This briefing is written for the benefit of both new MSPs and those returning to the Parliament. 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. More detailed briefings on rural affairs topics will be produced throughout the parliamentary session.
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### KEY POINTS

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<tr>
<td>Rural Scotland</td>
<td>Rural Scotland accounts for 98% of the land mass of Scotland and nearly a fifth of the population. The most recent overarching rural policy document from the Scottish Government was “Our Rural Future” published in 2011.</td>
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<tr>
<td>Common Agricultural Policy (CAP) Reform</td>
<td>The CAP was reformed for 2014-2020 and comprises 2 pillars. Pillar 1 provides direct payments to farmers of about £3.3bn over that period. Pillar 2 funds £1.3 bn for rural development over the period. Each pillar comprises a number of different schemes.</td>
<td>Implementation of the CAP is ongoing. It has proved complex and challenging. Audit Scotland have reported on risks associated with the new CAP IT system. It states penalty payments for 2015/16 to the EC may be in the range of £40-£125 million.</td>
</tr>
<tr>
<td>Less Favoured Area Support Scheme (LFASS)</td>
<td>LFASS is a pillar 2 CAP scheme which provides funding to farmers and crofters in areas which can only support low intensity farming. It has a budget of around £65.5 million p.a. 86% of farm land in Scotland is on LFA land.</td>
<td>By 2018 LFASS will be replaced with a new scheme called Areas Facing Natural Constraint (ANC) as required by the European Commission. The Scottish Government is working on the new scheme.</td>
</tr>
<tr>
<td>Market Returns for Agricultural Commodities</td>
<td>Farm Business Income (profit) excluding subsidies has been negative each year of the last eight. Whilst this highlights the importance of subsidies to Scottish farming businesses it also shows that the returns farmers receive from the market are, on average, below their costs of production. This is borne out by data from other sources on costs of production for beef, sheep and dairy farmers. In the previous Parliament the returns dairy farmers get from the market was considered by the Rural Affairs Climate Change and Environment Committee.</td>
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<td>Agriculture and Climate Change</td>
<td>Emissions from the agriculture and land use sector have reduced by 23% since 1990. The RACCE Committee have noted that efforts to cut emissions from this sector rely heavily on voluntary measures and have suggested that it may be necessary to consider mandatory approaches to achieve greater reductions from this sector.</td>
<td>The Scottish Government is developing its next plan that sets how they intend to meet their forthcoming climate change goals. It is expected that a draft of this plan will be laid in the Scottish Parliament later in 2016 for Parliamentary scrutiny.</td>
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<td>GM Crops</td>
<td>An EU Directive agreed in 2015 allows Member States to opt out of cultivation of GM crops. 17 Member States have banned the cultivation of GM crops. Four devolved administrations in two Member States, including Scotland, Wales and Northern Ireland within the UK have also banned GM cultivation.</td>
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<td>Tenant farming</td>
<td>The Agricultural Holdings Legislation Review reported in 2014. Many of its recommendations were taken forward in the Land Reform (Scotland) Act</td>
<td>The Government will carry out a consultation and review of the legislation on small landholders before the end of 2016.</td>
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<td>Subject</td>
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<td>Crofting</td>
<td>Crofts are small land holdings traditionally in the Highlands and Islands of Scotland, but also elsewhere. There are 19,422 crofts in Scotland. Crofting has been protected and regulated by a unique code of law since the end of the nineteenth century. This body of law is considered to be in need of revision.</td>
<td>In their 2016 manifesto the SNP stated “Crofters have long been concerned at overly complicated and outdated legislation so we will modernise crofting law and make it more transparent, understandable and workable in practice.”</td>
</tr>
<tr>
<td>Forestry</td>
<td>The Scottish Forestry Strategy is the key policy guiding the work of Forestry Commission Scotland. It aims to deliver benefits from Scotland’s trees, woods and forests to help achieve the Scottish Government’s objectives and contribute towards its National Outcomes.</td>
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<tr>
<td>Land Reform</td>
<td>The Land Reform (Scotland) Act 2016 contains provisions, including the creation of a Scottish Land Commission; a public register of persons who have controlling interests in owners and tenants of land; and the creation of a right to buy land to further sustainable development.</td>
<td>The new Scottish Land Commission is expected to be fully operational on 1 April 2017.</td>
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<td>Land Use</td>
<td>The new Land Use Strategy 2016-2021 was published in March 2016. This has three key objectives relating to the economy, environment and communities; and the Principles for Sustainable Land Use to guide policy and decision making by Government and across the public sector.</td>
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<td>Animal Health</td>
<td>The last major outbreak of animal disease in Scotland was of Foot and Mouth Disease in 2007. This outbreak was controlled more easily than the severe outbreak that occurred in 2001. The Scottish Government has extensive powers to deal with outbreaks of animal diseases under Part 1 of the Animal Health and Welfare (Scotland) Act 2006 (asp 11).</td>
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<tr>
<td>Animal Welfare</td>
<td>Part 2 of the Animal Health and Welfare Act 2006 (asp 11) consolidated and modernised previous laws on animal welfare. Under the Act a number of animal welfare codes and regulations have been made, covering the welfare of pets and farm animals, and regulating specific practices which caused animal welfare concerns such as puppy farming.</td>
<td>Since 2007 it has been illegal to dock a dog’s tail in Scotland. The Government has recently consulted on an exemption for this ban for working dogs of specific breeds used in shooting. The Government has also consulted on whether to restrict the use of electronic training aids, the keeping of wild animals in circuses, and is reviewing pet welfare and the pet trade, including keeping exotic animals as pets.</td>
</tr>
<tr>
<td>Hunting</td>
<td>The Protection of Wild Mammals (Scotland) Act 2002 made it illegal to hunt a wild mammal with a dog. An exception allows the use of a dog or dogs to flush wild mammals from cover, for the purpose of shooting them. Mounted foxhunts have continued to operate in Scotland under this exception.</td>
<td>There was debate at Westminster in 2015 where the UK Government sought to amend the Hunting Act 2004 to introduce the same exception in England and Wales. SNP MPs would have opposed the change. The proposals were dropped. The Scottish Government announced it would review hunting legislation in Scotland in December.</td>
</tr>
<tr>
<td>Deer</td>
<td>The Rural Affairs, Climate Change and Environment Committee held an inquiry into deer management in 2013. The Committee recommended that all deer management groups should have deer management plans in place by the end of 2016. Scottish Natural Heritage was given a power to require a deer management plan be produced in Part 8 of the Land Reform (Scotland) Act 2016.</td>
<td>During 2016 Scottish Natural Heritage will review carry out a review of deer management in Scotland, to report by the end of the year. The remit for the review has not yet been announced.</td>
</tr>
<tr>
<td>Food</td>
<td>Scotland produces high quality food and drink, but has high levels of diet-related disease. In 2014, the Scottish Government published a consultation “Becoming a Good Food Nation”. This proposed priority areas of work and the need to move towards a healthier, resilient and sustainable food system.</td>
<td>A Good Food Nation Bill is expected in the new session to bring together aspects of food and drink – including food standards, public procurement and food waste.</td>
</tr>
<tr>
<td>Rural Broadband Access</td>
<td>84.1% of Scotland has access to a broadband at target speeds. Access across Scotland is not uniform.</td>
<td>Tackling access to superfast broadband in rural Scotland was an issue highlighted 2016 manifestos. SNP said they would reach 100% of Scotland with superfast broadband by 2021.</td>
</tr>
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<td>The Crown Estate</td>
<td>The Crown Estate in Scotland consists of the rights, interests and property in Scotland that are managed, but not owned, by the Crown Estate Commissioners (CEC) as part of the UK wide Crown Estate. Rural assets include four estates, and rights to gold, silver and salmon fishing.</td>
<td>Under the Scotland Act 2016, the management of Crown Estate assets in Scotland is to be devolved to Scotland – firstly to an interim body, with further consultation on longer term arrangements. The processes for this to happen are expected through 2016 and 2017.</td>
</tr>
<tr>
<td>Rural Affairs, Food and the Environment Budget</td>
<td>In 2016-17 the total budget for the Rural Affairs, Food and the Environment portfolio was £560.4 million.</td>
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RURAL SCOTLAND

Rural Scotland accounts for 98% of the land mass of Scotland and nearly a fifth of the population are resident there. Rural Scotland is defined as settlements with a population of less than 3,000. The Scottish Government uses a 6 fold urban/rural classification, which is shown in Figure 1 below. (Scottish Government 2015a)

Over recent years, the population of rural Scotland has continued to grow at a faster rate than the rest of Scotland, driven by the increase in population in accessible rural areas, mainly due to inward migration.

There appear to be a number of advantages to living in a rural area. First, a higher proportion of residents of rural Scotland, compared to the rest of Scotland, rate their neighbourhood as a 'very good' place to live. Second, the rates of emergency admissions to hospital are lower in rural Scotland, however this may be due to an increased difficulty in accessing hospitals - a lower proportion of people living in rural Scotland state that the nearest hospital outpatients department is either very or fairly convenient. Third, with regards to jobs, more residents of rural Scotland are in work, with higher employment rates and lower unemployment rates. Residence based estimates of pay indicate that rates are highest for accessible rural areas.

However, there are also particular challenges in rural areas. First, in terms of travel and access to services, more people in rural areas are outwith a reasonable drive time to key services (e.g. GPs and shops) compared to the rest of Scotland and fewer people are satisfied with the quality of the public transport services. Residents of rural Scotland spend more per month on fuel, with over 60% of residents reporting to spend over £100 a month in 2013, compared to 47% in the rest of Scotland. Second, with respect to housing, the average property is more expensive in rural Scotland. Third, the proportion of households in rural Scotland which are classed as extreme fuel poor (households which spend more than 20% of its income on household fuel) is around double the proportion in the rest of Scotland (Scottish Government 2015).

RURAL POLICY

A Scotland’s Rural College (SRUC) report reviews broad rural policies such as Scottish Rural Development Policy, the Rural Development Council, Speak up for Rural Scotland, and Our Rural Future (Skerrat et al 2014). This is a useful review of recent rural policy in Scotland. In looking at “where next for rural Scotland?” the report states that:

“Whilst there are strategies for land use (the Land Use Strategy) and spatial planning (National Planning Framework), there is no overall strategy for rural Scotland and all that it encompasses. What is absent is a strategic framework setting out: specific rural outcomes; a baseline, targets, indicators, monitoring or review processes to see whether targets are being met; and the identification of the means by which collaborative working would be put in place to achieve them.”

The most recent overarching rural policy document from the Scottish Government was “Our Rural Future” published in 2011. It set out the main priorities needed for rural Scotland. These were identified as Infrastructure, Land Use, Community Participation, Community Enterprise, and Business and Skills.
Scottish Government Urban/Rural Classification, 2013-2014

6 Fold Classification

- Large Urban Areas (with a population of 125,000 or more)
- Other Urban Areas (with a population of 10,000 to 124,999)
- Accessible Small Towns (with a population of 3,000 to 9,999)
- Remote Small Towns (with a population of 3,000 to 9,999)
- Accessible Rural (with a population of less than 3,000)
- Remote Rural (with a population of less than 3,000)

Note:

Accessible Areas are defined as those areas that are within a 30 minute drive time from the centre of a Settlement with a population of 10,000 or more, while Remote Areas have a drive time which is greater than 30 minutes.
The first Scottish Rural Parliament took place in Oban in November 2014. ‘Rural Parliament’ is not a formal part of government, nor is it a parliament in the sense of a legislative or decision-making body. It is a bottom-up process of involvement and debate between the people of rural Scotland and policy makers. The main outcomes of the first Rural Parliament was an action plan which the Scottish Government responded to in December 2015. The second Rural Parliament is scheduled for 2016 in Brechin.

AGRICULTURE

6.2 million hectares of land is farmed in Scotland (78% of the total land area). Of this 86% is classified as Less Favoured Area (LFA). LFA land 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 (see Figure 3).

Cereals accounted for 78% of the area of crops grown in 2014, with 71% of that being barley (327,000 hectares). Other important crops were wheat (109,000 hectares), oilseed rape (37,000 hectares), oats (25,000 hectares) and potatoes (29,000 hectares). Amongst fruit and vegetables, a total of 913 hectares of strawberries were grown, mainly under cover, which was the largest source of income amongst horticulture crops.

In June 2014, Scotland had 1.79 million cattle, 6.69 million sheep, 316,000 pigs and 14.7 million poultry. Cattle and sheep tended to be located on LFA holdings, reflecting the large areas of grassland and rough grazing in these areas. In contrast, pigs and poultry tended to be located on non-LFA holdings (Scottish Government 2015).

Farm Business Income (FBI) is the headline business-level measure of farm income, or profit. It represents the return to the whole farm business, that is, the total income available to all unpaid labour and their capital invested in the business. Figure 2 shows the overall impact of grants and subsidies on the average income of farm businesses (Scottish Government 2015). The average FBI falls below zero when grants and subsidies are excluded. In each of the last five years FBI without grants and subsidies has been negative. In 2013-14, this figure was -£16,000.

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1 Excluding grass
Figure 3 - Map showing farm types by parish

MAP 5: FARM TYPE BY PARISH

Parishes have been assigned a farm type, where the total Standard Output (SO) for that type exceeds the total SOs for each of the other types.

- Cereals
- General cropping
- Horticulture & permanent crops
- Specialist pigs
- Specialist poultry
- Dairy
- Cattle & Sheep (LFA)
- Cattle & Sheep (Non-LFA)
- Mixed
- General cropping/forage
- Unclassified

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Source: Scottish Government RESAS, April 2015
COMMON AGRICULTURAL POLICY REFORM

The main policy change affecting Scottish farming in recent years has been the reform of the European Common Agricultural Policy (CAP). The CAP aims to improve agricultural productivity so that consumers have a stable supply of affordable food and to make sure that farmers can make a reasonable living (Scottish Government 2014). It also supports environmental priorities and rural development.

The most recent reforms apply from 2014-2020. This set of reforms is the latest in a long history of the policy which dates back to its inception in 1962 (Allen et al 2014).

CAP reform 2014-2020 allowed for a great deal of flexibility of implementation for Member States. This has allowed Member States (and regions) to customise the reform package to best fit their farming sector. However, the latest version CAP has been widely criticised for being overly complex and bureaucratic. It is estimated that the annual cost of the administrative burden in agriculture in the EU is €5.3 billion (Tropea 2016). Consequently, future CAP simplification is an objective shared by the European institutions, as well as national administrations, stakeholders, and farmers.

The EU rules require the information to be published on a single website per Member State. In the UK, data on recipients of CAP payments in Scotland are published on the UK CAP payments website (UK co-ordinating body, undated).

The CAP has two pillars. Pillar 1 provides direct payments to farmers and is fully funded by the EU. Pillar 2 supports rural development, is jointly funded by the EU, national governments and transfers from Pillar 1.

A SPICe briefing on CAP Reform 2014-20 (Allen et al 2014) was published in 2014, and provides full details.

Table 1: CAP key statistics

<table>
<thead>
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<th>Description</th>
<th>Amount</th>
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<tr>
<td>Pillar 1 2014-2020</td>
<td>€4,096 m (£3.3 bn)</td>
</tr>
<tr>
<td>Pillar 1 per year (approx.)</td>
<td>£438 m</td>
</tr>
<tr>
<td>Pillar 2 (EU contribution) 2014-2020 (Allen et al, 2014)</td>
<td>€478 m</td>
</tr>
<tr>
<td>Pillar 2 (EU contribution, national budgets and transfers from pillar 1) 2014-2020²</td>
<td>(€1,680 m) £1.3 bn²</td>
</tr>
<tr>
<td>Pillar 2 (EU contribution, national budgets and transfers from pillar 1) approx. per year (Scottish Government, SRDP guide, 2014) All schemes /7</td>
<td>£195 m¹¹</td>
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Pillar 1 – Direct Payments

Direct Payments are intended to provide farmers with a basic level of support “in return for the provision of public goods” (Scottish Government, 2014, p3). Under the reformed CAP a number of new schemes have been introduced to replace the previous Single Farm Payment Scheme (see Figure 4).
Basic Payment Scheme

The Basic Payment Scheme (BPS) along with its associated “greening” payment, is where most farmers and crofters will get most of their payments from. Entitlements are regionalised and Scotland is divided into 3 regions.

- Payment Region 1 includes better quality agricultural land that has been used for arable cropping, temporary grass and permanent grass. An expected subsidy rate of €145 per hectare will be associated with this land. SRUC (undated) has estimated that with the greening payment this will increase to between €200 – 220 / ha.

- Payment Region 2 includes rough grazing with a Less Favoured Areas (LFA) grazing category of B, C, D, or is outside the LFA, and will receive an expected rate of €25 / ha (€35 with greening).

- Payment Region 3 includes rough grazing with a LFA grazing category of A with an expected rate of €7 / ha (€10 with greening).

Greening

Greening is the requirement to follow certain agricultural practices that are beneficial for the climate and the environment. The Scottish Government has allocated 30% of its budget for Direct Payments to payments linked to these practices. In order to access this funding, farmers are required to follow a new set of three greening requirements, namely: crop diversification for farmers that grow arable crops; maintenance of permanent grassland; and establishment of Ecological Focus Areas on 5% of arable land.

Scottish Livestock Support Scheme

The Scottish Livestock Support Scheme, also known as Voluntary Coupled Support (beef and sheep). One sub component is the Scottish Suckler Beef Support Scheme which gives direct support to specialist beef producers. It has an annual budget of €38 million for Scottish mainland claims and €6.6 million for claims from the Scottish islands. The other sub component is the Scottish Upland Sheep Support Scheme which gives direct support to help maintain sheep flocks in farm businesses reliant on poorer quality rough grazing found in Scotland’s Basic Payment Region three. It has an annual budget of €8 million.

National Reserve

The National Reserve which is taken from the total funds available for the Basic Payment Scheme in Scotland to allocate payment entitlements to Young Farmers and New Entrants to farming (Scottish Government, 2014).

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2 LFA grazing categories were assigned in 2004 based on stocking in 2001. LFA Category A had the lowest stocking rate.
Pillar 2 - Scotland Rural Development Programme (SRDP)

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. The Rural Development Regulation\(^3\) sets out the options for spending EU money on rural development. Governments set out how they want to use their share of the EU rural development budget in multi-annual Rural Development Programmes.

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The Scotland Rural Development Programme (SRDP) 2014-20 has a total budget of £1.3 billion. Of this, 50% comes from Scottish Government funds, 28% is EU funding, and 22% comes from a transfer of funds from Pillar 1 of the CAP (9.5% of Pillar 1 funds have been transferred in Scotland). This budget will be divided between 14 support schemes and packages as shown in figure 14.

The Less Favoured Area Support Scheme and Areas Facing Natural Constraint

The Less Favoured Area Support Scheme (LFASS) provides income support to farming businesses in areas designated as LFAs. A budget of around £65.5 million p.a. is available. 86% of farming land in Scotland is LFA. Funding is used to allow farmers and crofters to continue to operate as viable businesses, avoid the risk of land abandonment, help maintain the countryside by ensuring continued agricultural land use, and maintain and promote sustainable farming systems. The current scheme will continue until 2018.

By 2018 LFASS will be replaced with a new scheme called Areas Facing Natural Constraint (ANC) as required by the European Commission. The Scottish Government has set up an ANC working group (Scottish Government, undated) which will ensure:

- an appropriate level of support goes to areas facing natural or other specific constraints which contribute, by encouraging continued use of agricultural land, to maintaining the countryside as well as to maintaining and promoting sustainable farming systems.

- the scheme will be based on a calculation of additional costs incurred and income forgone as a result of the natural or other specific constraints.

- the proposed ANC designation and scheme meets the requirements of the Rural Development Regulation (EU)1305/2013.

CAP IT System

The Scottish Government has developed a new IT system for implementation of the reformed CAP. This is part of a five-year business change programme known as the Futures Programme which runs from 2012/13 to 2016/17 and has two main elements:

- Business change - to redesign services and working practices to focus on the customer, and work more efficiently

- IT programme - to deliver a new IT system to meet the requirements of the new CAP

One of the main reasons for implementing the new program was to meet EU rules on administering CAP payments and to avoid the risk of fines from the EU if these rules were breached. The Government estimated that fines could reach up to £50m per year.

Implementing the programme has proved significantly more complex and challenging than the Scottish Government anticipated. The budget for the program has been significantly overspent. Payments to farmers in 2015/16 have been made much later than the industry has come to expect, and a new National Scheme has had to be developed to ensure payments have been made to farmers.

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4 More details of each scheme are available on the Rural Payments website: [https://www.ruralpayments.org/publicsite/futures/topics/all-schemes/](https://www.ruralpayments.org/publicsite/futures/topics/all-schemes/). The budget allocations for each scheme are notional and unspent funds can be reallocated between schemes.
Audit Scotland drew the Parliament’s attention to the cost of the programme in a report published in October 2014, when the cost had risen from £88 (in the original business case in 2012) to £127.8 million. Audit Scotland announced a further audit of the CAP futures program in January 2016. In May 2016 Audit Scotland published an update. Amongst the key messages were that:

- Audit Scotland do not believe that the programme will deliver value for money
- There is a risk that the programme could run out of money before a CAP compliant system is in place
- There is a significant risk that financial penalties charged by the EC for non-compliance will not be minimised. The range of potential penalties for 2015-16 may be between £40m- £125m.

**MARKET RETURNS FOR AGRICULTURAL COMMODITIES**

Farm Business Income excluding subsidies has been negative each year of the last eight. Whilst this highlights the importance of subsidies to Scottish farming businesses it also shows that the returns farmers receive from the market are, on average, below their costs of production. This is borne out by data from other sources. Data from a sample of farms is used by Quality Meat Scotland to calculate the cost of producing a kilogram of beef or lamb. This shows that in 2014 costs of production were higher than the sale price for three out of four types of sheep enterprise and for seven out of eight types of cattle enterprise. The Agriculture and Horticulture Development Board Dairy section calculates costs of production for milk. The average cost of production they calculate for 2015 for the top 25% performing dairy farmers (25.7 pence per litre) is less than the average UK milk price in 2015 (24.5 ppl), and substantially less than the average costs of production for the bottom 25% (34.4 ppl).

The reasons for the figures above vary from sector to sector. However, there is an excess of supply over demand for most commodities, e.g. demand for red meat has fallen over recent decades; and there is competition from imports from countries where farmers enjoy more favourable production conditions, or less stringent regulatory regimes compared to Scotland.

In the previous Parliament, the returns dairy farmers get from the market for their produce was considered by the Rural Affairs, Climate Change and Environment Committee early in 2015 (Scottish Parliament Rural Affairs, Climate Change and Environment Committee 2015a).

**AGRICULTURE AND CLIMATE CHANGE**

The Scottish Parliament’s Rural Affairs, Climate Change and Environment Committee (Scottish Parliament Rural Affairs, Climate Change and Environment Committee 2014) have previously noted that action to reduce emissions from the agricultural sector relies heavily on voluntary approaches and that the agriculture sector should do more to cut emissions:

‘The Committee has spent a great deal of time learning more about, and scrutinising, the Farming For a Better Climate scheme; greening of agricultural support; fertilizer efficiency measures; and carbon audits for farms, but much relies on voluntary uptake. There is a view that the agriculture sector could be doing more to increase emission reductions, especially given the significance of the emissions abatement attributed to land use policies in RPP2.’

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5 Range -£16,895 in 2014-15 to -£852 in 2007-08
In 2015 (Scottish Parliament Rural Affairs, Climate Change and Environment Committee 2015b) the Committee suggested that it may be necessary to adopt a mandatory approach:

‘The Committee also supports the Farming for a Better Climate programme, but has concerns that the modest budget and largely voluntary approach being taken to many of the measures within it will prove successful in securing the level of emissions reduction attributed to this policy in RPP2 and therefore believes that mandatory measures should be considered if robust evidence shows that the voluntary approach is not working.’

In their 2015 Progress Report on Reducing Emissions in Scotland the UK Committee on Climate Change (CCC) made a number of recommendations to help address emissions from the land use sector (CCC 2015). These include:

- Establishing the scale of uptake of the Farming for a Better Climate programme and what measures have worked
- Developing the proposal outlined in RPP2 to achieve a 90% uptake of nitrogen efficiency measures
- Making the proposal set out in RPP2 to restore 21,000 hectares of peatland per year as a firm policy.

**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.

The first commercially cultivated GM crop was produced in 1994. The uptake of GM crops has been greatest in the US, Brazil and Argentina, with the main GM crops being maize, soya, cotton and oilseed rape. Europe has been cautious in its approach to GM, with Monsanoto’s GM maize MON 810 being the only GM crop commercially available in Europe following its authorisation in 1998. The modifications used to create MON810 were chosen to increase the plant’s resistance to the European corn borer, an important agricultural pest. MON810 is grown in just five EU Member States, covering a total area of 140,000ha. The majority of this GM crop is grown in Spain, where the corn borer is a common problem, with the other four countries being Portugal, Czech Republic, Romania and Slovakia (Ryan-Hume 2015).

Authorisation of GM crops is regulated through an EU Regulatory Framework based on the precautionary principle. A recent EU Directive gives Member States more flexibility to ‘opt-out’ of GM cultivation. Under the Directive, countries had until 3 October 2015, to inform the Commission that they wished to opt out of new EU GMO cultivation approvals. 17 Member States have notified the Commission that they intend to prevent the cultivation of GM crops on the entirety of their territories. Four devolved administrations in two Member States, including Scotland, Wales and Northern Ireland within the UK have also notified the Commission of bans on cultivation of GM crops (European Commission 2015).

A SPICE briefing on GM was published in 2015 and provides full details.
TENANT FARMING

In the late 19th Century over 90% of farms in Scotland were tenanted. Since then, there has been a continuous reduction in the number of tenanted holdings and the area of land that is rented. In 2014 23% of farm land was rented on leases of more than one year (Scottish Government 2015a). Three explanations were given by the Land Reform Review Group for this trend: the break-up of large estates post WW1 following recession and the tax regime with tenants converting to owner-occupancy; consolidation of farms into larger units e.g. due to mechanisation; and the introduction of security of tenure in the 1940s, which has made landowners reluctant to create new tenancies since that time. Scotland currently has one of the lowest proportions of rented land anywhere in Europe.

Given the high capital costs of land purchase, tenancy is seen as the route into farming for new entrants. Letting and leasing land also gives flexibility e.g. allows a farmer to retire without selling their farm; or to expand without the capital cost of land purchase. Leasing land offers landlords an opportunity to obtain an income from their land without the capital cost of owning stock and machinery. The Scottish Government’s vision is “a dynamic sector that gets the best from land and the people farming it, provides opportunities for new entrants and forms part of a sustainable future for Scottish farming as a whole”.

Cook et. al (2009) reviewed routes into farming. It describes five arrangements which are all used to a greater or lesser degree in farming in Scotland, but which are distinct from tenancy: Incentivised employment contract; Share farming; Equity Arrangements and Partnerships; Contract Farming Agreements; and Contract growing.

Tenant farms exist where the relationship between landlord and tenant is governed by a specific body of law on “agricultural holdings”. The principle statute is the Agricultural Holdings (Scotland) Act 1991 c.55 (as amended). In November 2013 the Scottish Government initiated a review of agricultural holdings legislation (AHLR) (Scottish Government 2013). The Review published its final report on 27 January 2015 (Scottish Government 2015b). The Report included 49 recommendations. Many of the review’s recommendations were for legislative changes.

Under agricultural holdings legislation there are now seven possible tenancy arrangements:

- Leases of less than a year for grazing or mowing (accounting for 770,000 hectares of land in 2014).
- Short Limited Duration Tenancies (SLDT) of up to 5 years (834 in 2014).
- Limited Duration Tenancies (LDTs) of a minimum term of 10 years (528 in 2014). LDTs have now been replaced by MLDTs, and new LDTs cannot be entered into.
- Modern Limited Duration Tenancies (MLDTs) have replaced LDTs and like them have a minimum of 10 years (an SLDT can be converted to an MLDT at any time during the lease).\(^6\)
- Repairing tenancies which have a minimum term of 35 years. The idea of these tenancies is that the tenant takes more responsibility for equipping the farm than they would have under an MLDT in return for a lower rent. Provisions for these tenancies were created by the Land Reform (Scotland) Act 2016.

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\(^6\) MLDTs were introduced by the Land Reform (Scotland) Act 2016 and replace the previous Limited Duration Tenancies (LDTs) which were created by the Agricultural Holdings (Scotland) Act 2003. LDTs originally had a minimum term of 15 years but this was reduced to 10 years in 2011.
“1991 Act tenancies” or “secure tenancies” entered into under the 1991 Act or preceding legislation, where the tenant’s security of tenure is protected by the legislation (estimated to be 4,993 in 2014). A 1991 Act tenancy can be converted to an LDT.

Limited partnership tenancies where the landlord or their agent is the limited partner, and the tenant is the general partner. The limited partnership lasts for a minimum term specified in a partnership agreement. At the end of the term specified in the partnership agreement, either the landlord or tenant can bring the partnership to an end, which ends the tenancy (532 in 2014).

Since 2003 tenants have had a pre-emptive right to buy their farm. The right to buy is triggered when the landlord seeks to sell the land. If the landlord and tenant cannot agree a price, it can be set by an independent valuer. Initially tenants had to register to exercise the right to buy. By 2015 only around one-fifth of tenants had registered. The requirement to register was removed by the Land Reform (Scotland) Act 2016.

Salvesen v Riddell

In a judgement given in 2013 in a case called Salvesen v Riddell, the Supreme Court (2013) found that section 72(10) of the Agricultural Holdings (Scotland) Act 2003 was incompatible with the European Convention on Human Rights (ECHR) and so was outwith the legislative competence of the Scottish Parliament. The provision was introduced by an anti-avoidance amendment (i.e. to stop landlords avoiding forthcoming legislative provisions) agreed by Parliament in 2002 which was intended to prevent landlords concerned about the right to buy from dissolving limited partnerships before their term. The Court gave the Scottish Government a year to resolve the situation. The Agricultural Holdings (Scotland) Act 2003 Remedial Order 2014 was made on the 2 April 2014. The Order provides landlords affected by the provisions with a means to recover possession of their land without a sitting tenant.

The RACCE Committee took a close interest in the effects of the Order, and received regular updates from the Scottish Government on its work to mediate between affected tenants and landlords. Some of the tenants affected by the Order have taken a compensation claim against the Scottish Government to Court (Scottish Parliament Rural Affairs, Climate Change and Environment Committee 2014).

Small Landholders

Small landholders are tenants under the Small Landholders Acts 1911-1931. The character of these small landholdings is similar to crofts and the legislation governing them has a shared history with crofting. Once numerous, in 2014 there were an estimated 149 small landholders in Scotland, scattered from Strathspey to Stranraer. Small landholders in the areas where crofting tenure was extended in 2010 can apply to convert their holding into a croft. To date no small landholders have succeeded in doing this. The Land Reform Review Group recommended that small landholders should have a right to buy their holding. During Parliamentary consideration of the Land Reform (Scotland) Act 2016 the issue of small landholders was raised. The Government undertook to produce a consultation paper on small landholdings before the end of 2016, which would be followed by legislation if a need was identified by the consultation.

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7 The Small Landholders (Scotland) Act 1911 (c 49), Land Settlement (Scotland) Act 1919 (c 97) and the Landholders and Agricultural Holdings (Scotland) Act 1931 (c 44)
crofts are small land holdings traditionally in the Highlands and Islands of Scotland, but now also in Argyll and Bute and North Ayrshire.\(^8\) There are 19,422 crofts in Scotland, 14,089 are tenanted and 5,333 owned (Crofting Commission, undated). Many crofts are small (the average croft is around 5 hectares), and cannot sustain the full time employment of a crofter. Crofting households spend an average of 11.7 hours per week on croft related activities and receive an average revenue of £4,900 for this work (Scottish Government 2014).

Jobs in tourism, fishing 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 mainly consists of rough grazing (159,683 hectares in 2014), then permanent grassland (87,940 ha) and arable land (17,014 ha). Crofting agriculture is based primarily on rearing of store lambs and cattle for sale to lowland farmers for fattening or as breeding stock. Crofters are more reliant on CAP payments than non-crofters (Scottish Government 2014).

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 third 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. It has now been amended by the Crofting Reform etc. Act 2007, the Crofting Reform (Scotland) Act 2010, and the Crofting (Amendment) (Scotland) Act 2013.

However, crofting law and policy remains controversial and many would argue, is in need of substantial revision. All Crofting Acts should be repealed and replaced with a new Act with a clear theme and objective relevant for the twenty first century, according to Sir Crispin Agnew QC (Agnew, 2015). In October 2013 the Crofting Law Sump group was established. The purpose of ‘the Sump’ was to gather together details of the significant problem areas within existing crofting legislation. Its final report (Crofting Law Group, 2014) was published in November 2014. The first “high priority proposition” in the report was that “Work should commence on the preparation of a simplified crofting code.”

The Scottish Government set up the Crofting Legislation Stakeholder Consultation Group to consider The Sump report. This group reported to the Scottish Government (Scottish Government, undated) that “The [Sump] Report identifies 57 issues requiring attention. It is proposed that the Scottish Government should promote a Bill to resolve all 57 issues involved.”

In responding (Scottish Government, Undated) to the Sump report in September 2015, the Minister stated “I want to engage further with the sector on developing a forward programme of work, including legislation that could be taken forward in the next parliamentary term.”

In a speech in March 2016, a Scottish Government official standing in for the Minister addressed 5 broad areas of action that crofting stakeholders have prioritised. These are to simplify crofting legislation, support for new entrants, increase affordable croft housing, and consideration of financial Incentives related to crofting.

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\(^8\) Following the extension of crofting tenure to these areas in 2010.
THE CROFTING COMMISSION

The Crofting Commission is a Non Departmental Public Body whose functions are regulating crofting, re-organising crofting, promoting the interests of crofting and keeping under review matters relating to crofting. The Commission may consist of up to six elected Commissioners, and three Commissioners appointed by the Scottish Government. The Crofting Reform (Scotland) Act 2010 required the Crofting Commission to submit a Policy Plan to the Scottish Ministers setting out their policy on how they propose to exercise their functions.

FORESTRY

Scotland has just under half of all the UK’s forests and woodland and a forest cover of 18% - 74% of this is coniferous and 26% is broadleaved; approximately 67% is privately owned with 33% in public ownership on the National Forest Estate. The area of Scottish native woodland amounts to 22.5% of the total woodland area, or 4.0% of land area. Scotland’s total woodland and forest cover (18%) is above the UK average of 13%, but below the EU average of 38% (Forestry Commission 2015).

A report on the Economic Contribution of Forestry in Scotland (Forestry Commission Scotland 2015a) found that the sector contributed nearly £1 billion to the economy in 2012/13 (an increase of around 30% on 2008 figures), with approximately 80% of this figure attributed to forestry and timber processing, and the remaining 20% to recreation and tourism. Employment levels have also increased with over 25,000 FTE now working in the sector (see Figure 5).

Figure 5. Forestry’s Economic Contribution to Scotland

Source: Forestry Commission Scotland, 2015a
Following many years of decline, including negative returns in the early years of this century (due primarily to competition from cheap imports) returns from forestry have recently been increasing, with timber prices rising since 2011.

Forestry is a devolved matter, and Forestry Commission Scotland (FCS) is the forestry department of the Scottish Government. It “advises and implements forestry policy to protect and expand Scotland's forests and to increase their value to society and the environment”.

The Scottish Forestry Strategy was published in October 2006 and remains the key policy guiding the work of FCS (2006). It aims to deliver benefits from Scotland’s trees, woods and forests to help achieve the Scottish Government’s objectives and contribute towards its National Outcomes (Scottish Government 2016). It also has a target of increasing Scotland’s forest cover to around 25% by the second half of the 21st century. The Strategy is organised around three key outcomes (FCS 2015b):

- Improved health and well-being of people and their communities
- Competitive and innovative businesses contributing to the growth of the Scottish economy
- High quality, robust and adaptable environment

Industry body Confor (2016) has proposed the following five point action plan for forestry:

1. Deliver on the commitment to plant 100,000 hectares of trees in the decade to 2022, including at least 60,000 hectares of productive forest
2. Ensure the grants system and application process for woodland creation supports more planting and does not put potential applicants off
3. Replant forests cut down to supply timber. This is in addition to new planting
4. Increase the use of home-grown wood in housebuilding and construction, drawing on innovation and technology in timber use
5. Continue to support sustainable timber transport in rural Scotland through the Strategic Timber Transport Fund.

The Rural Affairs, Climate Change and Environment Committee (2016) stated:

The Committee scrutinised forestry issues as part of its land use, budget, and climate change work. Throughout the Committee remained concerned that the annual tree planting targets set by the Scottish Government were not met at any point in the session and retained reservations as to whether the budget for the Forestry Commission was sufficient and also whether there were sufficient measures in place to resolve competing land uses. A successor committee may wish to continue to pay close attention to tree planting rates in the coming years, and particularly when considering RPP3. It would also be useful for a successor committee to examine the role of communities in forestry.

FORESTRY AND CLIMATE CHANGE

Scotland’s forestry acts as an overall sink of emissions as a result of the creation and maintenance of forests. The size of this sink grew between 1990 and 2005 as a result of an increase in the area of land that is forested. In 2013 the uptake of emissions in Scotland from forestry was equivalent to 19% of Scotland’s emissions. Since 2005 the size of the forestry sink has been broadly constant as the rate of afforestation has reduced and many previously planted areas have been felled and replanted.
Low Carbon Scotland – Meeting the Emissions Reduction Targets 2013-2027 sets out the Scottish Government’s approach to reducing emissions from the forestry sector (Scottish Government 2013). The document sets out the Scottish Government commitment to increase tree planting rates to 10,000 hectares per year by 2015. In their 2015 Progress Report on Reducing Emissions in Scotland the UK Committee on Climate Change (CCC 2015) highlight that planting rates were around 7,000 hectares in 2013 and just over 8,000 hectares in 2014. The Committee suggested that the Scottish Government consider introducing further measures and/or funding to support the tree planting target to be met.

LAND REFORM

Land is a finite, national resource, and the current pattern of ownership and use largely reflects historical forces and events of the second half of the nineteenth century. At present approximately 500,000 acres are in community ownership; it is also regularly cited (e.g. Wightman 2013, Scottish Government 2014) that 50% of Scotland’s private rural land belongs to 432 owners, and that “Scotland has the most concentrated pattern of land ownership in the developed world” (Hunter et al. 2014). However, many of these statistics and claims are not, or cannot, be verified by official data. As Hindle et al. (2014) note “no definitive database of “estates” (or landowners) exists in Scotland”. Scottish Land and Estates does not dispute these calculations, however it does note that from a membership of 2,500, over half own fewer than 450 hectares (UK Parliament Scottish Affairs Committee 2014), and states:

[…] the 432 owners are not individuals, but are legal entities which may include a large number of joint owners, trustees (including professional advisers and community representatives) or in the case of companies, shareholders. The other 50% of the privately owned land in Scotland is owned by many tens of thousands.

The following chart breaks down different categories of private and public land ownership in Scotland, based on data from Wightman (2013):

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private</td>
<td>83%</td>
</tr>
<tr>
<td>Public</td>
<td>12%</td>
</tr>
<tr>
<td>Other bodies (e.g. NGOs)</td>
<td>3%</td>
</tr>
<tr>
<td>Community</td>
<td>2%</td>
</tr>
</tbody>
</table>

Land reform was defined by the Land Reform Review Group (LRRG) as “measures that modify or change the arrangements governing the possession and use of land in Scotland in the public interest” (Scottish Government 2014).

A program of land reform legislation in the first Scottish Parliament followed the Land Reform Policy Group’s Recommendations for Action (Scottish Office 1999). This legislation included the Abolition of Feudal Tenure etc. (Scotland) Act 2000, the Land Reform (Scotland) Act 2003, and the Agricultural Holdings (Scotland) Act 2003. The 2003 Land Reform Act introduced a right of responsible access to land, a Community Right to Buy (CRtB) rural land when it was put on the market, and a Crofting Community Right to Buy (CCRtB) regardless of whether it was for sale.

In 2012 the Scottish Government established the LRRG, who were asked to identify how land reform might: enable more people in rural and urban Scotland to have a stake in the ownership,
governance, management and use of land; assist with the acquisition and management of land and assets by communities; and generate support, promote, and deliver new relationships between the land, people, economy and environment in Scotland. The Group reported in 2014 with over 60 recommendations, noting that there was “no single measure, or ‘silver bullet’, which would modernise land ownership patterns in Scotland and deliver land reform measures which would better serve the public interest” (Scottish Government 2014).

Other Scottish Government action includes asking the Registers of Scotland to complete the Land Register by 2024, and setting a target of 1 million acres in community ownership by 2020. A Short Life Working Group dedicated to taking this target forward reported that the key barriers were (Scottish Government 2015a & 2015b):

- A need to stimulate demand for land through raising awareness
- A need to build community capacity to take land ownership projects forward
- A need to support engagement with and within communities
- A need to improve access to support services and develop the network of support providers
- Address the availability of land, and barriers to its supply.

The Community Empowerment (Scotland) Act 2015 amends and simplifies the 2003 Land Reform Act, extends the CRtB to urban Scotland and introduces a new right to buy “abandoned, neglected or detrimental land” in certain circumstances without a willing seller.

The Land Reform (Scotland) Act 2016 includes the following provisions:

- the preparation of a land rights and responsibilities statement
- the creation of a Scottish Land Commission whose functions include reviewing the effectiveness of land law/policy and conducting research
- a public register of persons who have controlling interests in owners and tenants of land
- the creation of a right to buy land to further sustainable development for eligible Community Bodies from an unwilling seller
- substantial amendments to the 1991 and 2003 Agricultural Holdings Acts, which strengthen the rights of tenant farmers (as set out above)

The new Scottish Land Commission is likely to play a key role in how the broad policy area of land reform develops, and is currently expected to be fully operational on 1 April 2017 (Scottish Parliament 2015).

SPICe has published the following recent briefings on Land Reform.

SB 16-24 Land Reform (Scotland) Bill: Stage 3
SB 15-49 Land Reform (Scotland) Bill
SB 15-38 International Perspectives on Land Reform
SB 15-28 Land Reform in Scotland

LAND USE STRATEGY

Under Section 57 of the Climate Change (Scotland) Act 2009, Scottish Ministers laid a land use strategy (LUS) before the Scottish Parliament in March 2011, and are required to renew it every five years. This first strategy had 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 established ten Principles for Sustainable Land Use and sat alongside a number of other Government plans and strategies, notably the National Planning Framework, strategies for biodiversity, forestry and soils, and strategies for infrastructure such as transport and waste. A Land Use Strategy Action Plan (Scottish Government 2011) was published in December 2011, and annual reports have also been published showing performance against key indicators e.g. land use, land use change and greenhouse gas emissions; water ecological status; terrestrial breeding birds; and community inclusion in land use decision making.

A key element to the first LUS was two Regional Land Use Pilot Projects in Aberdeenshire and the Scottish Borders which concluded in March 2015. Their aim was to consider land use in a collective and integrated way and to explore land use choices which could deliver multiple benefits. Both local authorities worked with relevant stakeholders to consider regional land use choices, primarily in areas which fall outwith the statutory planning system, e.g. agriculture, forestry, peatland restoration, the water environment, and biodiversity.

Following a period of review and consultation the new Land Use Strategy 2016-2021 (Scottish Government 2016) was published on 22 March 2016. This retains the three key objectives relating to the economy, environment and communities; and the Principles for Sustainable Land Use to guide policy and decision making by Government and across the public sector.

**ANIMAL HEALTH AND WELFARE**

**ANIMAL HEALTH**

The last major outbreak of animal disease in Scotland was the outbreak of Foot and Mouth Disease in 2007. This outbreak was controlled more easily than the severe outbreak that occurred in 2001. There have been a number of incidents involving avian influenza (bird flu) at poultry farms. These have been controlled at the affected farms and have not spread more widely.

Animal Health policy and legislation are a combination of powers and measures which can be used in the event of a disease outbreak, and measures which are intended to reduce the risk of animal diseases from reaching Scotland. The Scottish Government has extensive powers to deal with outbreaks of animal diseases in Part 1 of the Animal Health and Welfare (Scotland) Act 2006 (asp 11).

As part of these measures the Scottish Government has a programme of veterinary surveillance to inspect farms and other businesses such as livestock auctions and abattoirs for signs of disease. Scotland has eight animal disease surveillance centres which are run on behalf of the Scottish Government by SAC Consulting, part of Scotland’s Rural College (SRUC). The RACCE committee ran a short inquiry into proposed changes to the provision of vet surveillance by SRUC in September 2015. (Scottish Parliament Rural Affairs Climate Change and Environment Committee 2015).

A Joint Animal Health and Welfare Strategy for Great Britain was published in June 2004 by Defra, the Scottish Government and 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.
Many of the Regulations relating to animal health are derived from European legislation. At a European level, policies and proposals for legislation are developed by the European Commission’s Directorate General for Health and Food Safety, under the Commissioner for Health and Food Safety, Vytenis Andriukaitis.

**ANIMAL WELFARE**

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. EU legislation allows farming practices which improve welfare beyond legal minimum requirements to be supported, although this has not been included as an option in Scotland’s Rural Development Programme for 2014-20. Compliance with EU welfare requirements for farmed animals is a cross-compliance requirement for farmers who receive payments from the CAP.

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 “protected animals”\(^9\), the main one being a duty for animal keepers to ensure an animal's basic welfare needs are met. It also modernised previous animal cruelty offences with a general provision that it is an offence to cause a protected animal to suffer unnecessarily. The Act provides a new basis for regulating “mutilations” – procedures which involve interfering with the bones or sensitive tissue of an animal. Regulations\(^10\) 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 since April 2007. Tail docking of dogs is banned throughout the UK, but exemptions exist in England, Wales and Northern Ireland which allow the tail docking of working dogs, subject to slightly different conditions. 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. The research was completed during 2013, and was published in the Veterinary Record (Cameron et al. 2014 and Lederer et. al 2014). The research concluded that docking the tails of spaniel and Hunt Point Retriever puppies by one third could significantly decrease the risk of injury for working dogs of these breeds. Following publication of the research, the Government announced in April 2014 that it had asked key organisations to consider the findings of this research and a possible exemption to the ban on tail docking for specific working dogs. In February 2016 the Government published a consultation paper seeking views on proposals for legislation to permit the docking of Spaniel and Hunt Point Retriever puppies which are intended to be used as working dogs. The consultation ran until 3 May 2016 (Scottish Government 2016).

The Animal Health and Welfare Act 2006 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\(^11\); requiring dogs to be microchipped\(^12\); and statutory codes of recommendation on the keeping of cats, dogs, equidae (horses, ponies and donkeys); laying hens; pigs; sheep; and gamebirds.

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\(^9\) A protected animal is an animal of a kind that is commonly domesticated; that is not living in a wild state; or which is under the control of man (including temporarily)

\(^10\) The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 (as amended)

\(^11\) The Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009

\(^12\) The Microchipping of Dogs (Scotland) Regulations 2016
The Government has also recently consulted on whether to restrict the use of electronic training aids\textsuperscript{13}, whether to ban wild animals in circuses\textsuperscript{14}; and is carrying out a review of pet welfare and the regulation of the pet trade, including the keeping of exotic animals as pets\textsuperscript{15} (Scottish Government 2015 and 2014a).

**HUNTING**

The Parliament legislated on the hunting of wild mammals with dogs in the Protection of Wild Mammals (Scotland) Act 2002 (sp 6). An amendment to the Protection of Wild Mammals (Scotland) Bill made during Stage 2 allows the use of a dog or dogs to flush wild mammals from cover, for the purpose of shooting them, and provides a defence if the dog(s) then go on to hunt and kill the wild mammal. The amendment was made to allow hill packs to continue operating. These are packs of hounds used mainly in upland areas to flush foxes from forestry plantations to a line of guns.

This same exemption has also allowed mounted foxhunts to continue in Scotland. The Scottish Countryside Alliance, an organisation which supports hunting, put out a news release to mark the tenth anniversary of the coming into force of the Act, in February 2013. This explained that of the 10 former mounted foxhunts in Scotland, 9 continue to operate.

In England and Wales the Hunting Act 2004 (c.37) introduced stricter controls on the use of dogs to hunt wild mammals, as the Act limits the number of dogs that can be used for the purposes of flushing a wild mammal to two dogs at a time. In July 2015 the UK Government proposed to amend the 2004 Act through a statutory instrument to bring it into line with that in Scotland and allow more than two dogs to be used for flushing. In the end the UK Government decided not to amend the Act as it became clear that there would not be a majority of MPs in favour of the changes. The SNP had said before the vote that its MPs would vote against the changes (BBC 2015). This led to calls for a review of the legislation in Scotland. The Scottish Government’s (2015a) Programme for Government 2015-16, published on 1 September 2015, contained a commitment to review the Protection of Wild Mammals (Scotland) Act 2002.

On 26 December 2015 Minister for Environment, Climate Change and Land Reform, Aileen McLeod MSP announced that Lord Bonomy would lead a review into the operation of the Protection of Wild Mammals (Scotland) Act 2002 (Scottish Government 2015b). The review will investigate the operation of the Act to ascertain whether it is providing a sufficient level of protection for wild mammals, while at the same time allowing effective and humane control of these animals where necessary. The review is expected to be completed by the end of summer 2016.

**DEER**

There are four species of wild deer established in Scotland: two native species, roe deer and red deer; and two introduced species sika and fallow deer.

The most recent population estimates for Scotland suggest overall numbers of between 360,000-400,000 red deer, 200,000-350,000 roe deer, 25,000 sika deer and an estimated 2,000

\textsuperscript{13} The consultation ran from 6 November 2015 to 29 January 2016

\textsuperscript{14} The consultation from 22 January 2014 to 16 April 2014. The Government has not yet announced a decision following the consultation.

\textsuperscript{15} The Government said in a PQ answer in April 2015 that the review was a substantial and ongoing piece of work, and that any decisions to change legislation following the review would be subject to public consultation (Scottish Parliament 2015).
fallow deer. Red deer numbers on the open hill have increased substantially (around a 75-80\% increase) since the 1960s, but more recently numbers have stabilised and the most recent count data shows a small decline of around 5\%. (Clutton-Brock et al. 2004, Scottish Natural Heritage 2013).

Rather than considering how many deer are appropriate at a national scale, it is more helpful to consider how many deer are appropriate at a local scale, and to consider their impacts on their habitats, rather than absolute numbers. Further, deer are not the only large herbivores in the Scottish uplands, which are also used for sheep grazing. Due to changes in support through the CAP hill sheep numbers have declined significantly in recent years from a peak in the 1980s, and are now at ~pre-1950 levels (SRUC 2011).

Under the Deer (Scotland) Act 1996 (c.58) SNH is responsible for securing the conservation and sustainable management of deer in Scotland. The 1996 Act also sets close seasons (a period in each year during which no person can kill deer) for male and female deer of each species. Where deer are impacting on agriculture, forestry, the natural heritage or other public interests, Section 7 of the Act provides a mechanism for SNH to negotiate a (voluntary) control agreement with landowners, which would aim to reduce the impact of deer. Section 8 of the Act also provides backstop powers for SNH to implement a (compulsory) control scheme, including for SNH to carry out deer control, and recover costs. These powers have never been used.

Part 3 of the Wildlife and Natural Environment (Scotland) Act 2011 (asp6) made amendments to the 1996 Act. It required SNH to draw up a code of conduct on sustainable deer management. It provides powers for SNH to introduce a competence test for deer hunters by regulation, if the voluntary approach to securing this does not work.

A revised strategy, Scotland’s Wild Deer: A National Approach, was published in April 2015, following a review of the previous 2008 strategy (SNH 2015). The strategy is supplemented by the Code of Practice on Deer Management, which came into place in 2012 (SNH 2011). The Code explains what the public interests in sustainable deer management are. It defines what land managers must, should and could do to deliver sustainable deer management.

Most wild deer populations are subject to some degree of management. This takes two forms, hunting or “stalking” by shooting with high velocity rifles, or fencing, either to keep deer in or out. Male deer are prized as sporting quarry, and their stalking is often let out commercially. Around 100,000 deer (all species) are culled each year in Scotland. Since the mid-1990s the number of deer culled annually has remained relatively constant (SNH 2013 & Scottish Parliament 2013). Deer fencing is used widely to protect forestry, woodland, farm and croft land and other vulnerable habitats.

Deer Management Groups have been formed over the last 30 years or more to coordinate deer management between neighbouring landowners, initially covering the open hills range of red deer, but increasingly extending their geographic coverage to include lowland areas where all four deer species can be found. There are currently 44 upland groups and a further 10 which cover lowland areas.

In the autumn of 2013 the Rural Affairs, Climate Change and Environment (RACCE) Committee held a short inquiry into deer management in Scotland. The Committee found that of the 40 DMGs then in existence, 16 had deer management plans, and a further 12 were developing plans. The Committee thought that progress towards all groups having demonstrably effective and environmentally responsible plans had been too slow, and called for all DMGs to have such plans in place by the end of 2016. The Committee said that it would monitor progress against this, and that if a voluntary approach failed, would return to consider what further action might be necessary (Scottish Parliament RACCE Committee 2014a). The Government agreed with the Committee’s finding that progress in adopting deer management plans across the board had
been too slow (Scottish Parliament RACCE Committee 2014b). Further information about Deer Management Groups, and links to deer management plans, is available on the website of the Association of Deer Management Groups.

The Government developed proposals on deer management which have been enacted in Part 8 of the Land Reform (Scotland) Act 2016 (asp 18). Where deer are causing, have caused or are likely to cause damage to woodland, agriculture, deer welfare, natural heritage, or the public interest Scottish Natural Heritage can require production of a deer management plan from interested owners and occupiers of land. Failure to produce a plan would initiate the process of SNH seeking a section 7 agreement. The Act also created a new power for SNH to require information from owners about their cull plans for the following year. The Act requires that SNH must review the code of practice on sustainable deer management by 2019, and lay the report before Parliament. The review must consider compliance with the code and whether it has been successful in promoting sustainable deer management.

Later in 2016 SNH will carry out a review of deer management planning, as recommended by the RACCE Committee, and will report its findings to the Government. There have been calls to introduce further statutory regulation of deer management, because the voluntary approach has failed to bring deer numbers under control, including in a blog post written by Michael Russell MSP for the Scottish Wildlife Trust (2016). These calls have been refuted by the Association of Deer Management Groups, who argue that there are not too many deer in Scotland, and that the claims of deer impact on designated sites and native woodlands are not borne out by the facts.

**FOOD**

The Scottish Government has argued that there is a profound paradox related to food. Scotland is a nation renowned worldwide for producing high quality food and drink, and yet with world beating levels of diet-related disease and an uneasy relationship with its food (Scottish Government, 2014).

On the one hand the food and drink industry is considered a great success by the Scottish Government. The Scottish Food and Drink Federation (Undated) argue that a successful food and drink sector is a vital component of a healthy Scottish economy and is classed as a priority industry. They highlight the statistics in Figure 6.

On the other hand, there are a number of challenges associated with food in Scotland related to economics, social issues and the environment. In terms of economics, there is a lack of market diversity. Exports are still too reliant on a few markets such as whisky and salmon. Whilst there are good productivity figures in some industries, this is not reflected throughout the sector.

In 2014, the Scottish Government published a discussion document - Becoming a Good Food Nation (Scottish Government 2014). This sought views on a number of proposed priority areas of work and recognises the need to move towards a healthier, resilient and sustainable food system. It set out:

- A proposed 2025 vision for what Scotland should be aiming to achieve.
- Plans for a Food Commission and local champions to drive change.
- Proposed priority areas such as food in the public sector, children’s food and local food.
- A commitment to a variety of approaches, including strong community engagement and celebration of Scotland’s food and drink.
Proposed questions to encourage discussion and generate comments and participation.

Figure 6 - Statistics at a Glance related to the Scottish Food and Drink Industry

WE EMPLOY 34,000 PEOPLE
WE HAVE 875 BUSINESSES

19% OF ALL SCOTTISH MANUFACTURING JOBS

OUR GROSS VALUE ADDED TO THE ECONOMY IS £1.7bn
13.5% OF ALL SCOTTISH MANUFACTURING

OVER THE LAST 10 YEARS FOOD EXPORTS FROM SCOTTLAND... HAVE INCREASED BY MORE THAN 50% TO £755m IN 2014

FOOD & DRINK ACCOUNTING FOR 18.5% OF THE TOTAL MANUFACTURING TURNOVER
WE ARE SCOTLAND'S LARGEST MANUFACTURING SECTOR

MANUFACTURING MAKES UP 45% OF SCOTLAND'S FOOD AND DRINK SUPPLY CHAIN

BY TURNOVER AND NUMBER OF PEOPLE EMPLOYED

97% OF OUR BUSINESSES ARE MICRO TO MEDIUM-SIZED

Source: Scottish Food and Drink Federation (Undated)
RURAL BROADBAND ACCESS

Alongside rollout by commercial companies, the Scottish Government’s Digital Scotland: Superfast Broadband (DSSB) programme aimed to extend access to fibre broadband to 85% of premises by 2015/16 and to at least 95% of premises across Scotland by 2017/18.

The Scottish Government is currently using an access speed at least 30Mbps to indicate that an area has access to a Next Generation Access (NGA) broadband infrastructure. Figures produced by independent website thinkbroadband, as at 7 May 2016, show that 84.1% of Scotland has access to a broadband infrastructure which can provide access to the target speeds, however, access across Scotland is not uniform. This is especially true in rural areas, for example, the access to superfast broadband in the following local authorities:

- Dumfries and Galloway 69.3%
- Moray 74.3%
- Perth and Kinross 65.2%
- Scottish Borders 66.4%

Tackling access to superfast broadband in rural Scotland was an issue which the political parties highlighted in their 2016 election manifestos. In its draft budget for 2016-17 the Scottish Government had already committed £3.6 million to the Rural Broadband Fund in order to address the challenges of rural internet connectivity (Scottish Government 2015).

THE CROWN ESTATE

The Crown Estate in Scotland consists of the rights, interests and property in Scotland that are managed, but not owned, by the Crown Estate Commissioners (CEC) as part of the UK wide Crown Estate. The CEC itself belongs to the reigning monarch ‘in right of The Crown’, that is owned by the monarch for the duration of their reign, but it is not their private property in that Crown Estate assets cannot be sold by the monarch nor do revenues from it belong to the monarch. Assets can be sold, with any capital revenue requiring to be reinvested in the Crown Estate. Revenues flow to HM Treasury. The CEC is a statutory corporation operating under the Crown Estate Act 1961 and managed by a Board of publicly appointed Commissioners. One of these is a Scottish Commissioner. There can sometimes be confusion between the Crown Estate and the organisation managing it, as the CEC brands itself as The Crown Estate.

Rural-related assets in Scotland include four estates – Whitehill, Glenlivet, Applegirth and Fochabers – which include farm tenancies. Assets also include the rights to gold, silver and salmon fishing. A list of assets in Scotland is reproduced below:
### Figure 7 - Crown Estate Assets in Scotland

<table>
<thead>
<tr>
<th>Asset</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>George Street</td>
<td>the land owned by Her Majesty known as 39 to 41 George Street, Edinburgh</td>
</tr>
<tr>
<td>Seabed</td>
<td>the land owned by Her Majesty forming the seabed of Scottish Territorial Waters</td>
</tr>
<tr>
<td>Storage Rights (Seabed)</td>
<td>the rights of: (1) Unloading gas to installations and pipelines; (2) Storing gas for any purpose and recovering stored gas; and (3) Exploration with a view to use for (1) and (2)</td>
</tr>
<tr>
<td>Energy rights (Seabed)</td>
<td>the rights of exploitation, exploration and connected purposes for the production of energy from wind or water</td>
</tr>
<tr>
<td>Mineral Rights (Seabed)</td>
<td>the right to exploit the Seabed and its subsoil other than for hydrocarbons</td>
</tr>
<tr>
<td>Cables (including interconnectors)</td>
<td>the right to install all or part of a distribution or transmission system on or under the Seabed</td>
</tr>
<tr>
<td>Pipelines</td>
<td>the right to install pipelines</td>
</tr>
<tr>
<td>Whitehill</td>
<td>the Whitehill estate in the County of Midlothian owned by Her Majesty;</td>
</tr>
<tr>
<td>Glenlivet</td>
<td>the Glenlivet estate in the County of Moray owned by Her Majesty</td>
</tr>
<tr>
<td>Applegirth</td>
<td>the Applegirth estate in the County of Dumfries and Galloway owned by Her Majesty</td>
</tr>
<tr>
<td>Fochabers</td>
<td>the Fochabers estate in the County of Moray owned by Her Majesty</td>
</tr>
<tr>
<td>Aquaculture Rights (Seabed)</td>
<td>the right to farm aquatic organisms;</td>
</tr>
<tr>
<td>Mooring Rights (Seabed)</td>
<td>the right to lay and use permanent moorings</td>
</tr>
<tr>
<td>Foreshore</td>
<td>the land that is owned by Her Majesty: (1) In Orkney and Shetland, lying between mean high water springs and lowest ebb tide; and (2) In the rest of Scotland, lying between mean high and low water springs</td>
</tr>
<tr>
<td>Internal Waters</td>
<td>the land owned by Her Majesty forming the internal waters of Scotland</td>
</tr>
<tr>
<td>Salmon Fishing</td>
<td>the right to fish for salmon in rivers and coastal waters where the right belongs to Her Majesty</td>
</tr>
<tr>
<td>Gold and Silver (onshore minerals)</td>
<td>the right to all naturally occurring gold and silver except where the right is vested in some person other than Her Majesty</td>
</tr>
<tr>
<td>Reserved Minerals</td>
<td>all the reserved mineral rights owned by Her Majesty in Scotland other than on the Seabed</td>
</tr>
</tbody>
</table>

Source: Prepared January 2015 by the Crown Estate, following a request from SPICe

The Smith Commission agreed that responsibility for the management of the CEC economic assets in Scotland, and the revenue generated from these assets, should be transferred to the Scottish Parliament. The Commission also agreed that, following this transfer, responsibility for the management of those assets will be further devolved to local authority areas such as Orkney, Shetland, Na h-Eilean Siar or other areas who seek such responsibilities.

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16 See note above which explains that assets are owned by the monarch for the duration of their reign, but are not their private property
The Scotland Act (2016) provides for the devolution to Scotland of the functions of managing the Crown Estate’s wholly-owned assets in Scotland (“the Scottish assets”), the revenue arising from those assets and competence to legislate about those functions. This devolution is achieved by modifying Part 1 of Schedule 5 to the Scotland Act and consequential amendments to the Crown Estate Act 1961. This definition means that the shopping complex at Fort Kinnaird in Edinburgh is not considered such an asset as it is owned under a joint agreement known as a limited partnership. Some of the functions cannot be amended by the Scottish Parliament and there is limited legislative competence over revenue.

Transfer of management functions is to be delivered through a Transfer Scheme which is to be made by HM Treasury, with the agreement of the Scottish Ministers. The Scheme will take the form of a UK statutory instrument subject to the affirmative procedure in the House of Commons and House of Lords, and will not be subject to any formal scrutiny by the Scottish Parliament. The Scheme is expected to contain legally enforceable restrictions on the management of the Scottish Assets, including rights which can be claimed with regard to the Scottish assets by the Secretary of State for Defence in the interests of national security, and also relating to, as set out in the Explanatory Notes to the Scotland Act (2016):

“such provision as the Treasury consider necessary or expedient in relation to defence or national security, telecommunications, oil and gas, and the interests of consumers in relation to electricity networks”.

It is understood that HM Treasury is currently in the process of drafting the Scheme, and associated Memorandum of Understanding between the Scottish Government and the UK Government.

Alongside this process, the Scottish Government is to establish an interim body to take on the management functions. The formation of this body will require an Order in Council17, whilst provisions for a chair and members will be made through a Scottish Statutory Instrument. Arrangements for the longer term management - including options relating to further devolution - of the Crown Estate assets in Scotland will be subject to public consultation, and will be followed by primary legislation. The Scottish Government has committed to further consultation before final decisions are taken on the long-term management of assets.

As the Explanatory Notes to the Scotland Act (2016) state:

“The Commissioners currently have a duty under the Crown Estate Act 1961 (c.55) to manage the Crown Estate on a commercial basis. Depending on any future legislation passed by the Scottish Parliament, the Scottish Ministers may be able to take a different approach to managing the Scottish assets (for example, to adopt a less commercial approach to some aspects of management, including widening the role of social enterprise). To ensure both that the Scottish Ministers can manage the Scottish assets as they see fit, whilst at the same time ensuring that the Commissioners continue to meet their existing commercial management obligations under the Crown Estate Act 1961, section 36 effects devolution by means of a transfer of functions”.

Revenues from the assets in Scotland will flow to the Scottish Government. Related to this, the Fiscal Framework Agreement between the UK and Scottish Governments (2016) states that:

17 Orders in Council are used when an ordinary statutory instrument would be inappropriate, such as for transferring responsibilities between government departments. They are issued by and with the advice of Her Majesty’s Privy Council and are approved in person by the monarch – they are though, spoken to in Parliament by Government Ministers. Orders in Council were used to transfer the powers from Ministers of the UK Government to the devolved governments.
“The managers of Crown Estate assets in Scotland will continue to receive the same benefits as the Crown Estate Commissioners in terms of exemption from corporation tax, income tax, capital gains tax and other HMT finance rules”.

The CEC itself states that it “is working closely with both the Scottish and UK Governments to enable the transfer of The Crown Estate’s management duties in Scotland to Scottish Government, as recommended by the Smith Commission and reflected in the Scotland Act 2016. We will work to inform the process to ensure a swift and smooth transfer. We have a clear commitment to protect the interests of our staff, tenants, customers and the communities with whom we work throughout the process”.

The arrangements for the transfer of management functions were examined during Session 4 of the Scottish Parliament by the Rural Affairs, Climate Change and Environment Committee and the Devolution (Further Powers) Committee.

**RURAL AFFAIRS, FOOD AND THE ENVIRONMENT BUDGET**

In 2016-17 the total budget for the Rural Affairs, Food and the Environment portfolio was £560.4 million. This is broken down into a number of level 2 budget lines as indicated in Table 1. It also shows the budget under these budget lines and overall since 2015-16.

**Table 1: Rural Affairs, Food and The Environment Budget 2015-2017**

<table>
<thead>
<tr>
<th></th>
<th>2015-16 Budget £m</th>
<th>2015-16 Budget £m</th>
<th>2016-17 Draft Budget £m</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU Support and Related Services</td>
<td>172.3</td>
<td>172.5</td>
<td>178.8</td>
</tr>
<tr>
<td>Research, Analysis &amp; Other Services</td>
<td>73.8</td>
<td>73.8</td>
<td>67.0</td>
</tr>
<tr>
<td>Marine and Fisheries</td>
<td>55.3</td>
<td>55.3</td>
<td>53.2</td>
</tr>
<tr>
<td>Environment and Rural Services</td>
<td>181.1</td>
<td>180.9</td>
<td>180.3</td>
</tr>
<tr>
<td>Climate Change and LMRF*</td>
<td>19.4</td>
<td>19.4</td>
<td>19.8</td>
</tr>
<tr>
<td>Forestry Commission</td>
<td>64.1</td>
<td>64.1</td>
<td>61.3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>566.0</strong></td>
<td><strong>566.0</strong></td>
<td><strong>560.4</strong></td>
</tr>
</tbody>
</table>

*Land managers renewable fund

SOURCES

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CROFTING


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Abolition of Feudal Tenure etc. (Scotland) Act 2000 asp 5

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Community Empowerment (Scotland) Act 2015 asp 6


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Association of Deer Management Groups calls have been refuted by the,


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FOOD


**RURAL BROADBAND ACCESS**


**THE CROWN ESTATE**


Scotland Act 2016 (c.11)


**RURAL AFFAIRS, FOOD AND THE ENVIRONMENT BUDGET**

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SB 16-42 Environment: Subject Profile:
http://www.parliament.scot/parliamentarybusiness/99609.aspx

SB 16-44 Marine and Fisheries: Subject Profile:
http://www.parliament.scot/parliamentarybusiness/99611.aspx

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