



Environment and Rural Development Committee

34th Meeting, 2006

Wednesday 29 November 2006

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

1. **Aquaculture and Fisheries (Scotland) Bill (in private):** The Committee will consider a draft Stage 1 report.

Not before 11:30am

2. **Crofting Reform etc. Bill:** The Committee will consider the Bill at Stage 2 (Day 3).
3. **Subordinate legislation:** The Committee will consider the following negative instruments—

the Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 (SSI 2006/530); and

the Waste Management Licensing Amendment (Scotland) Regulations 2006, (SSI 2006/541).

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>Members only</i>]</p>	<p>ERD/S2/06/34/1a</p>
<p>Letter from the Scottish Executive regarding proposed amendments at Stage 2</p>	<p>ERD/S2/06/34/1b</p>
<p><u>Agenda Item 3</u></p>	
<p>The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 (SSI 2006/530)</p>	<p>ERD/S2/06/34/3a</p>
<p>Correspondence from the Minister for Environment and Rural Development</p>	<p>ERD/S2/06/34/3b</p>
<p>The Waste Management Licensing Amendment (Scotland) Regulations 2006, (SSI 2006/541)</p>	<p>ERD/S2/06/34/3c</p>
<p>Extract from the Subordinate Legislation Committee's 42nd Report, 2006</p>	<p>ERD/S2/06/34/3d</p>

Agenda Item 1

**Environment and Rural
Development Committee**

29 November 2006
ERD/S2/06/34/1b

**LETTER FROM THE SCOTTISH EXECUTIVE REGARDING PROPOSED
AMENDMENTS AT STAGE 2**

AQUACULTURE AND FISHERIES (SCOTLAND) BILL

I refer to my letter of 3 November 2006 providing information about expected Executive amendments. Point 1 v of that letter stated that the Executive would bring forward an amendment to implement the recommendation of the Subordinate Legislation Committee that section 35 of the Bill be amended explicitly to provide that the power conferred by that section could not be used to modify the Bill itself. I reiterate that the Executive does not intend the power to be used in this way, but must inform the Committee that (contrary to what was said in my letter of 3 November) we do not propose to bring forward an amendment to this section given its implications beyond this Bill.

Of course, as a matter of general statutory interpretation every Act must be considered on its own terms and context. The form of words presently used in section 35 is used in a number of existing Acts of the Scottish Parliament. Some other Acts have stated explicitly that the ancillary power is capable of amending the parent Act, as has been done, for example, in section 26(2) of the Criminal Procedure (Amendment) (Scotland) Act 2004 and section 102(2) of the Police, Public Order and Criminal Procedure (Scotland) Act 2006.

We are not aware of any instances of the converse, as suggested by the Subordinate Legislation Committee, which would be a novel approach that would introduce an element of confusion beyond the Bill. To amend section 35 by explicitly stating that the power does not extend to amending the parent Act would cast doubt upon the meaning of the numerous provisions in existing ASPs which contain similar wording to that which presently appears in section 35.

DAVID FORD

Aquaculture and Fisheries (Scotland) Bill Team Leader

(Copies of this letter also sent for information to the clerks of the Subordinate Legislation Committee and the Finance Committee)

SSI DESIGNATION FORM

SSI Title & No:	The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006, (SSI 2006/530)					
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 enforce EC Regulation 999/2001 and its amending instruments which lay down rules for the prevention, control and eradication of transmissible spongiform encephalopathies.					

Laid Date	2 nd November 2006	20 day date	22 nd November 2006
1st SLC Meeting	7 th November 2006	40 day date	11 th December 2006
Lead Committee Report Due	4 th December 2006	Other Committee Report Due	

SE Contact	Alastair Douglas, 46129
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								



SCOTTISH EXECUTIVE

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22 November 2006

THE TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES (SCOTLAND) REGULATIONS 2006 (SSI 2006/530)

Thank you for your letter of 15 November regarding your concern about any possible disproportionate effects of the SSI upon small rural abattoirs.

First of all I should explain that these Regulations are a consolidation measure, which the Executive gave an undertaking to Parliament to take forward, and that there are no major new provisions contained therein which directly apply to the abattoir sector. The Regulations do therefore continue to apply detailed provisions on the removal, handling and disposal of specified risk material (SRM) and other related public and animal health controls set out in the EU TSE Regulation 999/2001.

The most significant change in our TSE controls to affect the abattoir sector in the last 12 months or so has been the decision to abolish the OTM rule, thus permitting older cattle back into the human food chain. Since the OTM rule was abolished just over a quarter of a million older cattle have been processed in 62 GB plants approved for this purpose. It is worth noting that five of the 13 OTM plants approved to process older cattle in Scotland are rural or island plants.

As well as facilitating the return of older cattle to the food supply chain in November 2005, we introduced two other relatively minor changes to the SRM rules in May this year. Firstly, bovine heads were no longer classed as SRM, thus allowing head meat back onto the market. This measure was actually deregulatory, helping meat plants, large and small. Secondly, the age limit required for the removal of bovine vertebral column (VC) has been lowered from 30 months to 24 months, in line with EU requirements. This has resulted in some disruption to abattoirs and traditional butchers. However, we continue to press the Commission to raise the limit back to 30 months.

Like the Committee, the Executive is keen to ensure the availability of abattoirs as part of the infrastructure of the meat and livestock industry. However, they must be commercially viable and must operate to high standards for public health protection. The establishment of abattoirs in rural or other areas is a commercial decision for independent operators.

In principle, grants have been available through the Processing & Marketing Grant Scheme to assist operators in Scotland become more competitive and sustainable. Since 2001 the Scheme has provided £6.2m assistance to abattoirs, towards the cost of new buildings, refurbishment of existing buildings and purchase of new equipment. The scheme is now closed to new applications. The new scheme, under the Scottish Rural Development Programme, will open for applications in late 2007.

ROSS FINNIE

SSI DESIGNATION FORM

SSI Title & No:	The Waste Management Licensing Amendment (Scotland) Regulations 2006, (SSI 2006/541)					
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	This instrument concerns waste management licensing exemptions as provided for by the Waste Management Licensing Regulations 1994 (as amended).					

Laid Date	9 th November 2006	20 day date	29 th November 2006
1st SLC Meeting	14 th November 2006	40 day date	18 th December 2006
Lead Committee Report Due	11 th December 2006	Other Committee Report Due	

SE Contact	Kevin Philpott, 41759
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 42nd Report, 2006 (Session 2)

Subordinate Legislation

The Committee reports to the Parliament as follows—

The Waste Management Licensing Amendment (Scotland) Regulations 2006, (SSI 2006/541)

1. The Committee asked the Executive what, if any, plans it has to consolidate the Regulations as a whole.
2. In its response printed in Appendix 2, the Executive indicates that it is currently examining means of improving waste regulation and that a revision of the Waste Framework Directive is currently under consideration. The transposition of any revised Directive will provide an opportunity to consider further clarification and consolidation of the 1994 Regulations.
3. **The Committee notes the information provided by the Executive draws this to the attention of the lead committee and the Parliament.**

APPENDIX 2

The Waste Management Licensing Amendment (Scotland) Regulations 2006, (SSI 2006/541)

1. In its letter of 14 November 2006, the Committee commented as follows -

“The Committee asks the Executive what, if any, plans it has to consolidate the Regulations as a whole.”

The Scottish Executive responds as follows:

2. The Executive is very conscious that the Waste Management Licensing Regulations 1994 have been frequently, and substantially, amended, and fully intends to consolidate them at an appropriate time. The present Regulations begin that process by codifying the important provisions of Schedule 3 to the 1994 Regulations. In addition there are two important developments in the relatively near future. We shall shortly be consulting, together with the Scottish Environment Protection Agency, on means of improving waste regulation. Such improvements

are likely to include changes to the 1994 Regulations. In addition, a revision of the Waste Framework Directive (2006/12/EC) is currently under consideration by the European Council and Parliament. The transposition of any resulting revised Directive will provide an opportunity to consider further clarification and consolidation of the 1994 Regulations.

3. Given the nature and scope of these forthcoming developments the Executive considers that in the interim it would be premature to have brought forward proposals for a full consolidation at this time.