Tom Edwards

This briefing is written for the benefit of both new MSPs and those returning to the Parliament. More detailed briefings on rural affairs topics will be produced throughout the parliamentary session. It provides an overview of the main issues within the rural affairs portfolio. It highlights the main legislation and policy developments in previous parliamentary sessions, and potential future developments.
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**Strategic framework for Scottish**
aquaculture published in 2009

Strategic Framework for Freshwater Fisheries published in 2008

**Animal Health and Welfare**

**Scotland’s Environment and Rural Services**
Partnership between nine environment and rural public bodies launched in 2008 to provide a one-stop shop for land managers, reduce bureaucracy, streamline inspections and enforcement and increase efficiency.

The Deer Commission Scotland’s functions were transferred to Scottish Natural Heritage on 1 August 2010.

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**RURAL AFFAIRS**

**RURAL SCOTLAND AND BROAD RURAL POLICY**

Rural areas are defined as settlements with a population of less than 3,000. Rural Scotland is further divided on the basis of drive times into accessible rural areas, which are within a 30 minute drive of a settlement with a population of over 10,000, and remote rural areas which are more than a 30 minute drive from a settlement with the population of over 10,000. These definitions form part of the Scottish Government's Urban Rural Classification. Based on this classification, rural Scotland has a population of c.950,000 people, 19% of the total, with 7% in remote rural areas and 12% in accessible rural areas, and makes up 94% of Scotland’s land area (69% remote rural and 25% accessible rural).

The population of rural areas is increasing significantly faster than the national population – the population of accessible rural areas grew by 10% from 2001-08 and remote rural areas by 5.3%, compared to national growth of 2.1%. Rural areas have a much lower percentage of the population in the age bands 16-24 and 25-34 but a higher proportion in the older age bands, especially at pension age. Primary sector industries – agriculture, forestry and fishing employ a greater proportion of people in remote rural (17%) and accessible rural (12%) areas, than in the rest of Scotland (0.4%), but in all rural areas, the public sector is a bigger employer than primary industries (Scottish Government 2010a).

The Scottish Government has stated its commitment to supporting rural life, rural communities and the rural economy, and now has statutory obligations to exercise functions which contribute to sustainable development (as do all public bodies). Its approach has been to 'mainstream' the needs of rural Scotland within all of its policies. In this way, rather than setting rural Scotland aside as something different or a special case, it has encouraged all policy makers to take the needs of rural areas seriously and to adapt their policies to meet local needs and circumstances wherever possible.

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1 More on this can be found in SPICe Briefing SB 11-41 Environment: Subject Profile
The Scottish Government established a Rural Development Council in 2008 to advise it on how rural Scotland could contribute to the Scottish Government's main purpose of creating sustainable economic growth. The Council produced a document called *Speak Up for Rural Scotland* in August 2010, which set out its views on what mattered for the rural economy (Scottish Government 2010b). The Scottish Government (2011a) published its response in *Our Rural Future* in March 2011. The document sets out what the Scottish Government has done under 13 headings which are identified as priorities for rural Scotland.

By mainstreaming the needs of rural Scotland into wider policies, so the needs of Scotland as a whole are represented in policies where rural Scotland has a key role to play, in particular with regard to renewable energy, land use, climate change, and food security. *Speak Up for Rural Scotland* states:

"Rural Scotland is a hugely important source of renewable energy - wind, wave, tidal, hydro and biomass. In rural Scotland, renewables can generate important employment opportunities, both directly and through the supply chain. [...] Community renewable energy projects contribute to Scotland's carbon reduction targets and generate an ongoing income stream."

Furthermore:

"Future land use should not be a choice between farming or forestry, renewables or conservation and should reflect the need for long-term food and environmental security. All can be accommodated if we optimise the use of our land, plan wisely and work to deliver the multiple benefits it offers."

*Our Rural Future* (Scottish Government 2011a) proposes a partnership approach to agreement on land use purposes and priorities, and states:

"Working across traditional boundaries can help to put land use choices into context and enable opportunities to be optimised for mutual benefit. Better understanding, productive engagement, and more collaborative approaches between businesses, communities, interest groups and public bodies will help secure greater benefits for rural Scotland from more sustainable use of land.

[...] Some land use choices are better considered at a landscape or catchment scale, in order to deliver wider-ranging benefits such as biodiversity enhancement, flood regulation, carbon management and the conservation of the historic environment."

Scotland’s Land Use Strategy is relevant to this agenda, and is considered later in this briefing.

**AGRICULTURE**

Farming in Scotland had an output of £2.9 billion in 2009, and employed 67,000 people (Scottish Government 2010c). Eighty-five percent of Scotland is classified as Less Favoured Area (LFA), land which is difficult to farm because of climate and soil conditions, and is mainly suited to extensive production of beef cattle and sheep. Cereal and crop production and mixed farming is mainly limited to the drier, fertile areas of the East and Northeast, with dairy farming on the better quality land in the wetter Southwest.

This briefing introduces reform of the Common Agricultural Policy and genetically modified foods as high profile issues which require a degree of explanation. However, there are many other issues facing the sector include climate change, development of an integrated land use..."
policy, commodity prices, and the food supply chain. Crofting is considered separately later in the briefing. More detailed briefings on agriculture will be produced during the Parliamentary session.

**Common Agricultural Policy (CAP) Reform**

The main policy change affecting Scottish farming in recent years has been the reform of the Common Agricultural Policy (CAP) which took place in 2003. As well as making the biggest changes to the CAP since it was set up in 1962, the reforms also offered an unprecedented amount of choice to Member States in deciding how they should be implemented.

The centrepiece of the 2003 CAP reform was breaking the link between the number of animals farmers keep or the area of crops they grow, and the receipt of subsidies. This is known as ‘decoupling’ and has been implemented by replacing previously separate subsidy schemes with a Single Farm Payment. In Scotland, Single Farm Payments were introduced in 2005 based on the amount of subsidy farmers received in a three year reference period from 2000-2002. In order to receive the Single Farm Payment, farmers have to meet “cross-compliance” criteria – to keep their land in Good Agricultural and Environmental Condition (GAEC) and comply with a number of EU environmental and animal health and welfare laws. A Scottish Beef Calf Scheme was also established.

Direct payments and remaining price support mechanisms are known as “Pillar 1” of the CAP. Rural development measures, which include support for farmers in Less Favoured Areas (LFA) and agri-environment schemes are known as “Pillar 2” of the CAP. In Scotland, Pillar 1 comprises the Single Farm Payment Scheme and the Scottish Beef Calf Scheme. In 2009 c.£510m was paid out under the Single Farm Payment Scheme to over 19,000 applicants and £23m was been paid out to c.7,700 applicants under the Scottish Beef Calf Scheme.

The Rural Development Regulation² sets out the options for spending EU money on rural development. It groups similar measures under three axes with a minimum spend per axis. Member States have to decide how much to spend on these measures from 2007-13 in a Rural Development Plan. It is possible to change the plan annually. The Scotland Rural Development Programme has 3 main elements – the Less Favoured Area Support Scheme, worth £62m to 12,000 farmers in the LFA, which covers 85% of Scotland; Land Managers Options – a non-competitive scheme which offers 21 options with a budget of c. £15m p.a.; and Rural Priorities, a competitive scheme which offers 75 different options to farmers and land managers. £378 million funding has been approved for 4,850 applications under Rural Priorities since the scheme opened in July 2008.

The CAP is being reformed again between now and 2014. Initial signs show the current reforms will take a different path to previous reforms. The European Commission’s (2010a) initial thoughts on the path for reform were published in November 2010. It is likely that payments will shift to an area payment post 2014, but payments linked to the numbers of animals kept may be allowed to continue, in order to address the risk of land abandonment. A blueprint for the approach the Scottish Government should take in the negotiations over CAP reform has been produced by Brian Pack OBE, whose recommendations have largely been endorsed by the Government. He proposed area payment for the better quality land in Scotland, with a special regime for the LFAs – an area payment, topped up by payments linked to the amount of labour on the farm, and the number of beef cattle and lambs produced (Scottish Government 2010d).

Reaction to the Commission’s proposals in an initial discussion by the Council of Ministers was broadly favourable, although the UK and Germany said that there was a need to restrain

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spending on the CAP post 2013. This call was repeated by the UK Secretary of State, Caroline Spelman MP in a speech at the Oxford Farming Conference. She said that the prospect of rising food prices meant that it was possible to phase out direct payments, and that they should be cut from 2014-20, and that more money should be shifted to Pillar 2 (Defra 2011). These views attracted critical comment in Scotland (Scottish Farmer 2011).

The Scottish Government (2011b), Welsh Assembly Government and Northern Ireland Executive have published a joint position on CAP reform, and have written to the Secretary of State setting out their three priorities which they want the UK to adopt in its negotiating line. These are: securing a fair share of the budget; flexibility to respond to local needs in implementing the policy; and simplification. At the time of writing the UK Government had not officially responded to the Devolved Administrations’ joint position.

The European Commission has said it expects to publish detailed legislative proposals for the reform in October or November 2011. The publication will include proposals to amend the current system of Single Farm Payment, and to change the current rules which govern rural development spending. The European Commission is also reviewing the way Less Favoured Areas are defined, and has asked Member States to provide it with data on a new classification based on a set of common criteria related to climate and soil. These proposals will form the basis for negotiations with the European Parliament and the Council of Ministers. The Commission hopes to achieve a political agreement on CAP reform by the end of 2012. In 2013 the Commission will develop detailed implementing rules, so that the new CAP can be implemented in 2014.

GM crops

Genetic modification (GM) involves inserting genes from one organism into another organism, usually to produce a desirable characteristic, such as resistance to disease. Genetically Modified Crops have been developed for different purposes, for example: for resistance to broad spectrum herbicides which kill all other plants; for drought tolerance; and for resistance to insect pests. While some people see GM crops as being the solution to feeding the world’s growing population, others are opposed to their cultivation, because they are concerned about transfer of genes into other plants, or because the way the crops are grown may be worse for the environment than conventional farming techniques.

Farm scale trials of GM crops were carried out in Scotland and the rest of the UK to investigate the effects on the environment of growing them. The crops grown in the trials had been genetically modified so that they could withstand herbicides which normally kill all plants. The results of the trials were published in October 2003 and March 2005 and showed that growing three GM crops: winter sown oilseed rape, spring sown oilseed rape and sugar beet did have an impact on the environment compared to conventionally grown crops. There was no difference between GM maize and conventional maize. The UK government and the Scottish Executive said in March 2004 that they would agree in principle to the cultivation of herbicide tolerant GM maize (House of Commons 2004, Scottish Parliament 2004). They also said that the question of environmental liability would have to be resolved before GM crops could be grown commercially. However, later in the same month, Bayer, the company which produced one of the maize varieties used in the trials, said it would give up its efforts to commercialise this variety in the UK.

Growing GM crops and the import of food and animal feed containing ingredients derived is regulated under EU legislation. If a GM crop is approved in one Member State it can be grown

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in all Member States. There is a common list of GM varieties which have been approved for use in food and feed, or for cultivation. Two types of GM crop are currently being grown in some EU countries: insect-resistant maize and a potato with modified starch content for industrial use. Neither of these is relevant or suitable for production in the UK, and no GM crops are currently being grown commercially in the UK (Defra). The Scottish Government has stated its opposition to the cultivation of GM crops. It considers that cultivation of GM crops could damage Scotland’s rich environment and would threaten Scotland’s reputation for producing high quality and natural foods.

EU legislation allows Member States to invoke a safeguard clause to prohibit or restrict the cultivation of a GM crop if there are justifiable reasons for doing so on environmental or public health grounds. Several Member States have made use of these safeguard clauses. The European Commission has sought the advice of the European Food Safety Authority on the scientific justification for these safeguard clauses. The Authority has advised in each case that there is no scientific justification for the measures. The European Commission has therefore made proposals to the Council of Ministers that the safeguard clauses should be revoked. These proposals have not found the support of the Council, most recently in March 2009 when the Council rejected Commission proposals for Austria and Hungary to repeal their national safeguard measures. Subsequently a group of 13 Member States called on the Commission to prepare proposals to allow Member States to decide on cultivation of GMOs. The European Commission (2010b) published a proposal in July 2010. The proposal would provide a legal base for Member States to restrict or prohibit the cultivation of GMOs that have been authorised at EU level in all or part of their territory, without the need for justification on environmental or public health grounds. The proposal is currently being considered by the Council of Ministers and the European Parliament.

CROFTING

Crofts are small land holdings in the Highlands and Islands of Scotland. There are 17,700 crofts in Scotland, and 11,500 crofting households with a population of 33,000. The crofting lifestyle of tending these holdings has a long history. Many crofts are small (the average croft is around 5 hectares), and cannot sustain the full time employment of a crofter. Jobs in fishing, tourism and other jobs in the rural industry and service sectors are important in providing an off-croft source of employment with which crofters can supplement their income.

Crofting land is generally poor quality and nowadays mainly constitutes permanent pasture, with additional areas of rough grazing. Most crofters work part-time on their holding and supplement their income from other jobs or business activities. Crofting agriculture is based primarily on rearing of store lambs and cattle for sale to lowland farmers for fattening or as breeding stock.

Crofting has been protected and regulated by a unique code of law since the end of the nineteenth century. The first crofting legislation, the Crofters Holdings (Scotland) Act 1886, followed the report of the Napier Commission in 1884 and gave crofters security of tenure, together with the right to a fair rent, the value of improvements they had made to the croft, and the right to bequeath the tenancy to a family successor. Crofts were regulated in the same manner as smallholdings in other parts of Scotland from 1912 until the Crofters (Scotland) Act 1955 restored a unique code of law to crofting. Crofters were given the right to buy their croft by the Crofting Reform (Scotland) Act 1976 since when around a quarter of crofters have become owner occupiers. Crofting law made since 1955 was consolidated in 1993 and the Crofters (Scotland) Act 1993 remains the principal statute.

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4 Six Member States are currently applying safeguard clauses: Austria, France, Greece, Hungary, Germany and Luxembourg
Crofting law reform was a part of the Scottish Executive’s land reform programme in Session 2, and a Crofting Reform etc. Bill was introduced in the Parliament in 2006. Parts of the Bill proved to be controversial, and it was substantially amended, before being passed as the Crofting Reform etc. Act 2007. The main concern was that the buoyant housing market in the Highlands and Islands had led to the growth of a market in crofts, which in some communities was resulting in the best crofting land being developed for housing. This was felt by many to be threatening the future of crofting as a protected system of agricultural land tenure, and the Bill was not seen as preventing this. The Scottish Executive agreed to establish a Committee of Inquiry on Crofting to develop a vision for the future of crofting, and proposals for further legislative reform.

The Committee of Inquiry on Crofting (2008) was established in April 2007 and reported in May 2008. It made eleven recommendations for changes to crofting law. These proposals led to the initiation of further Government legislation on crofting, which has now been enacted in the Crofting Reform (Scotland) Act 2010, although not all of the Committee’s original proposals were taken forward following a Draft Bill consultation and amendment of the legislation during its Parliamentary stages. The Act has four main elements:

- Renaming of the Crofters Commission as the Crofting Commission, and providing for a majority of the members of the next Commission to be elected by crofters
- The establishment of a new Crofting Register to be kept by Registers of Scotland and to record the boundaries of crofts.
- New provisions to strengthen the powers of the Crofting Commission where croft land is neglected, or where crofters are absent, and to equalise the rights and responsibilities of owner occupier and tenant crofters
- Measures to address property speculation on croft land.

As with the previous Bill some aspects proved controversial, particularly the proposals for a Crofting Register, which were opposed by Labour and the Liberal Democrats. Parliament also heard evidence from legal experts that successive amendments had made crofting law complicated and there were calls for it to be consolidated. The Act contains a power which would allow the Government to make a pre-consolidation order to simplify the consolidation of crofting law.

**FORESTRY**

Scotland has just under half of all the UK’s forests and woodland and a forest cover of 17.2%; 77% of this is coniferous and 23% is broadleaved; and 67% is privately owned and 33% is publicly owned. Only a small proportion, around 7%, is ancient or semi-natural woodland (Forestry Commission 2010a). Scotland's Forest and Timber Industries employ around 40,000 people and are worth in excess of £1.7bn to the economy, possessing significant growth potential (SFTT).

Timber prices have fallen over the last 20 years largely because of competition from cheap imports. The Forestry Commission’s (2010b) softwood sawlog price index shows prices in the 6 months to September 2010 were 7% lower than the same period 20 years previously, and 46% lower in real terms. However, after a period of negative returns from forestry from 2000-02,

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5 Ancient woodland is woodland that has been in continuous existence since 1600 (1750 in Scotland); Semi-natural woodland is woodland with natural characteristics (predominantly native species of trees, ground plants and animals).
percentage returns\textsuperscript{6} have increased and averaged 16.1\% per annum for the three years 2007-09. Industry forecasts are that prices will trend upwards for the next few years at least.

Forestry is a devolved matter, and Forestry Commission Scotland (FCS) is the forestry department of the Scottish Government. Its role is to protect, enhance and expand Scotland’s forest and to develop, implement and administer the forestry policies set by Scottish Ministers.

The Scottish Forestry Strategy was published in October 2006 and remains the key policy guiding the work of FCS. The main objectives of the strategy are to increase community involvement in forestry; increase access to forests and woodlands; develop a more efficient timber supply chain; develop the market for forest products and increase forest tourism; help tackle climate change; and to protect biodiversity and the historic and cultural environment (Forestry Commission 2006). The strategy has a target of increasing Scotland’s forest cover to around 25\%. An \textit{analysis} by the Confederation of Forest Industries (ConFor 2010) showed that in 2008-09 and 2009-10 more woodland was cut down than was replanted, and that the total productive woodland area had declined by 24,000ha in the previous five years. ConFor called on the Government to encourage an increase in new productive planting to 9,000ha per year up to 2020 – taking forest cover to near 19\%. The Rural Affairs and Environment Committee (2010 & 2011) called on the Government to review the 25\% target, and \textit{suggested} that this could be a topic for a future Rural and Environment Committee to inquire into.

The National Forest Land Scheme (NFLS) was launched in June 2005. National Forest Land is the forests, woods, open land and other property owned by Scottish Ministers on behalf of the nation, and managed by Forestry Commission Scotland. The scheme has three elements: sale or lease of forest land to community bodies; sale of land to social landlords for affordable housing; and disposal of surplus forest land. The Forestry Commission has also run a project on the creation of woodland crofts.

The main source of financial support for forestry, other than from sales of timber, is provided by the Rural Priorities Scheme under the Scotland Rural Development Programme, which offers grants for planting new woodland or establishing woodland by natural regeneration; replanting and regenerating existing woodland; and improving and sustainably managing woodland. The Scheme runs until 2013 and includes a range of other options, e.g. agri-environment options and support for new entrants to farming. There is no ring-fencing of funding for forestry options, and the budget for Rural Priorities was cut by the Scottish Government in the budget for 2011-12.

Scotland’s forests are one source of ‘biomass’ which can be burnt to generate heat and electricity\textsuperscript{7}. Biomass energy is not intermittent, and can be deployed locally and at small scales, e.g. to provide heating for communities not on the gas grid. The Scottish Government (2009a) has set a target of 11\% of heat in Scotland to come from renewable sources by 2020. It has set out its policy for promoting the use of biomass in a Renewable Heat Action Plan, which was published on the 5 November 2009. The UK Government has announced details of a Renewable Heat Incentive which will provide support e.g. for the installation of biomass boilers in both domestic and non-domestic properties. The UK Parliament is expected to approve regulations to underpin the scheme in summer 2011, and it will be introduced shortly thereafter (DECC).

\textsuperscript{6} Returns to investors in forestry are made up of sales of timber (standing or felled), sales of other goods and services, increases in the value of the woodland (from annual increment or market factors), and the net income from subsidies (e.g. planting grants) less taxes.

\textsuperscript{7} Other sources of biomass include energy crops; municipal solid waste (MSW); municipal biosolids (sewage); animal wastes (manures); agricultural residues; and certain types of industrial wastes.
LAND REFORM

In the first session of the Scottish Parliament the Executive’s main work on rural policy was carrying out a programme of land reform – the aim being to stimulate the rural economy by diversifying the pattern of land ownership.

The Land Reform (Scotland) Act 2003 is the centrepiece of the programme and has three main parts. It establishes:

- a legal right of responsible access to land and inland water for outdoor recreation
- a community right to register an interest in land and buy it when it comes up for sale
- an absolute right for crofting communities to buy common crofting land at any time

During Session 3, the Rural Affairs and Environment Committee commissioned research from the Centre for Mountain Studies (2010) into the implementation of the Act. The results of the research were published in September 2010. The Committee took evidence from the report’s authors and the Minister for the Environment in February and March 2011, following which it wrote to the Government. Essentially the Committee found that the access provisions of the Act were generally working as intended, but that the process of both the Community Right to Buy and the Crofting Community Right to Buy were unnecessarily complex and should be reviewed. The Minister told the Committee that the Government would want to consult on a review within a year, although clearly that would be a matter for the next Scottish Government (Scottish Parliament Rural Affairs and Environment Committee, 2011b & 2011c).

Support for communities wishing to purchase land is available through the Growing Community Assets programme of the BIG Lottery Fund. This has replaced the Scottish Land Fund (SLF), which helped 150 communities to acquire land and develop land-based projects since its launch in 2001.

The Agricultural Holdings (Scotland) Act 2003 was developed to address a steady decline in the number of tenanted farms and the area of tenanted land in Scotland. It did this by introducing new, more flexible, types of tenancy. The Act also introduces a pre-emptive right to buy for existing tenants and rights for tenant farmers to diversify into non-agricultural businesses and to plant trees.

The Scottish Government established a Tenant Farming Forum in 2007. During 2008 and 2009 the TFF developed proposals to reform agricultural holdings law, and agreement was reached on a package of proposals in August 2009. Some of these proposals were taken forward in a Regulatory Reform Order, made under the Public Services Reform (Scotland) Act 2010. Two of the TFF’s proposals were not considered to be a “regulatory burden” for the purposes of the 2010 Act and so could not be taken forward in the Order. These were the proposal to extend the definition of a relative to allow tenancies to be inherited by grandchildren and to prevent the use of “upward only” and “landlord only” rent reviews in tenancies. The Scottish Government (2011c) published a consultation paper in March 2011 on a Draft Agricultural Holdings (Amendment) (Scotland) Bill which would give effect to these proposals.

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8 Short Limited Duration Tenancies (SLDTs) of up to 5 years, and Limited Duration Tenancies (LDTs) with a minimum term of 10 years. An SLDT can be extended beyond 5 years to become an LDT with a duration of 10 years (from the date the initial lease was signed).

9 The TFF found that some LDTs had clauses which provided that rent could only be reviewed upwards, or that a rent review could only be instigated by the landlord.
LAND USE STRATEGY

Section 57 of the Climate Change (Scotland) Act 2009 requires Scottish Ministers to lay a land use strategy before the Scottish Parliament by 31 March 2011. In the Strategy, Scottish Ministers must set out their objectives in relation to land use; their policies for meeting those objectives; and the timescales for meeting them. The strategy must contribute to achieving Scotland’s climate change targets, and to sustainable development.

In 2008 the Scottish Government initiated a rural land use study. This work has informed the land use strategy. A draft land use strategy for Scotland was published for consultation in September 2010. The Rural Affairs and Environment Committee (2010) took evidence on the draft strategy, and wrote a letter setting out its views to the Government.

The final version of the Strategy, entitled ‘Getting the best from our land’ was laid before the Parliament on the 17 March 2011. The strategy has three inter-related objectives:

- Land based businesses working with nature to contribute more to Scotland's prosperity
- Responsible stewardship of Scotland's natural resources delivering more benefits to Scotland’s people
- Urban and rural communities better connected to the land, with more people enjoying the land and positively influencing land use.

It establishes ten principles for sustainable land use and covers the period up to 2016. It is intended to sit alongside a number of other Government plans and strategies, notably the National Planning Framework, and strategies for biodiversity, forestry and soils, and strategies for infrastructure such as transport and waste. The Government intends it to provide a broad context for planning authorities, and for them to have regard to it in preparing their development plans. It contains 13 proposals for Government actions, the first of which is to publish an action plan setting out further detail on how the proposals will be delivered by the end of 2011 (Scottish Government 2011d).

FISHERIES

SEA FISHERIES

The Scottish fishing fleet divides into four main sections according to the species they target, their boats, and fishing methods. The inshore fleet of creel fishermen and small trawlers fish for shellfish in the waters around Scotland’s coasts. The fleet of prawn trawlers fish on inshore and offshore grounds for Scottish langoustines. There is a medium sized whitefish fleet of approximately 170 vessels which trawls the mixed fisheries in the North Sea and West of Scotland targeting haddock, cod, monkfish and whiting. Finally the pelagic fleet (26 vessels) targets mackerel and herring.

All four sectors of the Scottish fleet have faced problems of different kinds in recent years, not least steadily increasing running costs such as fuel. The inshore fleet and prawn trawlers have been affected by the recession which has reduced demand and price achieved for shellfish. The whitefish fleet has been severely impacted by the cod recovery plan, which has imposed large cuts in the quotas for cod, and has also restricted the amount of fishing time. Stocks of haddock and whiting on the west coast of Scotland have also declined to very low levels and the fleet which fishes there is also subject to additional controls on fishing gear and the species of fish that can be landed.
The stock of North East Atlantic mackerel is particularly important for the Scottish pelagic fleet. Landings were worth £135m in 2009. For the last ten years catches of mackerel have been agreed through coastal state negotiations between three parties: the EU; Norway; and the Faeroes. The stock has been successfully managed through these agreements, and is currently at a sustainable level. Iceland and the Faeroes have recently dramatically increased their quotas for mackerel. Iceland has increased its quotas from around 2,000 tonnes per year to 155,000 tonnes for 2011. If these high quotas are caught, and Norway and the EU fleets continue to catch their quotas, it is likely that the population will decline to unsustainable levels. This has already happened to another pelagic stock in dramatic fashion, the blue whiting – unsustainably high landings of over 1.5 million tonnes a year caused the population to crash, and the quota for 2011 is 40,000 tonnes. Iceland has been included as a party to the negotiations on mackerel, although talks have continually broken down without an agreement being reached.

Scotland’s sea fisheries are managed under the EU Common Fisheries Policy (CFP). The main management tool is to set fishing quotas which are supposed to limit the amount of fish caught. They have not worked, and several fish stocks in EU waters have been overfished. The CFP was introduced in 1983 and has since been reviewed at 10 yearly intervals. The last CFP reform was concluded in December 2002, and another round of reform will take place before the end of December 2012. The European Commission (2009) published a Green Paper on CFP reform in April 2009. The Paper contained a frank acknowledgement that to date the CFP had not done enough to conserve fish stocks and suggested that radical changes were needed. The Scottish Government (2009b) and the UK Government (Defra 2009) made submissions in response to the Commission’s Green Paper. The Scottish Government’s response drew on the interim report of an Inquiry into Future Fisheries Management which it commissioned to look at alternative ways of managing fisheries (Scottish Government 2009c).

A key area of debate in the reforms will be about regional management of fisheries. The majority of the rules under the CFP have been determined centrally by the EU institutions. This has been recognised as a problem, and since 2002, Regional Advisory Councils have been established which seek to better involve the fishing industry and other stakeholders in developing the policy. However, these Councils are only advisory, and decisions continue to be made by the EU institutions in Brussels. It has been suggested that it may be possible for the EU to devolve competence for fisheries management to Member State Governments acting at the regional sea level, e.g. for the North Sea. The Scottish Government and the UK Government both support this approach.

The European Commission (2011a) has said it will publish a package of legislative proposals for CFP reform on 13 July 2011. This first package will have an overarching Communication, a proposal for a new basic regulation, a new Common Market regulation, a Communication on the external dimension of the policy and a report on access to waters. The Commission will publish a proposal for reform of the rules on financial support for fisheries later in 2011.

**Discards**

Discards are fish that are caught and thrown back into the sea; in most cases the fish are thrown back dead or do not survive. Discards in the North Sea have been estimated at between a quarter and a third of fish landings. Several reasons why discarding occurs have been identified:

- The system of quotas obliges fishermen to discard fish for which they have no quota. The mismatch between quotas and catches results in discards

- Minimum landing sizes require the discarding of undersized fish
• National implementation of fish quotas can contribute to the problem where it does not allocate quotas according to the catches of fleets

• Fish are discarded for economic reasons. Many species have low or no-commercial value. Fishermen also discard landable fish to save space on board for bigger higher value fish of the same species, so-called ‘highgrading’.

The issue has been given prominence following a campaign by the celebrity chef Hugh Fearnley-Whittingstall, called Hugh’s Fish Fight. There is general agreement that discarding is a waste of resources, and that it should be reduced, although it is acknowledged that it will be difficult or impossible to end discarding under the current fisheries rules. The Scottish Government has pioneered an approach called “catch quotas”. Scientific advice about quotas for many species includes an assessment of the amount of discards that are likely to occur if the quota is caught. Under catch quotas, fishermen are allowed to land some of these fish, if they agree not to discard any fish and to install CCTV equipment on their vessels which allows this to be monitored. On 1 March, Commissioner Maria Damanaki invited members of the European Parliament, EU fisheries ministers and the Court of Auditors for an informal political discussion on how to end discards in the context of the Reform of the Common Fisheries Policy (CFP). In a speech at the meeting the Commissioner said that she was considering proposing a discard ban as part of proposals for CFP reform. The Commissioner said that there were two possible fisheries management systems that would allow a ban to be implemented: to replace the current system of quotas with controls on fishing effort; or to expand the catch quota approach so that it eventually covers all stocks (European Commission 2011b).

AQUACULTURE

Scotland is the largest producer of farmed Atlantic salmon in the EU and one of the top three producers globally, producing about 144,000 tonnes in 2009. The industry has developed in west coast sea lochs and inshore waters since the late 1970s. Scotland also produces around 6,600 tonnes of shellfish per year (mostly blue mussel), and over 6,000 tonnes of rainbow trout. In recent years there has been considerable consolidation in the ownership of the salmon farming industry, and today the majority of Atlantic salmon production in Scotland is controlled by businesses or individuals based in Norway.

The farm-gate value of Scottish farmed salmon production is about £434 million per year, with a retail value of over £1 billion. Salmon production employs around 1,800 people directly, mainly in the Highlands and Islands, and supports further jobs in processing and downstream activities (Marine Scotland 2011a).

Concerns have been raised about salmon farming’s environmental impacts; in particular on wild salmon and sea trout. These mainly relate to the spread of sea lice (a parasite) from farmed to wild fish which has been blamed for the decline of wild salmon and sea trout stocks on the west coast of Scotland; and to perceived impacts of escaped fish from freshwater sites; through behavioural and ecological interactions and through competition for food and habitat. The Aquaculture and Fisheries (Scotland) Act 2007 contains powers to help address these concerns. Part 1 of the Act contains new powers to control sea lice and escapes from fish farms, and gives a statutory underpinning to codes of good fish farming practice. Enforcement of the Act is the responsibility of the Fish Health Inspectorate of Marine Scotland.

They are also being addressed by working groups established through A Fresh Start - The renewed Strategic Framework for Scottish Aquaculture which was launched on 21 May 2009 under the auspices of a Ministerial Group on Aquaculture (MGA). The groups are:

10 The price of a product at which it is sold by the producer
• Healthier fish
• Improved systems for licensing aquaculture developments
• Improved containment
• Better marketing and improved image
• Improved access to finance
• Shellfish forum

Working Group chairs last reported progress on 23 February 2011 to the Minister for Environment and Climate Change and the members of the MGA (Marine Scotland 2011b).

FRESHWATER FISHERIES

In contrast to sea fishing, freshwater fishing in Scotland is almost entirely a recreational activity, with the exception of a limited number of artisanal salmon net fishermen using traditional techniques. There are two main types of freshwater fishing: game fishing and coarse fishing. The most important game fish in Scotland are salmon, sea trout and brown trout. The more common and well known species of coarse fish include pike, perch, and roach. The abundance of game fish species in Scotland, and the natural lack of indigenous target coarse fish species, means there has been less of a tradition of angling for coarse fish than elsewhere in the UK, although the popularity of coarse fishing is growing. Coarse fishing is concentrated in the south west of Scotland, the Central Belt, Loch Lomond and the Perthshire lochs. Game fishing takes place in rivers, streams and lochs right across Scotland.

Catches of salmon and sea trout in Scotland have declined over the latter half of the last century although the salmon rod catch over this period has remained largely stable11 (Marine Scotland). A number of factors are thought to have contributed to this decline in catch, including cheaper aquaculture products, a decline in stocks and also because fishing effort has been reduced where fisheries using nets have been bought out by rod and line interests for management reasons to maintain an abundance of fish for angling. Declining catches further reflect a general decline in stocks of fish which are thought to result from: netting of salmon at sea; perceived effects of aquaculture; disease, parasites and interbreeding with farmed salmon; predation; changes to the river habitat which may be caused by changes in agricultural practices; and the availability of food at sea. Current policies are therefore aimed at restoring stocks by e.g. introducing catch and release for rod and line fishing, relocating fish farms and restoring river habitats.

The Scottish Executive (2004) commissioned a study on the economic impact of game and coarse angling in Scotland. This found that game and coarse anglers spent around £113 million on their sport annually, supporting 2,800 jobs. Salmon and sea trout were the most valuable fisheries, accounting for 65% of total spending.

The legislation on freshwater fisheries was consolidated in the first session of the Parliament with the passing of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 (asp 15), which brings all the main laws relating to salmon and freshwater fisheries into one place. Part 3 of the Aquaculture and Fisheries (Scotland) Act 2007 made some amendments to the 2003 Act. It banned the use of live fish as bait and of certain types of fishing tackle. It also allows Ministers to set a close season for coarse fish, and to make regulations for conserving freshwater fish. The legislation was developed in conjunction with the Freshwater Fisheries Forum. This Forum was established by the Scottish Executive in 2004. Its membership is made up of representatives of Government and stakeholders from the freshwater fisheries sector. The

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11 Though the total number of salmon caught by rod and line has remained stable, there have been changes in the catch by stock component. Catches of spring salmon, which tend to be the oldest, largest fish have declined, while catches of grilse (salmon that have spent one winter at sea), have increased.
Forum has worked with the Scottish Government (2008) to produce a **Strategic Framework for Freshwater Fisheries** which was published in July 2008. It describes a vision where “Scotland will have sustainably-managed freshwater fish and fisheries resources that provide significant economic and social benefits for its people”.

Scotland is divided into Salmon Fishery Districts. In most of these districts salmon fisheries are managed by District Salmon Fishery Boards, which are made up of fishing proprietors and other interests. The boards are statutory bodies under the 2003 Act and have powers e.g. to request Ministers to make orders regulating the type of fishing tackle that can be used, or the dates of the fishing season. Other than the Tweed Commission, which has statutory responsibility for salmon and freshwater fish species, there are no analogous bodies for managing fisheries for other types of freshwater fishing. The Strategic Framework states that primary legislation in a Freshwater Fisheries Bill will be needed if new statutory management bodies with responsibility for all species of fish are to be established.

**ANIMAL HEALTH AND WELFARE**

The Scottish Government has powers to deal with outbreaks of animal diseases in Part 1 of the Animal Health and Welfare (Scotland) Act 2006 (asp 11). Many of the Regulations relating to animal health and welfare are derived from European legislation. At a European level an Animal Health Strategy is under development, this aims to provide a logical structure for European legislation and to achieve common standards for animal health legislation across Europe.

The BSE crisis and foot and mouth disease outbreaks of 2001 and 2007 had major impacts on rural Scotland. Following foot and mouth (FMD) outbreaks in 2001 and 2007 several official inquiries investigated their causes and responses. Part of the Government response to the 2001 outbreak and the enquiries was to produce a joint Animal Health and Welfare Strategy for Great Britain which was published in June 2004 by Defra, the Scottish Government & Welsh Assembly Government (2004).

The strategy set out basic principles such as ‘prevention is better than cure’ and focussed on how the Government would work in partnership with industry to improve animal health and welfare over ten years. Separate implementation plans have been published for Scotland, England and Wales. Since 2001 Scotland has reviewed its contingency arrangements with its current Contingency Plan Framework being published in January 2010. Unlike in 2001 an immediate national movement ban would be imposed on FMD-susceptible animals if there was a confirmed case of FMD in Great Britain. Scotland has not had a case of BSE in cattle for 3 years. Scotland took a proactive approach to reopening livestock trade after FMD in 2007 by using an evidence based approach to demonstrate to the European Commission that a thorough risk assessment had been carried out.

Bluetongue is an insect borne viral disease that affects cattle and sheep. In 2007 cases were reported in continental Europe, and in 2008 the disease spread to the UK. In response to this a compulsory vaccination programme was operated in 2008 and 2009, ending in the autumn of 2009 when colder weather meant the disease could no longer be transmitted by midges. Strict movement controls were also put in place. From June 2010 GB has been declared a lower risk zone for bluetongue, however before Scotland and the rest of GB can be declared freed from bluetongue, two years worth of surveillance, with negative results are required, from the date the last case was confirmed in GB. A second year of winter surveillance has now been carried out. These results will help support decisions about a possible move towards officially declaring freedom from disease (Scottish Government 2011e).

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12 There are a small number of salmon fishery districts where no Board has been constituted.
In Scotland better working relationships between the Scottish Government, agencies and the industry have been required to be developed during responses to disease outbreaks – this has given context to work in a range of other areas such as welfare, responsibility, cost sharing and responses to controversial issues such as sheep tagging. According to the Scottish Government, (2011f), partnership working with industry on controlling Bovine Viral Diarrhoea in cattle and sheep scab is beginning to reap dividends. The Scottish Government has commissioned reviews of Responsibility and Cost Sharing (RCS), chaired by John Ross, and of Veterinary surveillance in Scotland, chaired by John Kinnaird.

A significant recent development has been the devolution of Scotland’s share of the GB animal health and welfare budgets on the 1st April 2011. This brings financial responsibility in line with policy responsibility and provides a fresh impetus to Scottish Government to focus on efficient and effective delivery of animal health in Scotland.

The EU has developed common standards on farm animal welfare. EU laws set minimum standards for conditions on farm, in transport and at slaughter. Member States can set more stringent standards and UK agriculture departments have done this in some cases, though there may not be an appetite for such action in the future. Farmers feel that this penalises them because, although complying costs them money, consumers aren’t prepared to meet these additional costs by paying more for their produce. EU legislation allows farming practices which improve welfare beyond legal minimum requirements to be supported and the Scottish Government has introduced the Animal Welfare Management Programme as part of the Scottish Rural Development Programme to encourage participating farmers to develop health plans with their veterinary surgeons and to choose specific actions from a range of ten options to improve health and welfare of their animals. More generally, compliance with EU welfare requirements for farmed animals is monitored as part of the system of cross-compliance inspections with potential for reductions in Single Farm Payment if non-compliance is found (Scottish Government 2011f).

Part 2 of the Animal Health and Welfare Act 2006 (asp 11) consolidated and modernised previous laws on animal welfare. It introduced new protection for animals, the main one being a duty for animal keepers to ensure an animal’s basic welfare needs are met. The Act provides a new basis for regulating “mutilations” – procedures which involve interfering with the bones or sensitive tissue of an animal. Regulations 13 specify exemptions to the general prohibition on mutilations in the Act have been made, to allow routine farm practices such as tail docking of lambs to continue. Tail docking of dogs is not specified as an exemption, and so has been banned in Scotland from the 30 April 2007. A study was commissioned from Glasgow University to investigate the impact of the ban on tail docking for working spaniels, hunt point retrievers and terriers. This project started in June 2011, is expected to report back at the end of May 2012, and will inform a review of the tail docking ban in 2012.

The Act contains enabling powers allowing Ministers to regulate, licence and make statutory codes to improve animal welfare. The Scottish Government has used these powers to make regulations on the licensing of sellers of puppies and kittens 14 and statutory codes of recommendation on the keeping of cats, dogs, and equidae (horses, ponies and donkeys).

13 The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 (as amended)
14 The Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009
The previous Scottish Executive launched an initiative called ‘On the Ground’ in June 2005. The initiative aimed to encourage co-location of offices, and joint working among public bodies working in rural affairs and the environment.

The SNP manifesto for the 2007 election contained a commitment to:

- review the role of enforcement agencies SEPA and SNH. The SNP is proposing to merge these two agencies and review the implementation of the plethora of regulations relating to agriculture. (SNP 2007)

Following the 2007 election, in June 2007 Michael Russell MSP, the then Minister for the Environment in the new Scottish Government, asked nine public bodies working in rural affairs and environment to draw up proposals by September 2007 which could be implemented to deliver a single rural and environmental service within a year. The nine organisations were: SNH, SEPA, Forestry Commission Scotland and Forest Enterprise, Cairngorms National Park Authority, Loch Lomond & The Trossachs National Park Authority, Deer Commission for Scotland (DCS), Crofters Commission, Scottish Executive Rural Payments & Inspections Directorate and the Animal Health Agency (Scottish Government 2007).

This led the abovementioned organisations to establish Scotland’s Environmental and Rural Services (SEARS), which was launched formally at the Royal Highland Show in June 2008.

The members of SEARS were given a brief to work within the current statutory framework which meant that the core roles and responsibilities of the SEARS bodies were not altered. SEARS is not a separate organisation, but a partnership, managed as a programme, with a board chaired by Peter Russell (the Scottish Government’s Rural Director) and overseen by a Strategic Reference Group, chaired by the Minister for the Environment. Members of the Programme Board are the Chief Officers of the SEARS bodies. A broad memorandum of agreement (MoA), setting out the framework for the partnership, was agreed by the SEARS Programme Board in March 2008.

The work of SEARS is currently limited to their clients who are land managers, and not the other clients of these bodies. SEARS partners operate a ‘one-door any door’ approach which means that a land manager can contact any one of the SEARS partners about anything within the remit of SEARS and they are guaranteed to receive a reply and be put in touch with the appropriate person from SEARS who will contact them within 2 working days.

An Annual Review has been published which shows the progress made by the initiative in reducing bureaucracy, making efficiencies and reducing inspections (SEARS 2010).

Since the SEARS project was launched, the main change to the landscape of rural and environmental public bodies has been the transfer of functions from the Deer Commission Scotland to SNH. This was put in place by the Public Services Reform (Scotland) Act 2010, and came into effect on the 1 August 2010.
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