



Environment and Rural Development Committee

11th Meeting, 2006

Wednesday 29 March 2006

The Committee will meet at 10.00 am in Committee Room 5.

1. **Animal Health and Welfare (Scotland) Bill:** The Committee will consider the Bill at Stage 2 (Day 3).

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

the Sheep and Goats (Identification and Traceability) (Scotland) Regulations 2006, (SSI 2006/73);

the Older Cattle (Disposal) (Scotland) Amendment Regulations 2006, (SSI 2006/82);

the Beef Carcase (Classification) (Scotland) Amendment Regulations 2006, (SSI 2006/118);

the Dairy Produce Quotas (Scotland) Amendment Regulations 2006, (SSI 2006/119);

the Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006, (SSI 2006/120);

the Water Environment and Water Services (Scotland) Act 2003 (Designation of Responsible Authorities and Functions) Order 2006, (SSI 2006/126);

the Water Environment (Consequential Provisions) (Scotland) Order 2006, (SSI 2006/127);

the Waste Management Licensing (Water Environment) (Scotland) Regulations 2006, (SSI 2006/128); and

the Water Environment (Oil Storage) (Scotland) Regulations 2006, (SSI 2006/133).

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

The following papers are attached:

<u>Agenda Item 2</u>	
<u>The Sheep and Goats (Identification and Traceability) (Scotland) Regulations 2006 (SSI 2006/73)</u>	ERD/S2/06/11/2a
Extract from the Subordinate Legislation Committee's 13th Report, 2006	ERD/S2/06/11/2b
<u>The Older Cattle (Disposal) (Scotland) Amendment Regulations 2006, (SSI 2006/82)</u>	ERD/S2/06/11/2c
<u>The Beef Carcase (Classification) (Scotland) Amendment Regulations 2006 (SSI 2006/118)</u>	ERD/S2/06/11/2d
<u>The Dairy Produce Quotas (Scotland) Amendment Regulations 2006, (SSI 2006/119)</u>	ERD/S2/06/11/2e
<u>The Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006, (SSI 2006/120)</u>	ERD/S2/06/11/2f
<u>The Water Environment and Water Services (Scotland) Act 2003 (Designation of Responsible Authorities and Functions) Order 2006, (SSI 2006/126)</u>	ERD/S2/06/11/2g
<u>The Water Environment (Consequential Provisions) (Scotland) Order 2006, (SSI 2006/127)</u>	ERD/S2/06/11/2h
<u>The Waste Management Licensing (Water Environment) (Scotland) Regulations 2006, (SSI 2006/128)</u>	ERD/S2/06/11/2i
Extract from the Subordinate Legislation Committee's 14th Report, 2006	ERD/S2/06/11/2j
The Water Environment (Oil Storage) (Scotland) Regulations 2006, (SSI 2006/133)	ERD/S2/06/11/2k

SSI DESIGNATION FORM

SSI Title & No:	The Sheep and Goats (Identification and Traceability) (Scotland) Regulations 2006, (SSI 2006/73)					
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	The purpose of this instrument is to introduce revisions to the current sheep and goat traceability system to fully comply with the requirements of Council Regulations (EC) No 21/2004 laying down rules for the identification of animals born after 9 July 2005 and for the keeping and supply of information. The regulations also provide for the administration and enforcement of the identification and traceability system for animals born on or before 9 July 2005.					

Laid Date	24 th February 2006	40 day date	21 st April 2006
1st SLC Meeting	7 th March 2006	20 day date	15 th March 2006
Lead Committee Report Due	17 th April 2006	Other Committee Report Due	

SE Contact	Brenda Dyer, ext. 46636
Committee Contact	Mark Brough, 85240

For SLC use:

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

Subordinate Legislation Committee

Extract from 13th Report, 2006 (Session 2)

Subordinate Legislation

The Committee reports to the Parliament as follows—

Instruments subject to annulment

**the Sheep and Goats (Identification and Traceability) (Scotland)
Regulations 2006, (SSI 2006/73)**

1. The Committee noted that Regulation 21/2004 for which these Regulations make provisions to enforce came into force in January 2004. The corresponding regulations came into force in England on 30 November 2005. The Committee asked the Executive to explain the delay in making these Regulations.
2. The Executive, in its response printed at Appendix 1, has provided a full explanation of the background to the making of these regulations.
3. While welcoming the further information provided by the Executive, the Committee notes that it would have been helpful had this information been provided with the Regulations when they were laid before the Parliament.
4. **The Committee draws the attention of the lead Committee and the Parliament to this information, and on the grounds that further information was requested and supplied by the Executive.**

APPENDIX 1

**The Sheep and Goats (Identification and Traceability) (Scotland)
Regulations 2006, (SSI 2006/73)**

1. The Executive welcomes the opportunity to provide an explanation of the matter raised in the Committee's letter.
2. Council Regulation (EC) No 21/2004 provides in Article 1 that each Member State shall establish a system for the identification and registration of ovine and caprine animals. Article 3 provides that the system shall comprise a number of elements: means of identification to be applied to each animal, registers to be kept on each holding, movement documents to accompany animals moving from holdings and a central information database.

3. While the provisions of Article 17 meant that Regulation 21/2004 came into force in January 2004, the actual requirement is to introduce a system of identification applied to animals born after 9 July 2005.

4. The system of identification provided for in Regulation 21/2004 required the application of a first and second means of identification to each animal. However, the Regulation also offered a derogation which would allow member states to use a different second means of identification to that prescribed. In October 2004 the United Kingdom applied for the derogation on the basis it wished to retain its existing domestic system as an alternative to the EU second means.

5. The Commission were unable to assess the UK systems in time to support implementation for the July 2005 deadline and they indicated that in light of the outstanding application for a derogation, they were content that legislation would not be in force for 9 July 2005. Following an initial round of audit inspections and evaluations, a temporary derogation was granted to the UK in July 2005 until end April 2006. However, the EU inspectors raised a number of issues of concern and the replacement system had to be revised to take these into account. As it was necessary to adopt as uniform an approach as possible throughout the United Kingdom there were a number of discussions with Defra and with stakeholders before matters could be concluded. The draft SSI had to be revised to take account of the conclusions of those discussions. The final EU audit took place in December 2005 and a decision on whether the derogation will be extended to 2008 is expected in April 2006.

6. The Defra instrument implementing Regulation 21/2004 came into force on 30 November 2005 which, because of the complexities involved, was later than expected. The delay in finalising the Defra instrument had an effect on production of the SSI because it raised new issues. In addition, the Executive identified separate issues which had to be resolved. Further work was carried out and when the Executive was satisfied that all issues had been addressed the instrument was finalised.

SSI DESIGNATION FORM

SSI Title & No:	The Older Cattle (Disposal) (Scotland) Amendment Regulations 2006, (SSI 2006/82)					
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	The purpose of this instrument is to rectify SSI 2006/4 which makes provision for the enforcement of certain of the requirements of Commission Regulation (EC) No. 716/96 introducing a scheme allowing the UK to purchase cattle born before August 1996 (which are not permitted to enter the food chain) and provide compensation to producers.					

Laid Date	28 th February 2006	40 day date	25 th April 2006
1st SLC Meeting	7 th March 2006	20 day date	20 th March 2006
Lead Committee Report Due	17 th April 2006	Other Committee Report Due	

SE Contact	John Burns, ext. 43105
Committee Contact	Mark Brough, 85240

For SLC use:

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

SSI DESIGNATION FORM

SSI Title & No:	The Beef Carcase (Classification) (Scotland) Amendment Regulations 2006 (SSI 2006/118)					
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 & Rural Development		Other Committee			
Purpose of Instrument	The purpose of this instrument is to make minor amendments to the The Beef Carcase (Classification) (Scotland) Regulations 2004 in order to reflect the recent revocation of of the Fresh meat (Hygiene and Inspection) Regulations 1995 and the introduction of the Food (Hygiene) Regulations 2006.					

Laid Date	9 th March 2006	40 day date	4th May 2006
1st SLC Meeting	14 th March 2006	20 day date	29 th March 2006
Lead Committee Report Due	1st May 2006	Other Committee Report Due	

SE Contact	Gerry Smith, ext. 45235
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	See Purpose of Instrument		Partially Revokes				
Executive Note	✓	Regulatory Impact Assessment		European Regulations/ Directives				
Additional Information								

SSI DESIGNATION FORM

SSI Title & No:	The Dairy Produce Quotas (Scotland) Amendment Regulations 2006, (SSI 2006/119)					
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 & Rural Development		Other Committee			
Purpose of Instrument	The purpose of this instrument is to make minor amendments to the Dairy Produce Quotas (Scotland) Regulations 2005 (DPQR) to correct a small number of errors and omissions.					

Laid Date	9 th March 2006	40 day date	4th May 2006
1st SLC Meeting	14 th March 2006	20 day date	29 th March 2006
Lead Committee Report Due	1st May 2006	Other Committee Report Due	

SE Contact	Gerry Smith, ext. 45235
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	See Purpose of Instrument		Partially Revokes				
Executive Note	✓	Regulatory Impact Assessment		European Regulations/ Directives				
Additional Information								

SSI DESIGNATION FORM

SSI Title & No:	The Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006, (SSI 2006/120)					
Responsible Minister	Rhona Brankin, Deputy Minister for Environment and Rural Development					
Standing Order	Affirmative	10.6.1(a)		Negative	10.4	✓
		10.6.1(b)			10.5	
	10.6.1(c)		Other	NL		NP
Lead Committee	Environment & Rural Development		Other Committee			
Purpose of Instrument	The purpose of this instrument is to determine what reasonable cost contributions should be made by Scottish Water when new developments require additional local capacity.					

Laid Date	9 th March 2006	40 day date	4th May 2006
1st SLC Meeting	14 th March 2006	20 day date	29 th March 2006
Lead Committee Report Due	1st May 2006	Other Committee Report Due	

SE Contact	Iain Morrison, ext. 47819
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	See Purpose of Instrument		Partially Revokes				
Executive Note	✓	Regulatory Impact Assessment		European Regulations/ Directives				
Additional Information								

SSI DESIGNATION FORM

SSI Title & No:	The Water Environment and Water Services (Scotland) Act 2003 (Designation of Responsible Authorities and Functions) Order 2006, (SSI 2006/126)					
Responsible Minister	Rhona Brankin, Deputy Minister for Environment and Rural Development					
Standing Order	Affirmative	10.6.1(a)		Negative	10.4	✓
		10.6.1(b)			10.5	
	10.6.1(c)		Other	NL		NP
Lead Committee	Environment & Rural Development		Other Committee			
Purpose of Instrument	The purpose of this instrument is to designate specified public bodies as responsible authorities in respect of their functions relating to the water environment, for the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.					

Laid Date	9 th March 2006	40 day date	4th May 2006
1st SLC Meeting	14 th March 2006	20 day date	29 th March 2006
Lead Committee Report Due	1st May 2006	Other Committee Report Due	

SE Contact	Katrine Feldinger, ext. 40718
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	See Purpose of Instrument		Partially Revokes				
Executive Note	✓	Regulatory Impact Assessment		European Regulations/ Directives				
Additional Information								

SSI DESIGNATION FORM

SSI Title & No:	The Water Environment (Consequential Provisions) (Scotland) Order 2006, (SSI 2006/127)					
Responsible Minister	Rhona Brankin, Deputy Minister for Environment and Rural Development					
Standing Order	Affirmative	10.6.1(a)		Negative	10.4	✓
		10.6.1(b)			10.5	
	10.6.1(c)		Other	NL		NP
Lead Committee	Environment & Rural Development		Other Committee			
Purpose of Instrument	The purpose of this instrument is make amendments consequential upon the Water Environment and Water Services (Scotland) Act 2003 which would bring existing law regulating the water environment into line with the new regulatory regime.					

Laid Date	9 th March 2006	40 day date	4th May 2006
1st SLC Meeting	14 th March 2006	20 day date	29 th March 2006
Lead Committee Report Due	1st May 2006	Other Committee Report Due	

SE Contact	Susan Shaw, ext. 44965
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	See Purpose of Instrument		Partially Revokes				
Executive Note	✓	Regulatory Impact Assessment		European Regulations/ Directives				
Additional Information								

SSI DESIGNATION FORM

SSI Title & No:	The Waste Management Licensing (Water Environment) (Scotland) Regulations 2006, (SSI 2006/128)					
Responsible Minister	Rhona Brankin, Deputy Minister for Environment and Rural Development					
Standing Order	Affirmative	10.6.1(a)		Negative	10.4	✓
		10.6.1(b)			10.5	
	10.6.1(c)		Other	NL		NP
Lead Committee	Environment & Rural Development		Other Committee			
Purpose of Instrument	The purpose of this instrument is to make further amendments to align the Waste Management Licensing Regulations 1994 with the provisions of the Water Environment and Water Services (Scotland) Act 2003.					

Laid Date	9 th March 2006	40 day date	4th May 2006
1st SLC Meeting	14 th March 2006	20 day date	29 th March 2006
Lead Committee Report Due	1st May 2006	Other Committee Report Due	

SE Contact	Susan Shaw, ext. 44965
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	See Purpose of Instrument		Partially Revokes				
Executive Note	✓	Regulatory Impact Assessment		European Regulations/ Directives				
Additional Information								

Subordinate Legislation Committee

Extract from 14th Report, 2006 (Session 2)

Subordinate legislation

The Committee reports to the Parliament as follows—

The Dairy Produce Quotas (Scotland) Amendment Regulations 2006, (SSI 2006/119)

1. The Committee noted that these Regulations correct errors in SSI 2005/91 and have been made available free of charge to all known recipients of the original Regulations.
2. The Committee asked the Executive why it did not include information in the Executive Note on whether any person has been disadvantaged by the errors and if so, what if anything has been done to put matters right. It also asked for confirmation, with reference to regulation 7(b), that no penalty will be applied in respect of statements submitted before the date when the Regulations come into force.”
3. The Executive, in its response printed in Appendix 7, confirmed that the information was not included in the Executive Note due to an oversight. It also confirmed that no-one has been disadvantaged by the errors and that no penalty will be applied in respect of statements submitted before the date when the Regulations come into force.
4. **The Committee draws the attention of the lead Committee and the Parliament to this instrument on the grounds that clarification was requested from and supplied by the Executive.**

The Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006, (SSI 2006/120)

5. The Committee sought an explanation from the Executive of the policy intention behind the drafting of regulation 3 as it was not clear whether or how far the regulation is *intra vires*.

6. The Executive, in its response printed in Appendix 8, explained that the policy of the Scottish Ministers is to use the powers in the enabling Acts to define “reasonable cost” for certain types of connections only. Regulation 3 defines types of connection to which the Regulations do not apply.

7. The Committee notes that the enabling powers state that the regulations may prescribe the matters to be taken into account in arriving at a reasonable cost. It considers however, that the meaning of the regulations might have been clearer had the items to which the Executive refers in its response been described as matters not to be taken into account in calculating reasonable expense, to accord with the terms of the enabling powers.

8. The Committee draws the attention of the lead Committee and the Parliament to these Regulations on the grounds that its meaning could be clearer.

The Water Environment (Consequential Provisions) (Scotland) Order 2006, (SSI 2006/127)

9. The Committee observed that it is a rule that general powers should not be used in preference to specific powers without good reason. It noted that a number of provisions revoked by the Order were made under other powers. The Committee asked the Executive to explain why it chose to use the powers under the 2003 Act as the *vires* for this instrument.

10. In its response printed in Appendix 10, the Executive explained that all of the provisions revoked or amended by these Regulations are purely consequential upon measures legislated for elsewhere. The Executive considered that the powers in section 37 of the 2003 Act clearly envisaged measures of this kind and intended their use for this purpose.

11. The Committee is content that the power was used appropriately, notwithstanding the different procedures and consultation required under the parent Act of the instruments amended; however it remains concerned about the use of general powers which should not be used in preference to specific powers without good reason and where sufficient powers already exist in other legislation.

12. The Committee draws this instrument to the attention of the lead Committee and the Parliament on the grounds that clarification was requested from and supplied by the Executive.

The Waste Management Licensing (Water Environment) (Scotland) Regulations 2006, (SSI 2006/128)

13. The Committee noted that the principal Regulations have been amended 20 times, and asked the Executive if it had any proposals for its consolidation.

14. The Executive, in its response printed in Appendix 11, confirmed that it is undertaking a review of the terms of the Waste Management Regulations 1994 in stages, and it hopes to bring forward measures which will codify the provisions, where most amendments have been made to date, later this year. This was welcomed by the Committee.

15. The Committee draws the attention of the lead Committee and the Parliament to this instrument on the grounds that information was requested from and supplied by the Executive.

APPENDIX 7

The Dairy Produce Quotas (Scotland) Amendment Regulations 2006, (SSI 2006/119)

On 14th March the Subordinate Legislation Committee raised a number of points with the Executive in relation to the above instrument. Each of those points is dealt with below.

“The Committee noted that these Regulations correct errors in SSI 2005/91 and have been made available free of charge to all known recipients of the original Regulations. It further noted however, that the Executive Note makes no comment on whether any person has been disadvantaged by the errors and if so, what if anything has been done to put matters right.

The Committee asks the Executive to provide this information; and explain why it did not include the information in the Executive Note.

The Committee also asks the Executive to confirm with reference to regulation 7(b), that no penalty will be applied in respect of statements submitted before the date when the Regulations come into force.”

The Scottish Executive responds as follows:

First question

1. The Executive confirms that no-one has been disadvantaged by the errors. No purchaser or direct seller received a penalty for failing to supply the relevant information or declarations by 14th May, no-one was refused permission to transfer quota which was necessary to cover production prior to the date of the transfer and no-one was subject to the penalty in regulation 36 before the newly inserted notice period expired. No remedial action is therefore required.

2. The omission of this information from the Executive Note was an oversight and the Executive apologises for any inconvenience or confusion caused.

Second question

3. These Regulations are made in exercise of the power in section 2(2) of the European Communities Act. Schedule 2 to that Act provides that the powers conferred by section 2(2) does not include power to make any provision taking effect from a date earlier than that of the making of the instrument containing the provision. The Executive therefore confirms that no penalty will be applied in respect of statements submitted before the date when the Regulations come into force.

APPENDIX 8

The Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006, (SSI 2006/120)

In your letter of 14 March 2006 to Paul Allen, you reported that the Subordinate Legislation Committee requested an explanation of the following matter-

“The Committee is not clear as to the purpose of regulation 3, and is of the view that as drafted there is a doubt as to whether or how far the regulation is *intra vires*.

The Committee asks the Executive to explain the policy intention behind the drafting of regulation 3.”

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

1. The powers under which the Regulations are made allow the Scottish Ministers to make Regulations which determine what is a reasonable cost for the purposes of section 1 of the Sewerage (Scotland) Act 1968 (“the 1968 Act”) and section 6 of the Water (Scotland) Act 1980 (“the 1980 Act”). Ministers’ policy is to use this power to define “reasonable cost” for certain types of connections only.

2. Regulation 3 defines types of connection to which the Regulations do not apply. Paragraph (1) provides that for a sewerage connection, the Regulations do not apply to connections which consist only of the construction of a drain or of any element of a connection which Scottish Water is required to construct by virtue of a direction under sections 56 and 56A of the Water Industry (Scotland) Act 2002 (“the 2002 Act”). Similarly, paragraph (2) provides that for a water connection under the 1980 Act, the Regulations do not apply to connections which consist only of the construction of a service pipe or of any element of a connection which Scottish Water is required to construct by virtue of a direction under sections 56 and 56A of the 2002 Act.

3. The Regulations leave discretion to Scottish Water in relation to connections to which the Regulations do not apply, such as connections which consist only of the construction of a drain or a service pipe, or of connections to properties that are not dwellings. The method set out in the Regulations for determining the “reasonable cost” that Scottish Water is required to bear in making a new

connection applies to connections that require some work to Scottish Water's networks beyond a drain or a service pipe. The purpose of Regulation 3 is to ensure that the method does not apply to the specific types of connection it describes.

4. The Regulations provide an important part of the framework for delivering Ministers' policy, as set out in the Statement of Policy Regarding Charges issued in September 2005, regarding how the costs of new connections to the water and sewerage networks should be divided between Scottish Water and developers.

APPENDIX 10

The Water Environment (Consequential Provisions) (Scotland) Order 2006, (SSI 2006/127)

In its letter of 14 March to Paul Allen, the Committee requested an explanation of the following matter –

“It is a rule that general powers should not be used in preference to specific powers without good reason. In this case, the Committee noted that a number of the provisions revoked by the Order were made under other powers that required consultation and were subject to other preconditions as well as being subject to affirmative procedure.

The Committee therefore asks the Executive to explain why it chose to use the powers under the 2003 Act as the vires for this instrument.”

The Scottish Executive responds as follows:

1. All of the provisions revoked or amended by these Regulations are purely consequential upon measures legislated for elsewhere. Its primary purpose is to effect the revocation of the Groundwater Regulations 1998 and measures which amend parts of those Regulations. That revocation is foreshadowed in the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (which were made under the Water Environment and Water Services (Scotland) Act 2003) which now assumes the regulatory mantle on matters relating to groundwater pollution. Other measures are purely consequential on the repeal of provisions of the Control of Pollution Act 1974 which is effected by the Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 which has been laid in draft in accordance with the 2003 Act for affirmation by the Parliament. In accordance with section 36 of the 2003 Act, provisions which do not amend primary legislation may be made subject to annulment.

2. The Executive considers that the powers in section 37 of the 2003 Act clearly envisaged measures of this kind and intended their use for this purpose.

APPENDIX 11

The Waste Management Licensing (Water Environment) (Scotland) Regulations 2006, (SSI 2006/128)

On 14 March the Committee asked the Executive if it has any proposals for consolidation of the principal Regulations.

The Scottish Executive responds as follows:

1. The modifications contained in the above Regulations were necessary to achieve alignment with the full implementation of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 and could not be delayed pending a fuller review of Waste Management Regulations 1994. However a review of the terms of the 1994 Regulations is being proceeded with by stages. Currently, the Executive is considering responses to its consultation on the codification of Schedule 3 to the 1994 Regulations. It is in relation to that part of the 1994 Regulations that most amendments have been made to date. It is hoped to bring forward measures which will codify those provisions later this year.

2. The Executive remains committed to continuing its review of the remainder of the 1994 Regulations. Such a review will however give rise to considerable further work and further consultation.

SSI DESIGNATION FORM

SSI Title & No:	The Water Environment (Oil Storage) (Scotland) Regulations 2006, (SSI 2006/133)						
Responsible Minister	Rhona Brankin, Deputy Minister for Environment and Rural Development						
Standing Order	Affirmative	10.6.1(a)		Negative	10.4		✓
		10.6.1(b)			10.5		
	10.6.1(c)		Other	NL		NP	
Lead Committee	Environment & Rural Development		Other Committee				
Purpose of Instrument	The purpose of instrument is to set design standards for the storage of oil and the timescales within which new and existing containers need to comply with the regulations.						

Laid Date	10 th March 2006	40 day date	5 th May 2006
1st SLC Meeting	21 st March 2006	20 day date	30 th March 2006
Lead Committee Report Due	1st May 2006	Other Committee Report Due	

SE Contact	Ian Speirs, ext. 40189
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	See Purpose of Instrument		Partially Revokes				
Executive Note	✓	Regulatory Impact Assessment	✓	European Regulations/ Directives				
Additional Information								