



Environment and Rural Development Committee

22nd Meeting, 2006

Wednesday 21 June 2006

The Committee will meet at 10.00 am in Committee Room 4.

1. **Crofting Reform etc. Bill (in private):** The Committee will consider a draft Stage 1 report.

Not before 11:30am

2. **Finnish 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;
Neil Ritchie, Animal Health & Welfare Division;
Charles Milne, Chief Veterinary Officer;
Pat Snowdon, Rural Development Division; and
Frank Strang, Head of Sea Fisheries, Scottish Executive.

3. **Sustainable development:** The Committee will take evidence on sustainable development from—

Ross Finnie MSP, Minister for Environment and Rural Development and Tom Davy, Sustainable Development and Biodiversity Division, Scottish Executive.

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

the Sea Fishing (Marking and Identification of Passive Fishing Gear and Beam Trawls) (Scotland) Order 2006, (SSI 2006/284); and

the Pesticides (Maximum Residue levels in Crops, Food and Feeding Stuff) (Scotland) Amendment (No. 2) Regulations 2006, (SSI 2006/312).

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Clerk to the Committee
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The following papers are attached:

<p><u>Agenda Item 1</u></p> <p>Draft report [<i>Members only</i>]</p>	<p>ERD/S2/06/22/1a</p>
<p><u>Agenda Item 2</u></p> <p>Briefing from Minister for Environment and Rural Development</p>	<p>ERD/S2/06/22/2a</p>
<p><u>Agenda Item 3</u></p> <p>Briefing from SPICe [<i>Members only</i>]</p>	<p>ERD/S2/06/22/3a</p>
<p><u>Agenda Item 4</u></p> <p>The Sea Fishing (Marking and Identification of Passive Fishing Gear and Beam Trawls) (Scotland) Order 2006, (SSI 2006/284)</p>	<p>ERD/S2/06/22/4a</p>
<p>The Pesticides (Maximum Residue levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment (No. 2) Regulations 2006, (SSI 2006/312)</p>	<p>ERD/S2/06/22/4b</p>

**EXECUTIVE PRIORITIES FOR THE FINNISH PRESIDENCY
BRIEFING FROM MINISTER FOR ENVIRONMENT AND RURAL DEVELOPMENT**

Thank you for the invitation to give oral evidence to the Committee on various EU issues on 21 June 2006. In response to your request for briefing, I am writing to provide you with an overview of the Executive's priorities for the forthcoming Finnish Presidency and to give you an update on the latest position on avian influenza. The Committee also highlighted a number of EU related topics at recent meetings and asked what progress had been made against each of them.

Executive priorities for the Finnish Presidency

Agriculture

At this early stage, before the new Presidency has signalled its intentions, my impression is that the Agriculture agenda may be fairly light but nonetheless important in a few key areas.

We can expect to see progress on one remaining strand of CAP Reform with Commission proposals to simplify the EU Fruit and Vegetable Regime. This is likely to be of some significance to Scottish growers and we will look carefully at the proposals when they emerge.

The new Presidency is also expected to re-start discussions on the welfare of meat chickens. Our aim will be to seek an agreement which tackles the welfare issues in a way which will accommodate the legitimate interests of producers.

The 1969 Council Directive on controlling Potato Cyst Nematodes has long been due for an overhaul as it is no longer considered to be wholly effective for modern potato production methods. The Executive is keen to see realistic steps taken to protect our potato industry but this is perhaps unlikely to be a priority for the Finnish Presidency.

Funding for Rural Development is of crucial importance to Scotland and discussions are ongoing both on the overall level of funding and the issue of voluntary modulation. I will update the Committee following the Agriculture and Fisheries Council scheduled for 19 June.

Fisheries

On fisheries the main focus for the Finnish Presidency will be on securing agreement on Total Allowable Catches (TACs) and Quotas at the December Council. The Scottish Executive will be negotiating for a fair and equitable settlement which balances the need for stock conservation against the requirements of fishing communities.

A key related issue for the December Council is the annual EU/Norway agreement. The Executive will be aiming to ensure that the Commission negotiating team is fully briefed as

to the importance of the agreement to Scotland and that a full negotiating mandate is secured from the Council ahead of the start of negotiations.

Part of the EU/Norway agreement will be a review of the Haddock Management Plan. The Executive aims to introduce more stability into the annual TAC variations without putting the fishery at risk in the long term.

Finally the Executive will aim to ensure that there is an increase in the Monkfish TAC as laid out in the provisions of the 2006 TAC and Quota Regulation.

Environment

The key issues for the environment during the Finnish Presidency are likely to be Climate Change, Sustainable Development and Thematic Strategies, particularly the two on air quality and waste. The thematic strategies on air quality, waste and urban environment will be on the agenda for the Environment Council in June so progress there will influence how these dossiers move during the new Presidency.

Update on Avian Influenza

EU legislation sets out the required response to the finding of Highly Pathogenic Avian Influenza in domestic poultry and wild birds. The Avian Influenza Directive, recently introduced into Scottish legislation, also sets out the required response to suspicion and confirmation of Low Pathogenic Avian Influenza. The EU framework ensures consistency of response in dealing with Avian Influenza across all Member States, while leaving sufficient flexibility to allow the response to be specific to the circumstance of that particular outbreak.

Vaccination is a possible disease control tool but current vaccines have limited potential. A particular factor of concern is that vaccination could mask disease and restrict our ability to respond at the first sign of disease to eradicate and minimise the risk of disease spread. Vaccination is an extremely complicated and technical area and the Committee may find a briefing from my officials of use to understand the issues. Whilst there are limitations on the general use of vaccines for Avian Influenza, there is a potential role of vaccination of zoo birds in recognition of their significance in biodiversity terms and the special circumstances in zoos, eg high biosecurity and vet input, which allow high levels of surveillance. Any such campaign would require EU approval and could only be used where a risk assessment suggested that the risk of immediate introduction of High Pathogenic Avian Influenza was high. This is not currently the case but we are working with zoos to consider how, should the circumstances be justified, vaccination could be offered to them.

Biofuels and Biomass

The Biomass Action Plan for Scotland will be prepared by the end of 2006. This will give a national articulation to the 'Biomass Action Plan' issued by the European Commission in December 2005 (COM(2005)628). This set out a co-ordinated approach to developing biomass energy from wood, wastes and agricultural crops.

The Executive is already addressing some of the issues raised in the EC Biomass Action Plan, which contains a number of actions on biomass for heating and electricity, transport

biofuels and cross-cutting issues. The Scottish Biomass Action Plan will set out a strategic framework to maximise the benefits of Scotland's biomass resource ensuring that the resource is properly supported and exploited to deliver additional carbon savings and economic benefits. The Executive will also consider the potential for second generation biofuels, which involve the production of fuel from ligno-cellulosic material, in Scotland.

The Plan will be developed by the Enterprise and Lifelong Learning Department (ETLLD) and Forestry Commission Scotland, working with other Executive departments and key stakeholders, and should be available by the end of December 2006. To support the implementation of the Biomass Action Plan, the Executive has announced a £7.5 million package of funding. This funding be used to facilitate development of the biomass market by, firstly, stimulating a number of biomass fuel supply chains across Scotland that have the potential to expand to grow the biomass energy market; secondly, developing a number of biomass conversion plant across Scotland that will serve both as catalyst sites for further development in the local area, and demonstration projects for similar developments elsewhere; and, thirdly, gathering information on biomass energy projects that can be used to inform policy makers, stakeholders and consumers of the potential for biomass energy in Scotland.

Registration, Evaluation and Authorisation of Chemicals (REACH)

Following Political Agreement on REACH on 13 December, the European Parliament are now in the process of beginning deliberations in preparation for the second reading. Ahead of this, an update on the UK negotiating strategy is being established in consultation with Scottish Ministers.

There are ongoing discussions on the REACH Competent Authority in an effort to identify a suitable body to carry out its remit in the UK. At the forefront of these discussions is the need to ensure proper accountability to Scottish Ministers and that Scottish interests are represented at all appropriate strategic levels.

Bathing Water Directive

The Executive is fully aware of the challenges faced in implementing the revised Bathing Water Directive (2006/7/EC) which came into force on 24 March 2006. The Directive not only introduces much higher water quality standards which have to be met, but also requires greater public involvement in its implementation. Member States have until March 2008 to transpose the Directive's requirements into domestic legislation, and to comply with its requirements by 2015.

The Executive has taken a very proactive approach to meet the Directive's requirements. During the negotiations for the Directive, we were actively involved with Defra and the Commission. In March, to coincide with the Directive's entry into force, we launched a new strategy for bathing waters in Scotland, "Better Bathing Waters: Meeting the Challenges of the Revised Bathing Water Directive in Scotland". The Strategy sets out how we propose to meet the challenges of implementing the Directive, building on our existing successful work with stakeholders, such as the pilot farm projects to tackle diffuse agricultural pollution, the predictive water quality signage or the establishment of a stakeholder led bathing water review panel, and outlining what else needs to be done and how we intend to achieve it.

The Executive is aware of the need to fully involve stakeholders in the Directive's implementation. In devising the Strategy, officials met with a range of interested parties, including National Farmers' Union Scotland, Scottish Water, Scottish Environment Protection Agency and Clean Coast Scotland, and their views were taken into account. We have announced our intention to transpose the Directive into Scottish legislation through regulations. These proposals will be subject to a full public consultation next year, its findings feeding into the finalised regulations. It is also recognised that implementing and meeting the requirements of the revised Directive will have costs as well as benefits. The impacts – both positive and negative - to the sectors most likely to be affected, Scottish Water, farmers, local authorities, beach operators, tourist business and bathers, will be fully assessed through a Regulatory Impact Assessment to be carried out to accompany the regulations

Batteries Directive

The Batteries Directive was agreed in the EU on 2 May 2006. We now await for publication in the Official EU Journal from which date we will have 24 months to transpose provisions into national law. Most batteries used in Scotland and across the UK are imported from outwith the UK. We expect that it will be most effective to work with the UK government on a single UK implementation of the Batteries Directive. We expect to issue a first consultation paper on possible implementation models jointly with the Department of Trade and Industry this year, and work towards the implementation within the deadlines in the Directive. The issues with batteries appear less complex than for the Waste Electrical and Electronic Equipment (WEEE) Directive, as there is a smaller range of products and manufacturers, and the obligations to ensure treatment are expressed as a percentage of sales. The Scottish Executive is contributing support to the Waste and Resources Action Programme of trials for drop off bins and kerbside collection for batteries, which will help to develop cost effective implementation of the Directive.

Energy Performance of Building Directive (EPBD)

There does not appear to be any current consultation on extending the scope of the Directive on the energy performance of buildings. However, at a recent stakeholders' meeting at the European Commission's UK office, Katrien Prins, the Commission's energy expert advised "compliance with the EPBD is likely to be made more onerous". Prins said the EU will give countries "a reasonable amount of time to implement the current version before more onerous requirements are introduced". The EU is set to produce a detailed energy action plan later this year, which according to Prins, "will give an indication of what the EU is planning to do over the coming six years". Prins also said "the challenge is not new but existing buildings as these are a much bigger saving than new buildings". Until the Commission makes its intentions known, it is impossible to assess the impact that any Directive amendments will make in Scotland.

Energy Efficiency Directive

The Executive recognises the importance that energy efficiency plays in managing demand for energy and reducing carbon emissions. As this is a reserved matter, responsibility for the transposition of this directive rests with the Department of Environment, Food and Rural Affairs, and therefore the 9% target will be for the UK as a whole. My officials are liaising with them over how this Directive will be implemented, to ensure that the needs of Scotland are addressed.

We are however, considering targets for energy efficiency as part of our Energy Efficiency Strategy which is due for publication later this year.

Draft Directive on Flooding

SEPA is producing a second generation flood risk map for the whole of Scotland. The outlines of the extent of river flood risk are currently being reviewed and updated before they will be suitable for distribution to the key project stakeholders. However, we are hopeful that initial outlines can be distributed to external stakeholder organisations later this summer.

The draft EC Directive on Flooding does address flooding from the sea in that it will require Member States to undertake a preliminary flood risk assessment for each river basin district, including associated coastal zones, and use it to designate river basins (including associated coastal zones) as either liable to significant flood risk, or not. Member States will then have to prepare flood risk maps for areas designated as being at potential significant flood risk.

There are some differences in the way that flood risk management is carried out across the UK, for example the Environment Agency for England and Wales has powers to construct and maintain defences against flooding, whereas in Scotland, these powers lie with local authorities. England and Wales have already published their second generation flood risk maps, and have a more formalised structure of published flood management plans than Scotland. However, Scotland's sustainable flood management proposals will require a total catchment approach to flood management planning in the future. The Executive has worked closely with Defra throughout the development of the UK position on the draft Flooding Directive, and the line taken by the UK in the negotiations is one which has been agreed across the UK administrations

Waste Electrical and Electronic Equipment Directive

The Scottish Executive has been working with the UK Government on the implementation of the WEEE Directive across the UK. DTI Ministers called a review of the implementation plans late last year, amongst concerns that the model was incomplete and open to legal challenge. We have been working with DTI on revised proposals, and a full public consultation on draft regulations and guidance will be published jointly with the DTI in July. Stakeholders have had a chance to comment on the developing proposals through informal consultation papers and meetings.

Draft Framework Marine Directive

There has not been progress yet in defining what is meant by a “healthy sea”. “Healthy sea” is only one part of a preamble clause of the draft Marine Strategy Directive, as it is now being called, that refers to an, “ultimate aim of providing biologically diverse and dynamic oceans and seas that are safe, clean, healthy and productive”. The main aim of the Directive is that it requires Good Environmental Status (GES) of Europe’s marine waters to be established by 2021, no doubt one part of which will be healthy seas. The draft Directive states that, “environmental status” will cover, “structure, function and processes of the constituent marine ecosystems” but does not define what is meant by ‘good’ environmental status. The draft Directive states that the Commission will define GES within two years of the Directive coming into force. The UK, as well as other Member States, are calling for the Commission to define what is meant by GES before the Directive comes into force. At this stage, it can only be assumed that healthy seas, for which there is no definition or reference in the Directive articles, will form one aspect of the definition of GES.

Negotiations on the draft Directive have started and it is understood that the Finnish Presidency will be holding regular Working Group meetings over the next few months to progress the dossier. The Scottish Executive will be liaising with Defra to contribute to the UK negotiating line.

Sustainable Development Strategy

The responses to the UK Government's "guiding questions" were to inform its negotiating line in negotiations on the new EU sustainable development strategy, which is expected to be adopted by the European Council later this month. A summary and analysis of the responses will be published in the summer.

In the negotiations, the UK Government has sought to secure a single, coherent, stand-alone strategy that would set out the EU's overall policy on sustainable development, providing a sound framework for policy decisions and aiding communications. UK priorities for the content of the strategy include promoting better integration of the external and internal dimensions of sustainable development and action on sustainable consumption and production, climate change and biodiversity. The Scottish Executive supports the UK government's efforts to achieve these objectives, which are in line with the priorities for action in the shared UK framework for sustainable development, One future - different paths - and with the Executive's own sustainable development strategy, Choosing our Future.

Action Plan on Simplification of Common Fisheries Policy (CFP) Regulation

On CFP Simplification we are awaiting a further detailed draft of this proposal from the Commission. Progress on this agenda has been slow and will need to be continued through the Finnish Presidency. The Executive supports the Commission’s desire to simplify the Common Fisheries Policy in order to make it easier for stakeholders to understand and to ease implementation. We will contribute constructively to the debate.

In a related move, the Commission has recently published a communication on improving consultation on Community fisheries management. The document takes forward ideas

developed under the UK Presidency and makes some strong commitments, such as separating the annual TACs and quotas regulation from other more technical decisions and the production by the Commission in the Spring of each year of a statement of the policy framework they will work to in drawing up their annual proposals. Combined with the Commission's frontloading agenda, these changes should allow more time for greater stakeholder input into the annual TAC and Quota decisions, which the Executive believes should lead to better informed decisions at December Council.

European Fisheries Fund

You will be aware that the negotiation of the European Fisheries Fund (EFF) regulation has been a long and difficult process. However, the Executive is currently in communication with the Commission and other Member States as regards a final compromise which may be passed at the June Council on 19 June. As currently being discussed, the final compromise on the regulation prevents the use of EFF money for building new boats but will allow for grant aid to be used in a limited and targeted way for re-engining - which will allow vessels to buy smaller, more fuel efficient engines, without increasing fleet capacity.

Cod Recovery Plan

On the Review of the Cod Recovery Plan, we have received no formal indication from the Commission on how they intend to take this forward. However, we expect the Commission to set out shortly the likely scope and nature of the review. The Commission remains committed to cod recovery, and as cod stocks have not recovered, it would be reasonable to assume that they will not be aiming to relax significantly the current regime. The Executive remains committed to the principle of cod recovery. We will support the Commission in drafting a plan that gives cod the best possible chance to recover, whilst taking full account of the measures already undertaken and moving away from rigid biomass targets to focus on those recovery factors we can most influence; fishing effort, cod by-catch and effective controls. We shall argue for full involvement of stakeholders, in particular RACs, in the review.

Regional Advisory Councils (RACs)

The Scottish Executive is pleased with the development of the Regional Advisory Councils (RACs), in particular the three RACs of particular relevance to Scottish fishing; the North Sea RAC, the North Western Waters RAC and the Pelagic RAC. The RACs have benefited from the involvement of many Scottish stakeholders (including fishing industry bodies and environmental NGOs) providing members for key roles, including the Chair of the Pelagic RAC, Iain MacSween (Scottish Fishermen's Organisation), and the Chair of the North Western Regional Advisory Council West of Scotland Group, Bertie Armstrong (Scottish Fishermen's Federation). All three RACs have produced constructive advice to the Commission and the Executive believes that in the future they will play an increasingly important role in advising the Commission and Member States on fisheries policy.

Use of Non-Native Species in Aquaculture

The European Commission has produced a draft Regulation that provides for a system of permits governing the use of alien species in aquaculture in order to protect the aquatic

environment from possible adverse consequences. The intention is that permits will be granted only if the risk associated with the activities proposed by the applicants is considered low, or if the risk can be reduced to a low level by mitigating action by the applicant.

The Executive and other UK administrations broadly welcome this proposal but feel it is too detailed and should be recast as a Directive. This initial view has been put to the General Secretariat of the Council. The Proposal has been issued for consultation to fish farming and wild fishery interests and responses invited by mid-June. We will then consider what further views we need to put to the General Secretariat of the Council.

Beef Export Ban

Since the markets for Scotch Beef re-opened on 3 May there has been a great deal of activity on promoting Scotch Beef to European markets. The Executive has been working closely with Quality Meat Scotland (QMS) to ensure that maximum marketing efforts are targeted on those countries which are the most likely to be first to buy significant quantities of Scotch Beef. I have supported QMS in its efforts by hosting events in Brussels, Monaco and Rotterdam which were each designed to get significant media coverage in the countries involved and to show prospective importers the quality of the product we now have to offer them. I shall be hosting a further event on 13 June in Bologna.

These events have already generated a great deal of interest in the countries involved and QMS will be assisting individual companies to follow up any opportunities arising from these events. The next major event will be in October when QMS will be taking a stand at SIAL Food Exhibition in Paris and I will be attending the exhibition and the related events which QMS will be running in association with the exhibition.

Meantime several companies have expressed an interest in applying for grant under the Food Marketing Grant Schemes to assist their efforts to get back into the export market for Scotch Beef and we will be happy to consider any applications that we receive from individual companies or from QMS themselves.

GMOs and the EU Regulation on Organic Food Production

The Commission's "Report on the implementation of national measures on the coexistence of genetically modified crops with conventional and organic farming" assessed the progress being made by Member States in developing coexistence measures. The Executive contributed to the UK's response to the initial questionnaire from the Commission, which was sent to all Member States and which provided the basis for this report.

The Commission's proposals relating to trade in organic produce with non-EU countries are currently being discussed in Working Groups. They are based on granting access to the EU market on the basis of either compliance with the EU rules or on equivalent guarantees. In contributing to this discussion, we want to ensure that the systems and controls established are robust and deliver to our consumers the standards that they expect of organic produce.

The Executive is happy with the European Food Safety Authority's (EFSA's) risk assessments to date. We feel that EFSA's work is still improving: it is a new institution and

is still in the process of finding its feet. We accept that more could be done, particularly with regard to some presentational aspects of its work. For example, in the case of areas where it is known that concerns exist, EFSA might address these more directly and openly in their reports, to increase the transparency of their advice. There is currently an independent review of EFSA going on and an evaluation of its work on GMOs is one of the case studies that is being undertaken.

The Executive is currently developing its proposals for the coexistence of GM and conventional and organic crops, with a view to issuing a consultation document in the next few months.

Rural Development Budget

The overall funding for the Scottish Rural Development Programme (SRDP) 2007-13 will comprise money from a number of sources. Resources from the Scottish Executive budget will be combined with funds allocated by the EU as well as money raised through modulation. The level of funding for the SRDP will depend partly on how much EU funding is allocated to the UK.

The EU Financial Perspective was agreed by EU Heads of Government in December 2005. We are waiting confirmation of the UK's allocation of EU funds for the 2007-13 SRDP. This is expected imminently. We expect the allocation to be less than in the 2000-06 period, although this has been partly compensated by the introduction (during the 2000-06 programme) of modulation.

We are looking at what policy outcomes we need to deliver under the SRDP 2007-13. There are a range of priorities and commitments across all aspects of the proposed programme, and the budget for the SRDP will depend on what is required to meet these commitments. The size of this requirement will in turn determine the level of voluntary modulation that we need to adopt. As indicated in the Programme Consultation, during the life of the programme we propose to increase voluntary modulation beyond the 5% level currently agreed for 2007. However, any increase will be implemented in a way that respects pressures on the stability of farm incomes, for example through a stepped change that avoids sharp increases.

Protecting Local Food and Drink

Scotland has only 3 products with Protected Designation of Origin (PDO) status. These are Orkney Beef, Orkney Lamb and Shetland Lamb. Bonchester Cheese is also registered as a PDO but this cheese is no longer produced. Scotland also has 4 products which have Protected Geographical Indication (PGI) status. These are Scotch Beef, Scotch Lamb, Arbroath Smokies and Scottish Farmed Salmon.

At present there are no Scottish products going through the application process but I understand that there have recently been some expressions of interest and, should these lead to any applications, my officials will give potential applicants all possible assistance.

Finally, following your meeting on 7 June, you wrote to alert me that you wished to briefly begin a discussion on **sustainable development** when we meet later this month. I am looking forward to discussing how we can improve scrutiny on this issue. *Choosing our*

Future (in particular Chapter 14) set out a package of measures aimed at mainstreaming sustainable development more effectively into the processes of the Executive and I would be happy to outline our progress on these to the Committee. On training, we have revised our internal guidance to policy makers and departmental business managers and run a number of staff seminars and workshops, including an event for senior civil servants in collaboration with Forum for the Future. We are currently working with the Cambridge Programme for Industry and others to develop further seminars and workshops, and exploring the scope for sharing best practice and joint training with other UK administrations and a number of Scottish public bodies and agencies.

I see effective Parliamentary scrutiny and debate as a necessary complement to the mainstreaming measures which we are putting in place within the Executive, and I should like to explore how we might work together to ensure that sustainable development issues are effectively reflected in the work of subject committees, for example through provision of toolkits, guidance and training for staff and members.

As to international experience in this area, the Executive itself has not commissioned research but we are aware of the OECD's 2002 report (*Governance for Sustainable Development: Five OECD Case Studies*) which looked at the then current arrangements in Canada, Germany, Japan, the Netherlands and the UK."

SSI DESIGNATION FORM

SSI Title & No:	The Sea Fishing (Marking and Identification of Passive Fishing Gear and Beam Trawls) (Scotland) Order 2006, (SSI 2006/284)					
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 instrument is to transpose the measures contained in Commission Regulation (EC) 356/2005 as amended by Commission Regulation 1805/2005 which lays down detailed rules for the marking and identification of passive fishing gear and beam trawls.					

Laid Date	30 th May 2006	20 day date	19 th June 2006
1st SLC Meeting	6 th June 2006	40 day date	11 th September 2006
Lead Committee Report Due	4 th September 2006	Other Committee Report Due	

SE Contact	Sarah Winwood, 44980
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								

Regulatory Impact Assessment

Title of proposal

1. Regulatory Impact Assessment on The Sea Fishing (Marking and Identification of Passive Fishing Gear and Beam Trawls) (Scotland) Order 2006.

Purpose and intended effect

Objectives

2. These regulations will implement the measures contained in Commission Regulation (EC) 356/2005 as amended by Commission Regulation (EC) 1805/2005 which lays down detailed rules for the marking and identification of passive fishing gear and beam trawls.

Background

3. Article 5(c) of the EU Control Regulation ((EEC) No. 2847/98 as amended) provides that detailed rules should be adopted as necessary for the marking and identification of fishing vessels and their gear. Article 20a(3) of the same regulation enables the adoption of measures relating to the identification of static fishing gear. Commission Regulation (EC) 356/2005 lays down measures which will allow each Member State to more easily identify and to check fishing gear used by Community fishing vessels operating in the waters under the sovereignty or jurisdiction of that Member State. It will also apply to vessels flying the flag of a third country when operating in Community waters.

4. Commission Regulation (EC) 356/2005 requires that intermediary buoys are placed every 1 nautical mile. However on 14 September the Commission agreed to extend the deployment of intermediary buoys from 1 nautical mile to 5 nautical miles following representations on the basis of safety and reduced costs. This amendment was included in Commission Regulation (EC) 1805/2005. The implementation of these measures was also delayed until 1 January 2006.

Rationale for government intervention

5. Scientific evidence is that many of the main fish stocks found in waters around Scotland and elsewhere in the European community are outwith safe biological limits, caused mainly by overfishing. Without improved fisheries control, conservation and other measures designed to safeguard fish stocks and ensure their long-term sustainable exploitation will not be fully effective. Certain stocks could collapse with significant impact on the fishing industry and dependant communities.

Consultation

Within government

6. UK policy in relation to the adoption and implementation of detailed rules has been agreed by SEERAD and the other Fisheries Administrations in the UK.

Public consultation

7. Three rounds of consultation were carried out with industry in November 2001, November 2003 and October 2004.

Options

8. Two options have been identified:

Option 1 – Continue to apply existing arrangements.

Option 2 – Implement the Council Regulation in full.

Costs and benefits

Sectors and groups affected

9. Businesses and individuals who own fishing vessels which operate outside the 12 mile limit with passive gear or beam trawls would be affected by these new measures. It is estimated that there are 63 Scottish vessels using these gears.

Benefits

Option 1 – Continue to apply existing arrangements

10. This option would not add any additional administrative or financial burden on industry.

Option 2 – Implement the Council Regulation in full

11. This option would help improve current controls and assist in the sustainable management of fish stocks.

Costs

Option 1 – Continue to apply existing arrangements

12. We have a legal obligation to transpose Community requirements into domestic legislation. Indeed Section 57(2) of the Scotland Act 1999 precludes members of the Executive from acting in a way that is incompatible with Community law. Non-implementation of the EU requirement increases the risk that the UK would be subject to infraction proceedings by the Commission.

Option 2 – Implement the Council Regulation in full

13. These measures will impact differently on individuals and businesses depending on the type of gear their vessels use. The requirement for those vessels which use beam trawls to display on the beams the external registration numbers and letters can be met with little additional expenditure. It will affect a maximum of 19 vessels. Those vessels which fish with longlines and nets will be required to attach a label which displays the external registration numbers and letters at intervals no greater than one nautical mile. This will affect a maximum of 44 vessels and can also be met with little additional cost.

14. However, the main additional costs for vessels which use longlines and nets is the requirement to have marker buoys attached. The regulations state that these must be attached at each end of the gear and intermediary buoys must be attached at intervals of 5 nautical miles. Industry have estimated that these buoys will cost approximately £50 each which would result in costs between £400 and £800. Furthermore, the buoys may need replaced every 18 months due to normal wear and tear and will need maintained at an estimated cost of £20 per year.

Small/Micro Firms Impact Test

15. The majority of businesses affected will be small business who own fishing vessels which use beam trawls, longlines and nets and were included in the 3 rounds of consultation. They will have to mark their gear in accordance with the regulation and in the case of vessels which use longlines or nets purchase additional equipment. These businesses have estimated that the cost of purchasing additional equipment will be between £400 and £800 with an estimated maintenance cost of £20 per year. However, these costs have been reduced due to the Commission amending the regulation to allow intermediary buoys to be deployed every 5 nautical miles instead of 1 nautical mile.

"Test Run" of business forms

16. No new forms will be brought in by these proposals.

Competition assessment

17. The competition filter was applied to these regulations. Two of the answers were positive so it is unlikely that there will be an impact on competition. The regulations will impact on vessel owners who may have to purchase additional equipment, no business in this sector has a 10% share and the 3 largest businesses do not have a 50% share. It is unlikely that these measures will lead to increased start up costs for new firms.

Enforcement, sanctions and monitoring

18. Enforcement of the measures in Scotland would be undertaken by the Scottish Fisheries Protection Agency (SFPA) and in other parts of the UK by officers in the appropriate sea fisheries inspectorates. Enforcement powers and penalties are set out in the Scottish Statutory Instrument.

Implementation and delivery plan

19. The regulations come into force on June 2006. All vessels carrying and using the affected gear outside the 12 mile limit will then be required to comply with the new regulations. We have issued guidance notes on the marking of gear and publicised the regulations by writing to affected vessel owners.

Post-implementation review

20. The operation of The Sea Fishing (Marking and Identification of Passive Fishing Gear and Beam Trawls) (Scotland) Order 2006 will be reviewed within ten years of it coming into force.

Summary and recommendation

21. To introduce the scheme for the marking and identification of passive fishing gear and beam trawls as described under option 2.

Summary costs and benefits table

Option	Total benefit per annum: economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	No additional costs for vessel owners.	We have a legal obligation to transpose Community law. Failure to do so will leave the UK at a higher risk of infraction proceedings.
2	Introduction of the measures would improve current control measures and assist in the sustainable management of fish stocks.	Vessel owners who use the affected gear will have to purchase additional gear and will have additional maintenance costs.

Declaration and publication

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by responsible Minister

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Ross Finnie
Minister for Environment and Rural Development

Date

.....

Contact point

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SSI DESIGNATION FORM

SSI Title & No:	The Pesticides (Maximum Residue levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment (No. 2) Regulations 2006, (SSI 2006/312)					
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 amend regulations so as to revise the maximum residue levels in crops, food and feeding stuffs.					

Laid Date	8 th June 2006	20 day date	28 th June 2006
1st SLC Meeting	13 th June 2006	40 day date	20 th September 2006
Lead Committee Report Due	11 th September 2006	Other Committee Report Due	

SE Contact	Mary Lourie, 44403
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								