



**Environment and Rural Development Committee**

**2nd Meeting, 2006**

**Wednesday 18 January 2006**

The Committee will meet at 10.00 am in Committee Room 2

1. **Animal Health and Welfare (Scotland) Bill (in private):** The Committee will consider a draft Stage 1 report.

*Not before 11.45 am*

2. **Austrian Presidency of the European Union and the priorities of the Scottish Executive:** The Committee will take evidence on the priorities of the Scottish Executive as they relate to the Environment and Rural Development portfolio from—

Ross Finnie MSP, Minister for Environment and Rural Development.

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

the Less Favoured Area Support Scheme (Scotland) Amendment (No. 2) Regulations 2005 (SSI 2005/624); and

the Transport of Animals (Cleansing and Disinfection) (Scotland) Regulations 2005, (SSI 2005/653).

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

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

The following papers are attached:

<p><u>Agenda Item 1</u></p> <p>Draft Report (<i>for members only</i>)</p>	<p>ERD/S2/06/2/1</p>
<p><u>Agenda Item 2</u></p> <p>Letter from the Minister for Environment and Rural Development on the Austrian Presidency of the European Union</p>	<p><a href="#">ERD/S2/06/2/2</a></p>
<p><u>Agenda Item 3</u></p> <p><a href="#">The Less Favoured Area Support Scheme (Scotland) Amendment (No.2) Regulations 2005, (SSI 2005/624)</a></p> <p>Extract from the Subordinate Legislation Committee's 48th Report, 2005</p> <p>Letter from the Minister for Environment and Rural Development on the Less Favoured Area Support Scheme (Scotland) Amendment Regulations</p> <p><a href="#">The Transport of Animals (Cleansing and Disinfection) (Scotland) Regulations 2005 (SSI 2005/653)</a></p>	<p><a href="#">ERD/S2/06/2/3a</a></p> <p><a href="#">ERD/S2/06/2/3b</a></p> <p><a href="#">ERD/S2/06/2/3c</a></p> <p><a href="#">ERD/S2/06/2/3d</a></p>
<p><u>Agenda Item 4</u></p> <p>Note from the Clerk</p>	<p><a href="#">ERD/S2/06/2/4</a></p>



## SCOTTISH EXECUTIVE

**Agenda Item 3**

**Environment and Rural  
Development Committee**

18 January 2006  
ERD/S2/06/2/3c

Minister for Environment & Rural Development  
**Ross Finnie** MSP

Pentland House  
47 Robb's Loan  
Edinburgh EH14 1TY

Sarah Boyack MSP  
The Scottish Parliament  
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EH99 1SP

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Our ref: LYr090106

10 January 2006

Dear

### **Less Favoured Area Support Scheme (Scotland) Amendment Regulations (SSI 2005/569 and SSI 2005/624**

Thank you for your letter of 19<sup>th</sup> December asking further questions about our approach to publishing information on subsidy payments to farmers.

As you state, we will be publishing information very soon on an individual basis on the payments which we have just made under the new Single Farm Payment Scheme. I am also happy to confirm that we will in future publish information on payments to individual farmers under the Less Favoured Area Support Scheme (LFASS), that is to those who apply to the scheme from now on.

I announced in January 2005 that we would in future be publishing subsidy details for the Single Farm Payment and new RDR schemes. We were the first part of the UK to announce that we would disclose any subsidy information and my announcement was ground-breaking and widely welcomed.

In response to FOI requests received early in January 2005, we took the view that we should not publish historic subsidy information because

- Releasing personal information where we had not made that clear to applicants would be unfair and hence it is exempt from release under section 38 of Freedom of Information (Scotland) Act (FOISA);
- there was also a European Community requirement to protect the data under Article 9 of Council Regulation (EEC) 3508/92;

Our decision was made in Scotland before any decisions were made by DEFRA or The National Assembly of Wales. (The timescale for making decisions under the Scottish legislation does not include a facility to delay responding as does the English legislation.)

In March 2005, to implement the decision to disclose, we warned farmers that we would publish subsidy information in the scheme literature and application forms for Single Farm Payment and Land Management Contract Menu Scheme (but not LFASS since it was not a new scheme). Farmers applied last year in the knowledge that their payments for these schemes would be made public.

The Scottish Information Commissioner is currently considering five reviews of decisions relating to information requests on agricultural subsidy information, which includes payments made under LFASS. I am afraid that we have no indication as to when the decisions will be made. His decision is the proper review under our legislation as to whether the decision we made early last year was correct.

In March 2005, after the application form for Single Farm Payment and LFASS had been printed, setting out how we would handle subsidy payment data in line with my announcement, the Rural Payments Agency released a list of the names of CAP Subsidy recipients and the annual amount paid to them in the last two years. We were therefore already committed to a different course before a decision was made in England. Subsequently Wales came to the same decision that we had made in Scotland- not to release historic subsidy information.

It may seem surprising that different decisions can be taken in different parts of the UK but the legislation is complex and overlapping and decisions are for the relevant administrations to take, subject to review by the respective Information Commissioners. As I have said Wales independently came to the same view as ourselves.

The crux of the difference in view is what is fair in terms of the Data Protection Act but there are a number of complicating factors. There is no argument that subsidy information is largely personal information and therefore must be processed in accordance with the requirements of the Data Protection Act. Our view is that our past practice of not releasing subsidy information and the fact that EC legislation implies the Scottish farmers are entitled to expect their information will be protected, means there would be unfairness in the release of information without specifically forewarning farmers. DEFRA Ministers took a different view, and decided that the public interest in knowing the information outweighed the public interest in protecting the information.

The Scottish Information Commissioner is considering all these issues. As I have said I am very happy to confirm that payments from future LFASS applications will be published and I will be making that clear to applicants. But in respect of applications from previous years the proper course is to await the decision of the Scottish Information Commissioner, in line with our own separate Freedom of Information legislation.

I hope this further clarification is helpful.

Yours sincerely

**ROSS FINNIE**

**SSI DESIGNATION FORM**

<b>SSI Title &amp; No:</b>	The Less Favoured Area Support Scheme (Scotland) Amendment (No.2) Regulations 2005, <b>(SSI 2005/624)</b>					
<b>Responsible Minister</b>	Ross Finnie, Minister for Environment and Rural Development					
<b>Standing Order</b>	<b>Affirmative</b>	10.6.1(a)		<b>Negative</b>	10.4	✓
		10.6.1(b)			10.5	
	10.6.1(c)		<b>Other</b>	NL		NP
<b>Lead Committee</b>	Environment and Rural Development		<b>Other Committee</b>			
<b>Purpose of Instrument</b>	These Regulations correct minor errors in and two omissions from the schedules to the Less Favoured Area Support Scheme (Scotland) Regulations 2005, (SSI 2005/569).					

<b>Laid Date</b>	5 <sup>th</sup> December 2005	<b>40 day date</b>	29 <sup>th</sup> January 2006
<b>1<sup>st</sup> SLC Meeting</b>	13 <sup>th</sup> December 2005	<b>20 day date</b>	10 <sup>th</sup> January 2006
<b>Lead Committee Report Due</b>	23 <sup>rd</sup> January 2006	<b>Other Committee Report Due</b>	

<b>SE Contact</b>	Alison Greig, ext. 46417
<b>Committee Contact</b>	Mark Brough, 85240

**For SLC use:**

<b>Article 10 Compliance</b>	<b>Breaks 10(1) rule</b>		<b>Breaks 10(2) rule</b>		<b>PO Letter dated</b>		<b>PO Letter received</b>	
<b>Revocations</b>	<b>Revokes</b>				<b>Partially Revokes</b>			
<b>Executive Note</b>	✓	<b>Regulatory Impact Assessment</b>		<b>European Regulations/ Directives</b>	EC/1257/1999			
<b>Additional Information</b>								

**Subordinate Legislation Committee**

**Extract from the 48<sup>th</sup> Report, 2005 (Session 2)**

**Subordinate Legislation**

The Committee reports to the Parliament as follows—

**Instruments subject to annulment**

**The Less Favoured Area Support Scheme (Scotland) Amendment  
(No.2) Regulations 2005, (SSI 2005/624)**

1. The Committee asked for confirmation that the Regulations were to be made available free of charge to recipients of the principal Regulations and, if so, why no italic headnote to that effect appears on the instrument.
2. The Executive has confirmed that the amending Regulations will be made available free of charge to any known recipient of the principal Regulations and regrets the absence of a headnote to this effect, which is being addressed with The Stationery Office.
3. **The Committee draws the attention of the lead Committee and Parliament to the instrument on the grounds of failure to follow proper legislative practice.**

## **ANNEX**

### **The Less Favoured Area Support Scheme (Scotland) Amendment (No.2) Regulations 2005, (SSI 2005/624)**

On 13<sup>th</sup> December the Committee asked the Executive for an explanation of the following matters:-

*“Whether these Regulations will be made available free of charge to recipients of the principal Regulations and, if so, why no italic headnote to that effect appears on the instrument.”*

#### **The Scottish Executive responds as follows:**

The amending Regulations will be made available free of charge to any known recipient of the principal Regulations and the Scottish Executive regrets the absence of a headnote to this effect. This oversight is being addressed with The Stationery Office, and the appropriate arrangements will be put in place.



## SCOTTISH EXECUTIVE

**Agenda Item 3**

**Environment and Rural  
Development Committee**

18 January 2006  
ERD/S2/06/2/3c

Minister for Environment & Rural Development  
**Ross Finnie** MSP

Pentland House  
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10 January 2006

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I hope this further clarification is helpful.

Yours sincerely

**ROSS FINNIE**

**SSI DESIGNATION FORM**

<b>SSI Title &amp; No:</b>	The Transport of Animals (Cleansing and Disinfection) (Scotland) Regulations 2005, <b>(SSI 2005/653)</b>						
<b>Responsible Minister</b>	Rhona Brankin, Deputy Minister for Environment and Rural Development						
<b>Standing Order</b>	<b>Affirmative</b>	10.6.1(a)		<b>Negative</b>	10.4		✓
		10.6.1(b)			10.5		
	10.6.1(c)		<b>Other</b>	NL		NP	
<b>Lead Committee</b>	Environment and Rural Development		<b>Other Committee</b>				
<b>Purpose of Instrument</b>	These Regulations amend SSI 2000/167 to make it a permanent legal obligation to cleanse and disinfect wheels, wheel arches and mud guards each time a vehicle carrying livestock or poultry is required to be cleansed and disinfected. They also correct a anomaly that currently exempts vehicles moving horses from full cleansing and disinfection practices.						

<b>Laid Date</b>	20 <sup>th</sup> December 2005	<b>40 day date</b>	22 <sup>nd</sup> February 2006
<b>1<sup>st</sup> SLC Meeting</b>	10 <sup>th</sup> January 2006	<b>20 day date</b>	25 <sup>th</sup> January 2006
<b>Lead Committee Report Due</b>	13 <sup>th</sup> February 2006	<b>Other Committee Report Due</b>	

<b>SE Contact</b>	Andrew Silander, ext. 46420
<b>Committee Contact</b>	Martin Verity, 85217

**For SLC use:**

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<b>Revocations</b>	<b>Revokes</b>				<b>Partially Revokes</b>			
<b>Executive Note</b>	✓	<b>Regulatory Impact Assessment</b>		<b>European Regulations/ Directives</b>				
<b>Additional Information</b>								

## **Environment and Rural Development Committee**

### **Future Work Programme**

#### Note from the Clerk

1. At the meeting on 21 December 2005, Members indicated that they wished to consider, in the context of the Committee's future work programme, how environmental issues would be considered as part of the Stage 1 scrutiny of the Planning etc. (Scotland) Bill.

2. At the away day in September 2005, Members discussed the proposed Bill and indicated their desire to see environmental issues mainstreamed in scrutiny.

3. The Bill was introduced in the Parliament on 19 December 2005 and has been referred to the Communities Committee as lead committee for Stage 1. Clerks to that Committee have indicated that, as the Bill deals with the planning process rather than specific issues, how environmental considerations are incorporated into that process will be an integral part of the lead committee's scrutiny.

4. The Communities Committee has now considered its approach to Stage 1 and has agreed the following indicative calendar for hearing oral evidence. This includes a session dedicated to witnesses representing environmental perspectives (8 Feb) and a round table discussion on local community input (8 March).

11 January 2006 -	The Scottish Executive Bill Team
18 January 2006 -	Planning academics
25 January 2006 -	Planning professionals
1 February 2006 -	The Law Society of Scotland and Statutory Consultees
8 February 2006 -	Environmental groups
22 February 2006 -	Business interests: Representative bodies
1 March 2006 -	Business interests: Developers
8 March 2006 -	Public Involvement
22 March 2006 -	COSLA
29 March 2006 -	Minister for Communities

5. The Committee is invited to note these arrangements.

Mark Brough  
Clerk to the Committee