The Kennel Club is disappointed that Section 31 appears less concerned with the welfare of the animal taken into possession as with minimising costs – according to Paragraph (8), in determining whether or how to make an order under subsection (1), the Court must have regard to the desirability of (a) protecting the value of any animal to which the order may apply; and (b) avoiding any costs which a person may be ordered to reimburse.

2.8 Animal Welfare Bodies:

The Kennel Club agrees with the principle of animal welfare bodies providing advice to Scottish Ministers. However, as there are already bodies in existence in Scotland that have a remit to advise Government on companion animal welfare issues, clarification is needed on whether it is the intention to grant one, or both, statutory status, or to create a new body.

2.9 Post-conviction orders - Deprivation Orders and Disqualification Orders:

Although the Kennel Club agrees with the provision of deprivation Orders set out in **Section 35, Paragraph 2 (a)** which would prevent a person convicted of a relevant offence from caring for the animal in relation to which that offence was committed, it is concerned about the provision set out in **Section 35 Paragraph 2 (b)** that states if a person is convicted of a relevant offence, the deprivation Order against them would result in the destruction or disposal of the animal. This does not have regard for the welfare of that animal and does not go as far in punishing the offender: allowing for an animal to be destroyed or disposed may actually be less of a punishment for offenders – who without being deprived the privilege of owning an animal, could go on to own and carry out offences towards more animals, that would subsequently be destroyed or disposed of.

The Kennel Club is further concerned that such Orders do not on the face of the Bill indicate what would happen to the animal that was in the offender's keeping or other animals in the offender's keeping. To ensure the equitable treatment of animals, the Kennel Club would recommend that the court consider an appropriate way to deal with all animals, irrespective of ownership - provisions could be made for removing an animal to a place of safety or caring for an animal at the place where it was found or at another place once removed from its owner.

2.10 Seizure orders where disqualification breached: The Kennel Club does not agree that there is a need for seizure Orders since their inclusion in the Bill assumes that offenders will breach disqualification Orders and encourages this by not subjecting repeat offenders to more severe penalties. If seizure Orders remain part of the final Bill, the Kennel Club would also be concerned that they could not be imposed unless the Court took into consideration how to protect the value of the animal and minimise any expenses that needed to be reimbursed - this implies that if the animal was not of a high value, it would be destroyed.

2.11 Proceedings for animal fighting offence:

The Kennel Club does not welcome proposals set out in **Section 41, Paragraph 1** setting a time limit for taking such proceedings forward. While

the Kennel Club appreciates that under existing legislation it can be difficult to prosecute for cruelty to animals when evidence of the offence has not been discovered until considerable time after the offence was committed, it is certainly still possible and should therefore not be outlawed.

2.12 Inspectors and constables:

The Kennel Club remains concerned that the Bill effectively delegates an unlimited power to Scottish Ministers and local authorities to decide who may act as an inspector and believes that, at the very least, the Bill should specify the appropriate categories of person or 'characteristics' of persons who may be appointed to the role. As having inexperienced or unqualified inspectors would undermine the effectiveness of the Bill and destroy trust in the inspection regime, the Kennel Club seeks assurances that:

- At the very least inspectors must not have any conviction for animal cruelty or a record of having had an animal removed for its protection.
- Any 'person' or 'body' chosen as an authorised inspector will have to demonstrate competence and be trained to a set of common standards to ensure that the provisions contained in the Bill will be upheld and carried out to the highest possible standard.
- A minimum national qualification for animal welfare inspectors is put in place as soon as possible and that all persons appointed to these positions be required to complete this course before being allowed to carry out their duties under the Bill.

4. Key issues not included in the Animal Health and Welfare (Scotland) Bill

4.1 Duty of Care

Although the Bill introduces an offence for the failure to take reasonable steps to ensure the welfare of animals, and thereby imposes a duty of care on those responsible for animals, the Kennel Club would urge the Executive to define the term 'duty of care' on the face of the Bill as: providing a suitable environment; providing adequate food and water; allowing the animal to exhibit normal behaviour; allowing the animal to be housed with/apart from its own or other species and; giving appropriate protection from and providing diagnosis and treatment of pain, injury and disease.

4.2 Electric Shock Collars

The Kennel Club is disappointed that the Bill fails to prohibit the use of Electric Shock Collars for the following reasons:

Lack of effectiveness - A shock collar trains a dog to respond out of fear of further punishment, rather than a natural willingness to obey. Thus it does not address underlying behavioural problems, leaving the cause of the barking or aggression suppressed and can cause further behavioural problems in the future.

Alternatives - There are other, positive, training tools and methods that can produce dogs that are trained just as (if not more) quickly and reliably, with absolutely no fear, pain, or potential damage to the relationship between dog and handler. With these alternatives available, there is no need for electric shock collars.

Scientific research – Studies conclude that shock collars are 'not only unpleasant but also painful and frightening' and 'may influence the dog's well

being in the long term in a negative way' (Applied Animal Behaviour Science Journal).

Abuse of the product – As shock collars are readily available by mail order, via retail outlets and on the Internet, they are easily accessible to people with limited experience to administer 'correctional treatment' or by an inferior trainer to abuse and punish.

4.3. The Sale of Puppies in Pet Shops

The Kennel Club is disappointed that the Bill fails to abolish the practice of selling puppies and dogs in pet shops for the following reasons:

Compromised welfare of puppies/dogs - Puppies may be removed from their mothers before being fully weaned and transported to pet shops. The journey and the alien environment at which puppies arrive, is stressful for them and as a result puppies may develop physical and psychological problems.

Insufficient information to owners of puppies/dogs – In the absence of a ban, the Kennel Club would further recommend the Executive introduces individual codes of practice for different species or information leaflets at all points of sale in consultation with the Kennel Club, which has recently introduced an Accredited Breeder scheme requiring members to provide written information to new owners on the care of puppies.

4.4 The Dangerous Dogs Act

Due to the adverse impact of the Dangerous Dogs Act (DDA), the Kennel Club regrets that the Bill fails to repeal or amend it, for the following reasons:

Ineffective legislation – The DDA only applies *after* an incident has taken place, when the dog is in a place where it is not permitted to be, and only to dogs that have acted dangerously towards people. The Metropolitan Police alone have spent several million pounds since the inception of the Act, which has failed to prevent a number of attacks by dogs because most dog bite incidents involve a dog known to the person bitten.

Scientific studies – Through the Dog Legislation Advisory Group, the Kennel Club and other welfare organisations have carried out a large amount of work on the deficiencies of the DDA and it is generally accepted that genetics (breed) plays only a small part in the temperament of an individual dog. As scientific studies from around the world also confirm that environment and irresponsible ownership have a far greater effect, legislation is likely to be ineffective if based on genetics, ignoring the influence of the dog's keeper. This is why the Kennel Club recommends that under the Animal Health and Welfare (Scotland) Bill, a legal duty of care be placed on the person in whose keeping the dog is. Control is a welfare issue as an uncontrolled dog may be caused injury by, for example, involvement in a road traffic accident or fighting with another dog.

SSI DESIGNATION FORM

SSI Title & No:	The Protection of Water Against Agricultural Nitrate Pollution (Scotland) Amendment Regulations 2005, (SSI 2005/593)					
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 amend the Protection of Water Against Nitrate Pollution (Scotland) Regulations 1995 to correct a technical error in the Nitrate (Public Participation etc.) (Scotland) Regulations 2005. The instruments substitutes the definition of "code of good agricultural practice" in the 1996 Regulations by reference to the Code of Good Practice for the Prevention of Environmental Pollution from Agricultural Activity.					

Laid Date	24 th November 2005	40 day date	18 th January 2006
1st SLC Meeting	29 th November 2005	20 day date	14 th December 2005
Lead Committee Report Due	9 th January 2006	Other Committee Report Due	

SE Contact	Angela Paul, tel. 41413
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	91/676/EEC			
Additional Information								

SEA FISHING: QUOTAS FOR 2006

TOM EDWARDS

This briefing has been prepared for members of the Environment and Rural Development Committee. It highlights some of the important issues in advance of the December 2005 Agriculture and Fisheries Council meeting at which fishing quotas and days at sea will be set for 2006.

SPICe briefing

9 December 2005

05/78

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FISH QUOTAS

Conservation policy makes up the most important plank of the Common Fisheries Policy (CFP). Since 1983, the main instrument of the conservation policy has been to set annual Total Allowable Catches (TACs) which fix the total amount of fish that can be caught. The TAC for each stock is shared out into national quotas which fix the amount of fish each Member State can land.

SCIENTIFIC ADVICE

Decisions on the management of fish stocks are based on scientific advice about the effect of fishing on the state of the stocks. Advice on the stocks of interest to the Scottish fleet is prepared by the International Council for the Exploration of the Seas (ICES). The advice on most of the stocks of interest to Scotland is published in the autumn. This year the autumn ICES (2005) advice was published on the 21 October 2005. Advice is given for specific areas of sea – ICES areas. Scottish fishermen do most of their fishing in two areas, Area IV, the North Sea, and Area VI, the West of Scotland.

ICES advice is based on a precautionary approach to fisheries management. The objective of this approach is to avoid overfishing a stock to an extent that it collapses. 'Collapse' does not mean that a stock is at risk of biological extinction, but does mean recovery is likely to be slow. The once abundant cod stocks on the Grand Banks off the Canadian coast collapsed in the 1990s and despite the fishery having been closed for more than 10 years, show no sign of recovering to former levels.

For certain fish stocks ICES has defined precautionary reference points. These have been set based on observation of the growth of the stock at different levels of abundance. They are designed to keep the stock above a size at which there is a high risk that it will collapse. ICES has set reference points for two parameters, the quantity of mature fish in the sea which are capable of spawning (the Spawning Stock Biomass or SSB) and the amount of fish which are removed from the population each year by fishing (fishing mortality or F).

The table below shows the status of the main stocks of interest to Scottish Fishermen in the North Sea and the West of Scotland in relation to these parameters for which ICES has defined precautionary reference points:

Stock	North Sea		West of Scotland	
	SSB	F	SSB	F
cod	Red	Yellow	Red	Yellow
haddock	Green	Green	Green	Green
Rockall haddock			Yellow	Yellow
herring	Green	Green	Green	Green
Nephrops	Green	Light Green	Green	Light Green
whiting	Yellow	Light Green	Yellow	Yellow
mackerel**			Yellow	Red
monkfish**			Light Green	Yellow

Source: Adapted from Fisheries Research Services (2005)

**widely distributed stocks which also extend into the North Sea

SBB: green – full reproductive capacity, amber – being at risk of reduced reproductive capacity, red – suffering reduced reproductive capacity, pale green – uncertain
 F: green – harvested sustainably, amber – at risk of being harvested unsustainably, red – harvested unsustainably, pale green - uncertain

THE PROBLEM: MIXED FISHERIES

Quotas work relatively well when fishermen can catch one species at a time – herring and mackerel are examples of fisheries like this. Problems occur when fish of several different species are caught in the same fishery. Quotas have not provided a successful means of managing such fisheries. A good example of this is provided by the mixed demersal¹ fishery of the North Sea where each haul will bring up a mixed bag of different species. Cod, haddock, whiting, plaice, Nephrops², saithe, sole and monkfish are all caught in different proportions on different fishing grounds at different times of year. If the quota for one species e.g. cod, is used up, fishermen are allowed to carry on fishing for the other species, and inevitably continue to catch some cod, and must dump it over the side, dead. This can mean more fish are caught than the population can sustain and if this happens repeatedly then the population can decline.

Scientists have long advocated that quotas should either be accompanied by or replaced with controls on fishing effort.

For the last six years ICES has advised that no cod should be caught in the North Sea. EU fishing ministers have not gone as far as the scientists recommended, but they have controlled fishing effort, as the scientists advised. The action they have taken is summarised in the table:

2001	TAC cut from 73,610 tonnes in 2000 to 40,340 tonnes. Temporary closure of fishing in cod spawning grounds. Mesh sizes increased for boats targeting whitefish
2002	TAC of 41,620 tonnes
2003	From February days at sea for boats targeting whitefish are limited. Scottish boats allocated 15 days per month. TAC cut to 22,659 tonnes.
2004	Days at sea limits maintained. TAC maintained at 2003 level. A long-term recovery plan for cod was also agreed
2005	Days at sea and TAC at 2003 and 2004 level.

STATE OF PLAY IN THE NEGOTIATIONS

The publication of the ICES advice in autumn sets in train several weeks of negotiations:

- ICES advice is considered by the Scientific, Technical and Economic Committee on Fisheries (STECF), a committee of experts from the Member States which advises the European Commission
- Regional Advisory Councils³ are consulted by the European Commission and give their opinion on how the fisheries should be managed

¹ demersal fish are bottom dwellers, commonly called whitefish

² The full scientific name for this species is *Nephrops norvegicus*, common name: Norway lobsters or langoustines

³ Regional Advisory Councils (RACs) were provided for as part of the 2002 reform of the Common Fisheries Policy, the intention being to better involve fishermen in the development of the policy. Three RACs are now up and running – the North Sea RAC, the Pelagic RAC, and the North Western Waters RAC – and preparations are underway with a view to the formation of the other four: the Baltic RAC, the Distant-Water Fisheries RAC, the South Western Waters RAC and the Mediterranean RAC.

- The European Commission conducts external negotiations on behalf of the Member States with third parties. The negotiations of importance for Scotland are held with Norway, the Faeroes, Iceland and Russia
- The European Commission publishes its proposals for fishing quotas for the following year
- At their December meeting the Council of Ministers decide on the TACs and quotas

The STECF met from the 7-11 November 2005. The European Commission has consulted the 3 Regional Advisory Councils which have been set up so far. The European Commission (2005) made its [proposals](#) on the 30 November 2005. It concluded the bilateral negotiations with Norway on the 2 December 2005. The Council of Ministers meeting will begin on the 19 December 2005.

QUOTAS FOR 2006

The ten most important quota species⁴ for the Scottish fleet are Nephrops, mackerel, haddock, cod, monkfish, whiting, herring, ling, megrims and saithe (in order based on value of 5 year average landings 2000-04). The table below shows the quotas for these species for the North Sea and West of Scotland included in the European Commission's (2005) proposal, and the EU share of the quotas agreed with Norway, compared to 2005.

Species	TACs 2005 Final	Commission proposals for TAC 2006	% difference with TACs 2005
North Sea			
Cod	22,659	19,260	-15
Haddock	51,321	44,835	-13
Whiting	25,200	21,420	-15
Herring	379,850	322,873	-15
Nephrops	21,350	28,147	32
Monkfish	10,314	10,314	0
Ling	3,966	3,966	0
Megrims	1,740	1,740	0
West of Scotland			
Nephrops	12,700	17,675	39
Haddock	7,600	7,810	3
Rockall Haddock	702	597	-15
Monkfish	4,686	4,686	0
Megrims	2,880	2,448	-15
Whiting	1,600	1,360	-15
Ling	14,966	14,966	0
Cod	721	613	-15
All ICES areas			
Mackerel	420,000	415,824	-1

Notes:

North Sea cod, haddock, whiting and herring are for the EU share of TACs agreed in EU Norway

Ling also covers ICES zones VII, VIII, IX, X, XII and XIV

Mackerel is the TAC agreed for whole Northern area by EU, Norway and Faeroes. The EU share of this TAC has increased by 5%

Sources: European Commission (2005), Official Journal of the European Communities L12 14 January 2005, Fiskeri-og-kystedepartementet (2005)

⁴ Other species such as scallops and crabs are important, but quotas are not set for these species
providing research and information services to the Scottish Parliament

DAYS AT SEA

At the December 2002 Fisheries Council Member States agreed to reduce their fishing effort on cod by 65% and to implement limits on days at sea to achieve this. The limits only apply to boats over 10m length.

Whitefish trawlers fishing in the North Sea and West of Scotland were given a basic allocation of 9 days fishing per month for 2003. This was increased to 15 days for UK boats because of decommissioning in 2001 and 2002, most of which took place in the Scottish fleet. Days at sea were also limited for other types of fishing, according to their impact on cod. For Scotland the main fleet sector concerned were trawlers targeting Nephrops. These boats were limited to 25 days fishing per month. For 2004 and 2005 there have been slight changes to the rules on days at sea to make them more flexible and to introduce incentives offering more days for fisheries which do not have an impact on cod. In 2005 Scottish whitefish trawlers have had a basic allocation of 14 days in the North Sea, and 13 days in the West of Scotland⁵.

The Scottish Executive (2005) has demonstrated that the Scottish fleet has met the 65% target for reducing effort on cod. The Scottish Executive's position for this years negotiations is that the Scottish industry has made significant reductions in effort, while the effect of actions by some other Member States are unknown. If it is shown by the scientific advice that further action to protect cod is needed, any additional measures agreed in Council should not impact unfairly or disproportionately on the Scottish fleet, or on other fleets who have already met their commitments to reduce fishing effort.

The fishing effort in the Scottish fleet segment targeting Nephrops in the North Sea has increased during recent years. Although the UK and Scottish Executive have undertaken work which has shown that this fishery does not result in large bycatches of cod, and this is backed up by landings statistics from these vessels, this is still a concern to the European Commission and it has proposed to cut the days at sea for these boats.

The Commission (2005) proposes a basic limit for whitefish trawlers⁶ of 92 days at sea for 2006 (8 days per month). Point 10.4 of Annex IIIa provides that "Any additional number of days resulting from permanent cessation of activity previously allocated by the Commission remains allocated in 2006." The UK has been allocated 5 days per month in previous years, so would be allocated an additional 60 days, taking the total for the UK to 152 days (equivalent to just under⁷ 13 days per month).

For vessels targeting Nephrops in the North Sea and West of Scotland⁸ the Commission (2005) proposes a basic allocation of 214 days at sea for 2006 (equivalent to 18 days per month). Boats fishing with a separator grid which retained on board by weight 5% cod and 70% or more of Nephrops would not be subject to a days at sea restriction. Boats with a track record of less than by weight 5% each of cod, sole and plaice would be allowed to fish for 264 days in 2006

⁵ One additional day is available for vessels which keep only 120mm gear on board, and where the Member State has set up a system of automatic fishing licence suspensions for infringements. Some Scottish boats have received an additional day as a result of this.

⁶ vessels fishing with trawls, Danish Seines and similar gears, except beam trawls of mesh size equal to or larger than 120mm

⁷ the allocation is annual, but for comparison with previous effort schemes, this equates to 12.667 days per month

⁸ vessels fishing with trawls or Danish Seines and similar gears, except beam trawls with mesh size between 70 and 100mm

(equivalent to 22 days per month). This compares to 21 days per month for Nephrops trawlers for 2005. During 2005 vessels with this mesh size with a track record of less than 5% each of cod, sole and plaice have not been subject to a days at sea restriction.

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Agenda Item 5

**Environment and Rural
Development Committee**

14 December 2005
ERD/S2/05/33/5c

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December 2005

You have asked for a letter ahead of my appearance on the 14 December to outline my position on: TACs and Quotas for 2006, particularly on nephrops; Days at Sea for 2006; The European Fisheries Fund; efforts to improve fisheries enforcement; the Shetland Box; the Executive's position on eco-labelling schemes for fisheries products; the Commission's proposals for draft recommendations for farmed fish and control of diseases in the aquaculture sector.

TACs and Quotas

On nephrops quotas I am sure you will be as pleased as I am that significant increases in the TACs for nephrops are in prospect. TACs are to be raised by 30% in the North Sea and 39% on the west coast. The proposed increases are the culmination of some very hard work indeed and I give particular thanks to those in Fisheries Research Services who played their full part in that.

However, it is important to minimise juvenile whitefish discards in this fishery. Therefore, we are supporting a package of measures developed by the North Sea Regional Advisory Council (NSRAC) to improve selectivity. I am aware that the Commission has proposed unlimited days for vessels using a separator grid, however, this is of limited use to a Scottish mixed fishery and still results in discards of undersize fish.

As regards any potential cut in days at sea, my position on these matters is clear. I oppose any cut in days at sea for whitefish vessels. Scotland has successfully cut whitefish fishing effort by the required 65%: if more is needed, the first step must be for other Member States to show they have delivered. The Commission should satisfy itself that all Member States have reduced their contribution to cod fishing mortality before proposing that the Scottish whitefish fleet makes a further contribution.

The haddock stock is crucial for our white-fish fleet and is reported to be healthy, but a major downward revision of the biomass has been made. As a result, a 41% cut in the TAC was proposed as a result of a rigid application of the EU-Norway haddock management plan and a desire to make in one year all the adjustments that are required to respond to the substantial reassessment of the 1999 year class.

We have known for some time that stock is extremely dependent on the exceptional 1999 year class. Since then the recruitment has been low. This means that we need to be cautious to prolong the 1999 year class, to improve the age structure of the stock and to protect the new, we believe strong, year class in 2005.

We looked carefully at the scientific advice, and while accepting that the new scientific information coming available showed the 1999 year class to be less exceptional than first thought, we were convinced that the scientific assessment of the stock could, with some important swaps of quota from other countries, be consistent with a more acceptable outcome.

By pursuing these points at the EU-Norway negotiations, we have reduced the cut in the haddock TAC for the Scottish fleet to 12.6%. I fully recognise the financial implications for catchers and processors in the short term. There may also be scope for some further - albeit modest - improvements on this figure

However, given the stock reassessment, and the overwhelming need to safeguard this vital stock for the future, I believe this outcome strikes a balance between safeguarding the stock and stability for economic players both in the short and medium term.

Finally, on monkfish it is unlikely we will be able to secure a TAC increase at December Council. The scientific advice is clear, if we can agree measures to cap effort then there should be a less restrictive TAC. Currently we have been unable to agree such measures to cap effort with the industry and other Member States. So we will be unable to argue for a less restrictive TAC. Instead, we will be looking to achieve a mechanism whereby if we do manage to agree a measures to cap effort then the TAC will be automatically increased.

The range of issues at the Council will be as wide as ever and, as always, the result of the negotiations is to some extent uncertain. However, I am reassured by the fact that we have had early consultation with a wide sector of the Scottish industry. We have been fully involved with the scientists and with the regional advisory councils, which continue to play an improved and important role. We have carried out extensive consultation with the industry and our scientists have been at the forefront of research. My team and I have led the discussions and negotiations on our priorities. This in itself will not guarantee a good result at Council, but it will provide us with a firm platform from which to pursue our interests.

Enforcement

In September this year we introduced a scheme to register the sellers and buyers of first sale fish. Amongst the measures introduced by this scheme is a requirement for buyers and sellers to keep records in order to account for the origin of all first sale fish. This will go some considerable way towards ensuring that fish bought and sold have been legally caught and landed.

While the volume of blackfish is difficult to quantify, a very useful measure of the effectiveness of the work of inspectors both at sea and ashore lies in the estimates of the amounts of fish that would have remained unrecorded had it not been for a boarding at sea or an inspection at the point of landing. A conservative estimate puts this at some 160 tonnes a month for the demersal species.

European Fisheries Fund

On the European Fisheries Fund (EFF), following extensive discussions on the draft EFF regulation at official level in Working Group a version for discussion by Ministers was presented at the Fisheries Council meeting in June 2005. However, Ministers were unable to finalise and agree the content of the new regulation. The stumbling block to agreement is a continuing difference of views between Member States on aid to the fleet and in particular for vessel construction and replacement engines. The compromise that was eventually tabled was not voted on since the prospects of agreement seemed too remote. Scotland and the UK remain fundamentally opposed to the re-introduction of public aid for vessel construction since it goes back on difficult decisions taken at the December 2002 Fisheries Council. Scotland and the UK also have difficulties with public aid for replacement engines unless it is strongly linked to capacity issues.

A number of helpful revisions have however been introduced since the Commission published the original draft of the EFF regulation. Of particular note is the extension of aid to medium sized enterprises in the aquaculture and processing sectors. At the time of the Executive's consultation on the original EFF draft Scottish stakeholders identified the restriction to small and micro businesses as unacceptable. While nothing is agreed until all is agreed the prospects of getting the required change on this particular issue appear quite good.

There seems no immediate prospect of securing agreement on the final regulation until the spring of 2006. The delay in agreement of EFF and uncertainties regarding the Commission's wider operational budget are now making Member State's preparations for the new fund increasingly difficult.

Member States are required to provide two key documents to the Commission in preparation for putting in place the EFF, the National Strategic Plan (NSP) and the Operational Programme (OP). The NSP essentially provides a status report on the fisheries sector. The OP is a description of how the EFF programme links to this and the details of how it will operate over the period of the programme (2007-2013). The NSP will not be adopted by the Commission but the OP will.

From the perspective of the Commission there will be a single NSP and OP for each Member State, i.e. just one for the UK. However, given the devolved nature of fisheries within the UK fisheries departments will be required to work both individually and collectively to produce the NSP and OP. From the Executive's consultation on the draft EFF regulation it was clear that stakeholders wanted a separately identifiable Scottish programme and for this to be managed in Scotland. The model we have for this is the Scottish component of the UK's Outside Objective 1 FIFG programme.

We have agreed with DEFRA to work in parallel but to reach certain key milestones at the same time. Broadly speaking the objective is to produce draft NSPs and OPs by the turn of the year and to consult on these early in 2006. This is an ambitious timetable but we believe we need to meet it if we are to maximise the chances of having an EFF programme in place at the start of 2007 and to have schemes ready to receive applications.

Shetland Box

Following the recommendation from the NSRAC, the Commission has proposed the retention of the Shetland Box for three years. It seems likely that this proposal will be taken through the December Council as an “A-point”, meaning it will be passed without discussion. There is no indication that any Member State wishes to construct a blocking minority to prevent the proposal going through.

The Commission’s proposal is to keep the Shetland Box for three years pending a new evaluation. They will ask STECF to begin the process of evaluation, and it is likely that a Member State marine laboratory (such as FRS) and the NSRAC will again be involved. The evaluation process should run from 2006 to 2009. However, by 2009 discussions on the review of the CFP framework directive will have begun and it is possible that any decision on the Shetland Box will be delayed until discussions are concluded in 2012.

Eco-Labeling

An eco-label is a tag placed on a product that certifies that it was produced in a sustainable, environmentally friendly way. Such labels allow consumers to make informed choices about what they are buying and can support responsible food production.

In March 2005, the Food and Agriculture Organisation (FAO) established guidelines for the eco-labelling of fisheries products. Following this, the European Commission launched a Communication in June 2005 to stimulate debate on what eco-labelling schemes should apply in the EU.

The Commission has presented three options for establishing eco-labelling schemes within the EU. These options are: the status quo; a single eco-labelling scheme that applies across all EU Member States; and minimum requirements set by the EU for voluntary eco-labelling schemes. The Commission considers the final option to be the most appropriate.

The Commission has adopted an all-inclusive approach to progressing eco-labelling and this issue has been discussed in various forums since the Communication was published. However, this all-inclusive approach may delay any final conclusions being reached until summer 2006. Until such time the Scottish Executive will continue to provide input to discussions on eco-labelling as appropriate.

Aquaculture

The Committee asked a number of detailed points on the Commission’s proposals for draft recommendations for farmed fish and control of diseases in the aquaculture sector. Full details on these issues can be found at annexes A - D.

ROSS FINNIE

THE PROPOSED NEW FISH AND SHELLFISH HEALTH DIRECTIVE

Introduction

- The proposal takes account of the developments in the industry over the last 15 years and the enlargement of the community.
- The proposal updates and consolidates and the existing legislation:

91/67/EEC concerning the animal health conditions governing the placing on the market of aquaculture animals and products – commonly called “The Placing on the Market Directive”

93/53/EEC introducing minimum Community measure for the control of certain fish disease – “The Control Measures Directive”

95/70/EEC – “The Shellfish Directive” and associated Commission Decisions

- The proposal is for a framework Directive laying down general principles, the detail will be in Annexes agreed by Commission Decision which can be changed as knowledge develops
- The document is in excess of 100 pages long, 67 Articles but the SEERAD staff in the UK delegation to the Commission, Dr Ron Stagg, Dr Trevor Hastings and Dave Wyman, in addition to wide consultation at European level, have been liaising closely with Scottish industry during its evolution and to date industry is broadly in agreement with its provisions. It can be seen that there have been recent changes and the negotiations are still under way. Please see the end of this briefing for next steps.

Changes to the present regime

The proposal retains many of the existing principles and introduces the following new measures:

Authorisation and registration

- All aquaculture businesses must be authorised. In order to be authorised the business must fulfil requirements for recording, good hygiene practice and animal health surveillance. Authorisation will not be granted if the farm poses “unacceptable risk” of spreading disease and it may be withdrawn for non-compliance. A certain number of processing units also have to be registered so that they can be used for slaughter in the event of a disease outbreak.
- An authorised business must be registered.

- There are derogations for facilities not placing on the market, for put and take fisheries and for those placing small quantities on the market.

Health surveillance

- Surveillance will be risk based, focussing use of resources. MSs will be able to tailor protocols considered appropriate to the level of risk.
- There is provision for visits by the competent authority (CA) and private fish health professionals
- MSs may declare disease freedom for zones within their territories, provided the Commission has been informed and the provision justified

Recording obligations – enhanced provision

- Each farm must record movements to and from the farm, mortality levels and health test results and see later under Traceability and Certification
- Each transporter must record mortality during transport, farms visited and water exchanges
- There is provision for electronic centralised recording of movements

Transportation

- Measures must be applied so that the health status of animals does not change in transit
- Water changes may only be carried out at places specified by the CA

Placing on the market provisions

- Movements must not lower the health status of the destination
- There are disease prevention requirements for transport
- “MS shall ensure that aquaculture animals placed on the market for farming are clinically healthy and do not come from a fish farm or mollusc farming area where there is unresolved increased mortality.....” (New text successfully re-negotiated last week.)
- Freedom to trade in species not defined as susceptible to listed diseases irrespective of disease status of the place of origin or destination

National disease control measures

- There are provisions for national measures for limiting the impact of significant diseases not listed in the Directive
- These must not exceed “the limits of what is appropriate and necessary” (proportionality principle again)
- Any measures that affect trade need prior approval
- We may need to control *Gyrodactylus salaris* and bacterial kidney disease (BKD) under this (Article 43)

Traceability and certification

- All movements to a disease free area must be certified
- All movements within a MS must be recorded on TRACES (Trade Control Expert System – not fully functional yet)
- New text successfully negotiated last week reads “MS shall ensure that movements of animals are recorded by the aquaculture production business operators in such a way to allow the tracing of the place of origin and destination
- All Movements of fish for processing, into an approved area, must be registered on TRACES.

Notification of listed disease

- If listed disease is suspected or confirmed it must be notified immediately to the CA
- Increased mortality in aquaculture animals must be immediately reported to the CA or private health professional for investigation
- Those obliged to report are listed, the owner or stockman, the transporter, the veterinarian or other fish healthy professionals and any other person with an occupational relationship with the animals

Control measures

Exotic: Epizootic ulcerative syndrome (EUS)
Epizootic haematopoietic necrosis (EHN)

Non-exotic: Infectious salmon anaemia (ISA)
Infectious haematopoietic necrosis (IHN)
Viral haemorrhagic septicaemia (VHS)
Spring viraemia of carp (SVC)
Koi herpes virus (KHV)

- Exotic diseases must be eradicated
- Non-exotic diseases are controlled (through eradication) at the discretion of the MS
- Listed diseases that are not controlled by eradication must be contained by movement restrictions etc

Viral Haemorrhagic septicaemia (VHS)

- The debate as to whether there should be different policy for different strains is ongoing with MSs pressing the Commission for separation of strains.
- Changes allow for designation of disease free compartments in coastal waters if surveillance of the farm population shows disease freedom
- This would preclude mixed salmon and cod farming

Proposal for compensation

- The Commission has proposed compensation for disease eradication under EFF
- The mechanism has still to be agreed
- Directive 90/424/EEC (on funding in the veterinary field) will be amended to provide for compensation

Trading relations

- Some countries within the EEA including Norway comply with the EU fish health regime
- The proposal will have no application to use of medicines and management of fish in Chile. However some EC legislation does indirectly affect our third country trading partners e.g. fish products imported into the UK must not exceed our maximum residue levels (MRL) for veterinary medicines.

Next steps

- Working group meeting on 8 December under UK presidency
- Jan-June '06 Austrian presidency – 6 meetings (to be chaired by Finland)
- July – Dec '06 Finnish presidency number of meetings not yet decided
- Transposition and national implementation 4 year transitional period

Scottish negotiators' comments

- The proposal has widespread support and is a Council not a Commission document
- MSs can make changes if there is general agreement
- The presidency can put issues up to the political level if considered necessary

THE STANDING COMMITTEE OF THE EUROPEAN CONVENTION FOR THE PROTECTION OF ANIMALS KEPT FOR FARMING PURPOSES (T-AP) - RECOMMENDATION CONCERNING FARMED FISH

- The recommendation took as its starting point the Farm Animal Welfare Council's Report on the Welfare of Farmed Fish, published in 1996
- The main articles of the document have now been approved by the T-AP and the report is awaiting formal ratification by the Council of Europe
- There are no apparent conflicts with the main provisions in the Animal Health and Welfare (Scotland) Bill and very little overlap between the two documents
- The welfare chapter of the draft Industry Code of Good Practice for Scottish Finfish Aquaculture is loosely based upon the structure of the T-AP document, although the T-AP document is far more specific with regard to the main areas addressed. These include:
 - Stockmanship and Inspection
 - Enclosures, Buildings and Equipment
 - Management; Changes of Genotype
 - Changes of Physical Appearance
 - Emergency Killing
 - Research and Supplementary provisions
- Many of the principles of the T-AP document are included in the CoGP but the CoGP is not nearly as explicit
- If Europe chose to legislate along the lines of the T-AP document, the CoGP would require considerable tightening to come into line

INDUSTRY CODE OF GOOD PRACTICE (ICOGP)

- A priority for action under the Strategic Framework for Scottish Aquaculture (SFSA).
- Its production has proved to be a much more difficult and complex task than envisaged and consequently has taken rather longer than expected.
- Presented and endorsed at 31st October 2005 Ministerial Working Group on Aquaculture (MWGA).
- Industry to move to implementation from 1 January 2006.
- It is now for the industry to show the code is robust, has an independent audit system and transparency in reporting compliance.

AVAILABILITY OF VETERINARY MEDICINES AND THEIR REGULATION

- A complaint of our industry has been that Norwegian competitors have access to a wider range of veterinary medicines, particularly vaccines, than is the case in Scotland. The Scottish Executive has been addressing this issue and has had meetings with Industry, Norwegian company representatives and Officials, and the Veterinary Medicines Directorate (VMD)
- There is provision for mutual recognition of veterinary medicines but for this to be possible a product has to have a full approval in one MS before it can be approved in another
- In the past it would appear that Norwegian industry has had wider access to chemicals on limited approval. However Norway as part of the EEA is now bound by the same regime and it is in the hands of the pharmaceutical industry to obtain full approval of products used in Norway so that mutual recognition can be sought for usage in the UK
- In the UK regulation of veterinary medicines is a three stage process. Products have to be approved by the VMD, the farmer needs a veterinarian's prescription and before the product can be used he needs a discharge consent from SEPA
- Veterinary medicine and other chemical residues are monitored by the VMD to ensure they do not exceed safe limits and that unapproved chemicals are not used
- Sampling for VMD analytical purposes is carried out by the SEERAD Fisheries Research Services Fish Health Inspectorate