The Committee will meet at 2 pm in the Hub, Castle Hill, Edinburgh

1. **Shellfish Poisoning:** The Committee will consider Executive briefing papers on recent closures and on the monitoring and research programme.

2. **The Protection of Wild Mammals (Scotland) Bill:** The Committee will consider written evidence received during the stage 1 consultation.

3. **Petitions relating to the Protection of Wild Mammals (Scotland) Bill:** The Committee will consider the following petitions: PE131, PE141, PE142, PE150, PE151, PE152, PE157, PE158, PE211 and PE215.

4. **Petitions relating to Post Offices:** The Committee will consider PE186 from the National Federation of Sub Postmasters, and PE 240 by George Lyon MSP and Ray Michie MP.

5. **Subordinate Legislation:** The Committee will consider The Seed Potatoes (Scotland) Regulations 2000 SSI 2000/201, under the negative procedure.

6. **Future Business:** The Committee will discuss a draft programme of future work.

Richard Davies
Clerk to the Committee
The following papers are relevant to this meeting:

**ITEM 1:**
- Executive briefing paper on fisheries closures due to Shellfish Poisoning
- Executive briefing paper on the monitoring and research programme for Amnesic Shellfish Poisoning

**ITEM 2:**
- Convener’s paper on the programming of the stage 1 inquiry into the Protection of Wild Mammals (Scotland) Bill
- SPICe Research Note: The Protection of Wild Mammals (Scotland) Bill - Stage 1 evidence evaluation
- Table of evidence received from consultees
- Cross reference of evidence received from consultees
- Spreadsheet of other correspondence received

**ITEM 3:**
- Clerk’s note on petitions received

**PE131, PE141, PE142, PE150, PE151, PE152, PE157, PE158, PE211 and PE215**

**Item 4:**
- Clerk’s note on petition PE186
- Letter from Dumfries & Galloway Council

**Item 5:**
- The Seed Potatoes (Scotland) Regulations 2000 SSI 2000/201
- Executive briefing note

**Item 6:**
- Clerk’s note on future business
BRIEFING NOTE FOR RURAL AFFAIRS COMMITTEE  
FISHERIES CLOSURES DUE TO SHELLFISH POISONING  

1. In his response to the Rural Affairs Committee's report on ASP, the Deputy Rural Affairs Minister confirmed in a letter in January 2000 that assistance for the industry could be made available through the Financial Instrument for Fisheries Guidance (FIFG) programme. This can cover such matters as diversification of gear to give access to alternative fisheries. Training is also eligible for assistance. FIFG funding can also be made available to enable boats affected by closures to undertake contract research work for the Marine Laboratory Aberdeen. Applications for assistance under FIFG will be invited later in the year.

2. The case for assistance through FIFG to the scallop industry will be considered together with other priorities. Discussions have taken place with the industry on a proposal to make use of underemployed scallop vessels during closures by employing vessels on the ASP testing and monitoring regime.

3. It has been the policy of successive governments not to pay compensation for losses incurred due to naturally occurring phenomena in the marine environment. We see no case to change that position.

4. The Executive made provision for licence relaxations to allow Category C licensed vessels who can demonstrate that the value of their 1999 catch comprised at least 60% West Coast scallops a special derogation to fish for west coast nephrops. This created an opportunity for diversification for a small number of the worst affected Scallop fishermen.

5. The Executive has continued to discuss technical conservation measures for scallops with the industry and will be issuing a draft statutory instrument in the near future.

6. The Fisheries Minister fully understands the impact of closures of Scallop fishing areas, and he is willing to meet representatives of the industry to discuss these problems.

SERAD  
Sea Fisheries Division  
August 2000
Area closed by FEPA orders – PSP

1. 31 August 2000
Areas closed by FEPA orders (ASP)

31 August 2000
Areas closed by FEPA orders all toxins

31 August 2000
Food Standards Agency, Scotland

Monitoring and Research Programme for Amnesic Shellfish Poisoning

1. Responsibility for the monitoring and research programme in respect of ASP transferred to the Food Standards Agency from the Scottish Executive in April this year. Officials from the Agency have held several meetings with key industry representatives to discuss some of the current problems facing the industry in respect of ASP. These discussions have also touched on current research and the possibility of reviewing the current monitoring programme and associated closures.

2. Current research work includes investigation into the causative agent of ASP in shellfish harvested from Scottish waters, and the assessment and validation of commercial rapid qualitative assay for the detection of ASP and PSP both in the UK monitoring programme, and as an end-product test. Research has also been commissioned into the development of methods for, and survey of, recently discovered toxins in UK shellfish, including ASP. A number of other projects have also been commissioned by the Agency and are currently under negotiation.

Implementation of the Shellfish Ban

3. The Agency is continuing to meet its annual obligations in respect of shellfish production area classifications and monitoring and reporting of algal toxin levels in shellfish.

4. At meetings and in correspondence with the Shellfish industry, the Agency has given assurances that it will give full consideration to the issues raised by elements of the scallop fishing industry and of shellfish growers.

5. Negotiations are ongoing with the European Commission into the possibility of reviewing the Shellfish Hygiene Directive to allow a more stratified approach to testing and marketing of shellfish, whilst ensuring that public health is fully protected. A meeting of the EU reference laboratories and National Reference Laboratories in March concluded that this approach should be considered subject to the existence of adequate enforcement controls. The Food Standards Agency Scotland will be taking a lead role in the future negotiations. There is no indication that the present levels for the total ASP content in the edible parts of molluscs (the entire body or any part edible separately) are likely to be reviewed in the short-term.

6. The European Commission audits all member states to ensure full implementation of EU Directives. Reports are published and made available by the European Commission.
Protection of Wild Mammals (Scotland) Bill – consideration of written evidence

1. On 16 March 2000 The Parliament gave the lead role on the Protection of Wild Mammals (Scotland) Bill to the Rural Affairs Committee, and also referred the Bill to the Justice and Home Affairs Committee for examination of those aspects of the Bill which would create a new criminal offence.

2. On 4 April 2000, the Rural Affairs Committee took evidence from Mike Watson MSP, the Member in charge of the Bill, and agreed to seek further evidence from a list of organisations.

3. Members have now received:

   - A copy of the evidence received from those invited by the committee to comment upon the Bill.

   - A research note by SPICe of the issues raised in this evidence and in other recently published research (to be read in conjunction with their original research paper on the Bill);

   - A tabular analysis of the main issues put forward by each consultee; and

   - A spreadsheet listing the 3000+ letters received by mid August, showing the total for and against the Bill, with a note of common issues raised. This has been sent electronically to Members and the letters themselves will be placed in the reference centre following the meeting.

4. The Committee is now obliged to consider and report on the general principles of the Bill, as introduced. In considering the general principles of this Bill, we must take into account any views expressed by the Justice & Home Affairs Committee, which has had referred to it by the Parliamentary Bureau those provisions in the Bill which would create a new criminal offence. This earliest we might expect this report is the second week in October.

5. In view of the quantity of written material now before us I would ask the Committee to consider making no decision immediately on what additional evidence might be sought through examination of witnesses or other means. Instead, I suggest that we take time to reflect on the existing evidence and decide at the meeting on 19th September how to proceed.

ALEX JOHNSTONE
Convener
30 August 2000
Written evidence submitted to the Rural Affairs Committee on the Protection of Wild Mammals (Scotland) Bill

Mike Watson MSP
Advocates for Animals
Borders Foundation for Rural Sustainability
British Association for Shooting and Conservation
Scottish Countryside Alliance
Deer Commission for Scotland
The Deerhound Coursing Club
Game Conservancy Trust
International Fund for Animal Welfare
League Against Cruel Sports
National Farmers Union of Scotland
National Working Terrier Federation
Scottish Association for Country Sports
Scottish Campaign Against Hunting with Dogs (SCAHD)
Scottish Crofters Union
Scottish Executive Rural Affairs Department
Scottish Gamekeepers association
Scottish Hawk Board
Scottish Hill Packs Association
Scottish Landowners Federation
Scottish Society for the Prevention of Cruelty to Animals (SSPCA)

Cited Evidence
Macaulay Land Use Research Institute, Scottish Executive Research Report

Nil Responses
Royal Society for the Protection of Birds
Scottish Agricultural Science Agency
Petitions relating to the Protection of Wild Mammals (Scotland) Bill

Background

1. Members will have noted that a large number of petitions have been received dealing with the issue of the (then) report being drafted by Macaulay Land Use Research Institute for the Scottish Executive. The petitions in question are PE131, PE141, PE142, PE150, PE151, PE152, PE157, and PE158. A further 31 letters, with a similar wording, have also been passed to the Rural Affairs Committee from the Public Petitions Committee Clerk.

2. The petitions are similar in content and may be paraphrased as,

“The Scottish Parliament should extend the current remit for the Macaulay Land Use Research Institute to include a thorough investigation into the social, economic and environmental significance of the Protection of Wild Mammals (Scotland) Bill for remote communities.”

3. In addition PE211 and PE215 call for the Scottish Parliament not to proceed with the Protection of Wild Mammals (Scotland) Bill.

4. The Report in question (Scottish Executive Research Report “Economic Impacts of a Ban on Hunting with Dogs in Scotland”) was published in June 2000 and has already been circulated to Members. It is also cited in the first list of invited written evidence received on the Bill, circulated as RA00/23/4.

Recommendation

5. Members are invited to consider these Petitions and a view taken on whether additional research is required.

Richard Walsh
Senior Assistant Clerk
Rural Affairs Committee
August 2000
Petitions relating to Rural Post Offices

1. A number of petitions have been received dealing with the issue of the future of rural post offices. The most recent examples are PE186 by the National Federation of Sub Postmasters and PE240 by George Lyon MSP and Ray Michie MSP, which are attached to this report.

2. PE186 Petition by National Federation of Sub Postmasters calls for the Scottish Parliament to influence Westminster Government in whatever way possible to prevent the introduction of the Automated Credit Transfer System and to resurrect the Benefit Agency's Swipe Card for payments of benefits at the Post Office. A letter received from Dumfries & Galloway Council provides a further illustration of the problems covered by this petition.

3. The Public Petitions Committee at its meeting on 9 May 2000 referred this petition to both the Rural Affairs Committee for further consideration, and also to the Enterprise & Lifelong Learning Committee, which considered it on 31 May and asked this committee to consider the issues raised as part of our study into the impact of changing employment patterns on Rural Scotland.

4. The specific request in this petition is to “. . . influence the Westminster Government in whatever way possible “ on the problem recounted. The request from the two other committees of the Parliament is to consider this issue in the context of our inquiry.

5. A related petition, PE240 by George Lyon MSP and Ray Michie MP calls for the Scottish Parliament to do everything within its power to secure a viable future for Argyll and Bute's rural sub-post offices. An extract of the official report of the Public Petitions Committee on 4 July 2000 provides some additional information on the subject and the decision to refer it to this committee in the context of the inquiry.

6. The Committee is asked to consider what action might now be appropriate.

Richard Davies
Clerk
Rural Affairs Committee
August 2000
RURAL AFFAIRS COMMITTEE

Scottish Statutory Instrument 2000/201

The Seed Potatoes (Scotland) Regulations 2000 (SSI 2000/201)

General Procedure note

1. The Rural Affairs Committee is the lead committee on this instrument, which was lodged on 16 June 2000.

2. This order came into force on 7 July 2000 (apart from Regulation 6, which comes into force on 1 April 2001) and was laid under a "negative procedure" which means that the Parliament has power to annul the order by resolution within 40 days, excluding recess. In the case of this instrument therefore, the time limit for Parliamentary action expires on 19 September 2000.

3. The order deals with Regulations, extending only to Scotland, which consolidate with amendments various Seed Potatoes Regulations from 1991. The Regulations make provision for classification and grading of seed potatoes, marketing and labelling and for sampling, provision of information, service of notices and exemptions. A series of new provisions are included in these Regulations which, due to their content, come within the remit of the Rural Affairs Committee.

4. The Subordinate Legislation Committee considered this instrument on 6 July and determined, in its 28th Report, that there are a number of fundamental technical flaws it wishes to draw to the attention of the Parliament. An extract from the report is attached as Annex A.

5. Should a motion for annulment be proposed under Rule 10.4, the Committee would have to invite Ministers to debate the issue and then report to the Parliament with its recommendation. Where no annulment is sought, the Committee is still obliged to report to the Parliament with its recommendation, taking into account any recommendations made by any other Committee.

Actions required on 5 September 2000

6. Members are requested to consider whether, at this juncture, in view of the complexity of the Subordinate Legislation Report the Committee wishes to make a report to Parliament, hear evidence from Officials at the next meeting or consider immediately lodging a motion to annul.

Richard Walsh
Rural Affairs Committee
Senior Assistant Clerk
August 2000
ANNEX A: EXTRACTS FROM THE 28TH REPORT OF THE SUBORDINATE LEGISLATION COMMITTEE

The Seed Potatoes (Scotland) Regulations 2000, (SSI 2000/201)

5. The Regulations consolidate for Scotland, with further amendments, the Seed Potatoes Regulations 1991 and amending instruments implementing EC obligations in relation to the marketing of seed potatoes in Scotland. The Executive has attempted to reorder and simplify the wording where that has been possible.

6. The Committee congratulates the Executive on proceeding by way of consolidation rather than simply amending the 1991 Regulations. However, in the Committee’s view, the results have been mixed. In certain instances, detailed below, the rewording has led to legal difficulties. The Committee was concerned about the number of consequential difficulties that could arise and asked the Executive to have a further close look at provisions. In addition, the Regulations are full of careless mistakes and typos that do not inspire confidence. Some of the difficulties noted by the Committee are described below.

7. The Committee noted an inconsistency in the use of the term "the Scottish Ministers". The definite article is sometimes included (as it should be), sometimes not. Examples are: definition of "pre-basic seed potatoes", paragraph (b)(i), regulation 3(7)(a), (a)(ii) (where the reference is simply to "the Minister", and (b) where again the reference is just to "the Minister", Schedule1 paragraph 1, paragraph.3 (k)(iii) and (iv), Schedule 7 paragraphs. 1(a)(ii), (b)(ii), (c)(ii), and (d)(ii) and the Explanatory Note, paragraph (f).

8. The Committee noted that items in the Arrangement of Regulations do not always tally with the headings in the body of the text. Examples are items 5,20, Schedule 3, Schedule 7 Table IV, Heading to Part III.

9. The Committee also noted that references to Council Directives 66/403/EEC and Council Directive 90/220/EEC are not consistent and although defined in regulation 2(1) the references in the text do not coincide with the definitions. Sometimes the "/EEC" is included, sometimes not. The slash is missing in the definition of Directive 90/220/EEC.

10. It would have been helpful to the Committee if a copy of the Community legislation had accompanied the Regulations.

11. One major problem with these Regulations identified by the Committee is a fault to which the Committee has referred on many previous occasions. That is the careless drafting of provisions that purport to carry criminal sanctions, in particular the failure to identify clearly who is to be bound by a provision and what he has to do to comply with that provision.
12. The sanction for breach of seeds’ regulations is to be found in section 16(7) of the Plant Varieties and Seeds Act 1964. This provides as follows:

“If any person…

(b) contravenes any provision contained in seeds regulations he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

13. Applied to the Regulations, the Committee observes that this produces some very odd results indeed.

14. Regulation 3(5) provides for the marketing of small quantities of seed potatoes for certain purposes “under the authority of the Scottish Ministers”. Paragraph (6) of that regulation provides that in relation to GM material an authorisation may be granted under paragraph (5) only if certain specified conditions are fulfilled. It would seem that certain of these conditions, for example (6)(b), could only be satisfied after the giving of the authorisation. In other words, it is a condition of the authorisation rather than a prerequisite for the granting of the authorisation. The Committee notes that there does not appear to be any sanction for breaching this requirement. The Committee therefore asked the Executive for an explanation as to how these conditions are to be enforced.

15. In its response […] The Executive replied that regulation 3(5) disapplies the Regulations in relation to the marketing of small quantities of seed potatoes for certain purposes “under the authority of the Scottish Ministers”. The purposes are scientific investigation or a process of selection by or under the supervision of an authorised officer.

16. Regulation 3(6) provides that in relation to GM material an authorisation may be granted under paragraph (5) only if certain conditions are fulfilled. If any of those conditions to which the grant of an authorisation under paragraph (5) is subject are not met then the seeds in question will cease to be marketed under and in accordance with that authorisation. In that event the Regulations will then apply to the marketing of the seed potatoes containing GM material. In particular marketing will be unlawful because the seed potatoes will not be “pre-basic seed potatoes” or “basic seed potatoes of a Community grade” (regulation 8(1)). Contravention of any provision contained in the Regulations is an offence by virtue of section 16(7) of the Plant Varieties and Seeds Act 1964 (“the 1964 Act”). In terms of section 16(7) an offence is committed by “any person” who contravenes any provision contained in seed regulations.

17. The Committee accepts that this may have been the intention but not that the drafting has achieved the desired result. As the Executive appears to agree, the conditions are a prerequisite for the granting of an authorisation - not conditions that apply to the authorisation once granted. Once the authorisation has been granted, there is no provision
for it to be withdrawn (by comparison, for example, with regulation 7(2) that permits the Scottish Ministers to withdraw a certificate of classification). It would therefore appear that where any contravention of the Regulations occurs as regards regulation 3(6)(b) then, in terms of the regulation as drafted it could only have been committed by the Scottish Ministers in granting the authorisation. This is plainly a nonsensical conclusion.

18. The Committee therefore draws this provision to the attention of the Parliament for defective drafting.

19. The Committee also asked the Executive to explain how regulations 6 and 7 will be enforced.

20. The Executive responded that "pre-basic seed potatoes" and "basic seed potatoes" are defined in regulation 2(1). The Executive noted, with reference to those definitions, that in the case of seed potatoes produced in Scotland, it is a condition of marketing that there is a certificate of classification issued in respect of the seed potatoes in accordance with Schedule 1 that has not been withdrawn. Paragraph 3 of that Schedule sets out matters upon which an authorised officer requires to be satisfied before a certificate of classification may be issued. Sub-paragraph (b) of that paragraph provides that a certificate may be issued only if the seed potatoes are of a variety for the time being listed in the National List published in accordance with the Seeds (National Lists of Varieties) Regulations 1982. Regulation 3(5) provides a means whereby seeds not yet listed may lawfully be marketed for the purposes of scientific investigation or selection.

21. In the Executive’s view the effect of regulation 6(1), read together with regulation 3(1)(a) and (2), is to require that any person producing seed potatoes with a view to marketing on, or after, 1 April 2001 undertake the production in accordance with regulation 6. Similarly, the effect of regulation 7, read together with regulation 3(1)(a), is to require that any person producing seed potatoes with the view to marketing on, or after, 7 July 2000 undertake the production in accordance with regulation 7. The production of seed potatoes in contravention of regulations 6 or 7 by "any person" is an offence by virtue of section 16(7) of the 1964 Act. The production of seed potatoes, in accordance with the requirements of those regulations, is also a condition of the issue of a certificate of classification (Schedule 1, paragraph 3 (n)) and therefore (as explained above in paragraph 13 with reference to regulation 8(1) and the definitions in regulation 2(1)) of marketing. In relation to any case where a certificate of classification has already been issued, regulations 6(2) and 7(2) provide that where the seed potatoes have not been produced in compliance with regulations 6(1) and 7(2) respectively, the certificate may be withdrawn. In addition, where failure to comply with regulations 6 or 7 is discovered after packaging the official label may be withdrawn under regulation 12(d).
22. The Committee notes this full description of the system of seed potato classification. It does not, however, directly answer the question put by the Committee. Nevertheless, the Committee notes that regulation 8(1) prohibits the marketing of seed potatoes other than *inter alia* pre-basic seed potatoes or basic seed potatoes of a Community grade. Taken with the definitions of "pre-basic seed potatoes" and "basic seed potatoes" which refer to classification, this is a rather involved, though legally sufficient, answer that the Committee can, nonetheless, accept. The drafting could undoubtedly be clearer and, bearing in mind that criminal penalties are involved, it is arguable that prohibitions ought to be more clearly expressed.

23. The Committee therefore draws the attention of the Parliament to the response on the grounds that the provisions in question required explanation, supplied by the Executive.

24. Thirdly, the Committee observed that in terms of regulation 9(1) it is an offence to market seed potatoes unless they are labelled in accordance with the provisions of that paragraph. However, paragraphs (4) to (6) make further provisions regarding the content of the label but these paragraphs are not referred to in paragraph (1). It would appear, therefore, that it is only an offence to market seed potatoes where the labelling does not comply with paragraph 9(1). By inference no offence is committed where the labelling does not comply with paragraphs (4) to (6). The Committee noted further that in the equivalent provision in the Regulations replaced by these Regulations, a reference to the equivalents of paragraphs (4) to (6) was included in the predecessor to regulation 9(1). The Executive was therefore asked to explain how the provisions in question would be enforced.

25. The Executive replied that it considers that the effect of the regulations 9(4) to (7) and 10, read together with regulation 3(1)(c), is to require that any person marketing seed potatoes on or after 7 July 2000 do so in accordance with those provisions. Again "any person" marketing seed potatoes in contravention of those provisions commits an offence by virtue of section 16(7) of the 1964 Act.

26. In the Committee’s view, the response again fails to answer the question posed. The relevance of regulation 3(1)(c) to regulation 9(4) to (7) is not understood. The only reference to "marketing" in regulation 9 is in paragraph (1) of that regulation and that makes no reference to paragraphs (4) to (6). Indeed, the existing references to equivalent provisions in the Regulations replaced by these Regulations have been removed. To the Committee, this would tend to indicate that breach of paragraphs (4) to (6) is not an offence.

27. The Executive draws attention to regulation 10 but this regulation only prohibits the marketing of packages of potatoes with an unbroken seal. It does not make any reference to labelling of resealed packages. Accordingly, it would not appear to be relevant to regulation 9(6).
28. The Executive also mentions regulation 9(7) but again this paragraph only prohibits the reproduction, removal, alteration, defacement, concealment or misuse of a label. It does not deal with the detail that a label must contain under regulation 9(4) to (6). As the Executive points out, failure to comply with seeds’ regulations carries a criminal penalty. As the Committee has observed above, it is therefore essential that the person who may be liable to prosecution and the actions that attract the sanction be clearly identified. This is plainly not the case in regulation 9(4) to (6).

29. **The Committee therefore draws the attention of the Parliament to the above provisions on the grounds of defective drafting.**

30. The Committee noted that regulation 20 purports to make a consequential amendment to the Plant Health Order. The Committee notes that the Plant Health Order 1993 is made under the Plant Health Act 1967, which is not cited as an enabling power for the Regulations. Moreover, that Act provides for the making of orders not regulations. The procedure is also different in that only certain orders under the 1967 Act attract Parliamentary procedure whereas regulations under the 1964 Act are subject to annullment. The Executive was therefore asked under what power regulation 20 is made.

31. The Executive replied that regulation 20 was made in exercise of the powers contained in section 36(b) to make such supplemental and incidental provisions as appear to be expedient. The Executive notes that the powers contained in section 16 extend to the making of provisions for the purposes of preventing the spread of plant disease by means of seeds, section 16(1)(c). The substitution of a revised article 18(4) in the 1993 Order reflects the making of the Regulations on a devolved basis. It was noted that Article 18(4) of the Plant Health (Great Britain) Order 1993 ("the 1993 Order") relied upon the definition of "protected region" in the Seed Potatoes Regulations 1991. The provision as enacted concerned the planting of seed potatoes in the "protected region of Great Britain as defined under the Seed Potatoes Regulations 1991". The Regulations revoke the 1991 Regulations as regards Scotland and do not contain a definition of "protected region" (the whole of Scotland is a protected region). It was considered expedient, in making the Regulations as regards Scotland, to include regulation 20 by way of supplemental or incidental provision under section 36(b).

32. In the Committee’s view, a power to amend a different form of subordinate legislation made under totally different primary legislation cannot be considered to be a "supplemental or incidental" provision within the meaning of section 36(b) of the 1964 Act. Moreover, the provision that regulation 20 purports to insert in the 1963 Order is of a substantive nature and would not seem to be in any way supplemental or incidental to the Seed Potato Regulations.
33. It is accepted that the powers contained in section 16 extend to the making of regulations for the prevention of the spread of plant disease by means of seeds, but the amendment of the 1993 Order prohibits the planting of "potatoes" which would include ware as well as seed potatoes. Accordingly, even if it were accepted that section 16 were an appropriate power with which to amend the 1993 Order (which it is not), the provision would be *ultra vires* that power in any event in that it covers plants other than seeds.

34. In the Committee’s view, there can be no doubt that regulation 20 is *ultra vires*. Therefore, the Committee draws the attention of the Parliament to the provision on this ground.

35. As mentioned in paragraphs 6-8 above, the Committee noted numerous clerical errors in the instrument that it drew to the attention of the Executive.

36. The Executive replied that the textual inconsistencies were noted. The Executive did not consider these to give rise to the need for amendment. In particular, as regards regulation 3(7)(a)(ii) and (b), paragraph (7) refers back to paragraph (6)(d) and in turn to paragraph (5). That functions rest with Scottish Ministers in relation to the grant of authority under paragraph (5) and the supplementary provisions of paragraphs (6) and (7) is considered to be sufficiently clear. It is considered that references to "the Minister" would be construed as a reference to "the Ministers" and in context as being to "the Scottish Ministers". Textual inaccuracies will so far as possible be corrected in the annual volume.

37. The Committee considers that whilst some of the inaccuracies are minor and may be capable of being corrected in the annual volume, this is by no means the case with every error it has noted. It might just be possible to construe "the Ministers" as meaning the "Scottish Ministers" but not "the Minister" where every other reference in the instrument was to "Ministers" in the plural.

38. The Committee therefore draws the attention of the Parliament to the instrument on the grounds of defective drafting in the above respects. The Committee also notes that, as these Regulations implement Community obligations, defective drafting could also constitute a breach of a Community obligation to incorporate correctly the provisions of the relevant Directives into domestic law.