



OFFICIAL REPORT
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Rural Economy and Connectivity Committee

Wednesday 21 June 2017

Session 5



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RURAL ECONOMY AND CONNECTIVITY COMMITTEE
21st Meeting 2017, Session 5

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

COMMITTEE MEMBERS

*Peter Chapman (North East Scotland) (Con)
*John Finnie (Highlands and Islands) (Green)
*Rhoda Grant (Highlands and Islands) (Lab)
*Jamie Greene (West Scotland) (Con)
*Richard Lyle (Uddingston and Bellshill) (SNP)
*Fulton MacGregor (Coatbridge and Chryston) (SNP)
*John Mason (Glasgow Shettleston) (SNP)
*Mike Rumbles (North East Scotland) (LD)
*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Claudia Beamish (South Scotland) (Lab)
Brendan Burns (Forestry Contracting Association)
Claire Glaister (Grampian Regional Forestry Forum)
Stuart Goodall (Confor)
David Henderson-Howat (Central Scotland Forestry Forum)
Patrick Hunter Blair (South Scotland Forestry Forum)
Hamish Macleod (BSW Timber)
Malcolm Nicol (Ballogie Estate Enterprises)
Richard Stirling-Aird (Perth and Argyll Forestry Forum)
Ian Thomas (Institute of Chartered Foresters)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Economy and Connectivity Committee

Wednesday 21 June 2017

[The Convener opened the meeting at 10:00]

Forestry and Land Management (Scotland) Bill: Stage 1

The Convener (Edward Mountain): Good morning, everyone, and welcome to the 21st meeting in 2017 of the Rural Economy and Connectivity Committee. I ask everyone to ensure that they have their mobile phones on silent.

No apologies have been received. I welcome Claudia Beamish from the Environment, Climate Change and Land Reform Committee, who is joining us today and during our evidence-taking sessions on the Forestry and Land Management (Scotland) Bill.

Agenda item 1 is the Forestry and Land Management (Scotland) Bill. This is our second evidence-taking session on the bill and we will have two panels of witnesses. I welcome the first panel, which consists of: Stuart Goodall, the chief executive of Confor; Brendan Burns, a harvesting contractor, who represents the Forestry Contracting Association; Malcolm Nicol, managing partner at Ballogie estate enterprises; Hamish Macleod, director of public affairs at BSW Timber; and Ian Thomas, a chartered forester.

We will develop various themes during the discussion, which will be introduced by different members. The witnesses do not have to speak on every theme if they do not want to but, if they want to speak, they should try to catch my eye and I will bring them in. I remind them to look at me occasionally because, if they start to expand on points beyond the time that we have available, I will try to signal to them to come to an end rather than just cutting them off, which is always embarrassing. I also remind them that they do not need to press the buttons to work the microphones in front of them; the microphones will be activated as they are called to speak.

John Finnie will develop the first theme.

John Finnie (Highlands and Islands) (Green): I say good morning to the witnesses and thank them for their submissions. The first thing that we will consider is the development of the bill. Key to that is the role that the consultation, which took place last August, played in the process. I would appreciate the witnesses' views on the

management of land by the Scottish ministers and felling, as well as the extent to which the consultation covered those issues.

The Convener: If nobody is going to volunteer to go first on that, Stuart Goodall can start.

Stuart Goodall (Confor): I suppose that we are hesitant to start to speak because we have been approaching the matter on the basis that the legislation on felling will not change fundamentally. We cannot see that there is a reason to change it fundamentally and we are not aware of any pressures to do so. Therefore, rightly or wrongly, we have operated on the basis that the bill and the secondary legislation will, in essence, maintain the status quo. We hope that that is a correct assumption, but time will tell.

John Finnie: You comment specifically on felling in your response, Mr Goodall. You also referred to ringing.

Stuart Goodall: Oh, sorry. We did not comment on that in the consultation response but we did comment on it in relation to the bill.

The definition of felling proposed in the bill is not necessarily correct because it talks about "intentionally killing a tree". It sounds like a bit of a nerdy point but, if you fell a broad-leaf tree, that does not kill it. If you cut it at the stump, it can resprout. In fact, there is a whole industry—coppicing—based around that. Therefore, that definition will need to be revisited.

The Convener: Do you want to ask anyone in particular about land management issues, John?

John Finnie: I was just after the panellists' views. Maybe their views are that they are content with the level of consultation on land management and its outcome. If so, there is no issue.

Ian Thomas (Institute of Chartered Foresters): The consultation is a key element of the whole process. A lot of what is in the bill is not new—there is no change. I have never appeared before a committee, so I watched your previous evidence session on the bill. One of the themes was that there is no change from the current legislation. There are certain areas where people had serious concerns about the envisaged drastic changes in forestry management, but there were other areas where people were saying, as Stuart Goodall has said, that it was pretty much business as usual, so there were no concerns.

John Finnie: Okey-dokey. As there are no issues with the management of the land, or felling in particular, I will move on.

The wider programme of devolution includes cross-border arrangements and new organisational arrangements—aspects not included in the Forestry and Land Management

(Scotland) Bill. Do you have any comments on those aspects?

Stuart Goodall: Cross-border arrangements are important for us. We understand why those are not necessarily covered in the bill. However, in our submission, we have said that we are looking at what is included in the bill in the context of how we co-ordinate with other parts of the United Kingdom on, for example, plant health because, as we know, disease and pests do not respect boundaries. The issue of forest research, for example, is extremely important to the sector, as is the collection and dissemination of statistical information.

At the moment, for example, investment in the sector is predicated on understanding the future availability of wood across wide geographical areas and across boundaries. For example, the south of Scotland and the north of England are essentially one geographical unit in terms of the supply and processing of timber, so having that co-ordination—the ability to collect information on, for example, plant health, and to work together across countries—is important to us. Consequently, as part of the bill process, we want to be informed about what is happening on the cross-border situation. That way, we will be able to see the bill as part of a package.

Hamish Macleod (BSW Timber): I concur with Stuart Goodall's comments. In addition, we have to assume a post-Brexit world and what that means for the global position of forestry in Scotland and, indeed, the United Kingdom. Forest Research offers a sense of scale. At the moment, it is a small research agency in the Forestry Commission. If its efforts were divided three ways, it would become so small and insignificant that the danger is that it would get lost somewhere. Therefore, it is important that the UK has a strong position on forest research for all the reasons that Stuart Goodall has outlined.

The Convener: Do you want to come back in, John?

John Finnie: I will just leave it there, thank you.

The Convener: Stewart Stevenson has a brief follow-up question.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I think that it is appropriate to raise this issue here, because it is about the construction of the bill. I am looking at the submission that Confor has provided for us today. It suggests that there should be a chief forester for Scotland. That is not in the bill. The submission goes on to say that ministers should commit to designating key professional posts. I must say that I am slightly cautious about ministers doing that, but that is a different issue that I will not bother about. Why should the bill address whether there

needs to be a chief forester? Will Stuart Goodall comment on that? Maybe others will want to comment, too.

Stuart Goodall: We have a broad membership, which covers the supply chain across Scotland, but we are also aware from speaking to people from different interests outside of industry, such as environmental organisations, that there is a lot of support for the idea that, if we are to regulate and support the sector, forestry must be seen as a technical issue. Everyone who operates an industry considers it important and what they do an important, difficult and challenging task. In forestry, through Government, the Forestry Commission and the others that regulate the sector have a great deal of influence over how we establish, manage and harvest forests. The guidance—the UK forestry standard and all the supporting guidance—is some eight inches thick.

With that level of engagement and influence and the level of detail that they have to work with, we see it as important that the people who are doing that are suitably qualified; they should be professional foresters who understand the issues. Otherwise, it will be very difficult for them to be able to speak to, influence and have the respect of people in the private sector, who are professional foresters and understand all that and have been through three or four years of training and further education.

Stewart Stevenson: Can I just cut across you, because I do not want to make a big meal of the matter? Are you suggesting a position similar to that of the chief scientist, who has no executive role in the Government but is clearly a senior and respected adviser to the Government and the part of it responsible for that? Is that the model you are looking at, or are you thinking of somebody in an executive role? I suspect that it is the former rather than the latter, but it would be helpful to know.

Stuart Goodall: Certainly, in terms of definition, the former is what we are looking at. It feeds on from the point about having that sort of professional forestry expertise in place. You are right that we have used the term “ministers” loosely; essentially, it is about having somebody in a position to make things happen. It will be important for the operation of regulation and support, and for the respect of and working relationship with the private sector, to have such people in post and somebody who is seen to be championing and taking a lead for forestry within the Scottish Government as a whole.

Hamish Macleod: I am speaking with slight experience; I served for six years as chairman of the Forestry Commission of Scotland's national committee. I have seen forestry at that level as well—I have seen it from both sides. Having such a person is something we debated often in the

national committee and I am sure that, two or three years on, it still is. We recognise a vital need for somebody to be an advocate for forestry in Scotland. I do not mean a figurehead, but an advocate—somebody who is going to push forestry and to drive some ambition and aspiration within the forestry act as well. We have some very ambitious planting targets, for example, and a number of deficiencies in relation to restocking issues and so on. We need somebody to focus on that and say what it is we are trying to achieve for Scotland.

The Convener: Before Brendan Burns comes in, perhaps he would like to think about whether the long-term nature of forestry makes that proposed position more important as well, rather than having a shorter-term political appointment.

Brendan Burns (Forestry Contracting Association): I should clarify that contractors are the people who are working in the forests. We have a slightly different scenario from Confor, in that what we see is the practical end of the operation. What we find at the moment is that the practical aspects of forestry are getting lost.

When we talk to senior people in the Forestry Commission we are talking to people who do not understand what we do. Yes, everybody recognises a machine, but I had a discussion with a senior member of the Forestry Commission the other day and I had to point out that the wage of a machine operator is more than £40,000 a year. They did not realise that, or that the cost of one basic machine is now £350,000. We would certainly support there being much more technical knowledge at the top, because at this moment we are talking to a brick wall. When we write to ministers and other senior people in Parliament, we get an answer from the Forestry Commission that basically says, “Thank you very much for your letter—now will you go away?”

We have a serious problem in forestry, irrespective of what the bill says. We will hit a cliff edge in eight years: we have no operators. Everybody knows about that—I have been talking about it for 20 years—but the Forestry Commission has done nothing about it. For the life of me, I do not understand it, but they did not seem to understand what was happening. Our operators are getting older and leaving, and if there is nobody to cut and extract the timber there will be no forestry industry; there will be no £1 billion and we will be in a mess.

The Convener: So you support having an advocate for forestry. Malcolm, do you want to come in on that? We will then move on to the second theme.

10:15

Malcolm Nicol (Ballogie Estate Enterprises): I come at the matter from the same angle as Brendan Burns. We have always had very good relationships with the local conservancy—alone of the Government agencies. I always know who the field officer is and who I relate to: there is the field officer, the operations officer and the conservator. It is clear cut, simple and straightforward. Beyond that, I have never really had any understanding of how forestry in Scotland is administered. At one level, I do not need that. I have never had to scrutinise any legislation, thankfully, but when we start to look at it, it does bring up questions.

I think that there is an opportunity to clarify the lines of organisation and administration. Brendan Burns touched on the fact that there are some significant challenges to the forest industry. There are great opportunities, but we also have to face up to the challenges. There needs to be a clear operational structure that actually runs the course, because forestry has been kicked around with different schemes and different focuses. I hope there is cross-party support for having a clear structure whereby we know who we are relating to and that has—shall we say?—the right qualified people in the right places.

The Convener: Thank you. We will look out for that theme as we move through the consultation. Peter, do you want to move on to the next theme?

Peter Chapman (North East Scotland) (Con): Good morning, gentlemen. My questions are about part 2 of the bill, which covers modernisation of the forestry functions and brings the Forestry Act 1967 up to date. What is your view of the modernisation of the forestry functions in the bill? Does it go far enough?

The Convener: Who would like to start on that? I am always nervous about letting Stuart Goodall go first, because he then gets to say more. I will do that this time, but I will look to bring in everyone else.

Stuart Goodall: Thank you, convener. I have a deserved reputation for being a bit mouthy, both in the private sector as well as in this forum, so—

The Convener: I have never said that.

Stuart Goodall: No. [Laughter.]

Modernisation clearly makes sense, given that we have legislation that was established 50 years ago for a very different time, and based on legislation from 1919, when we were in very different circumstances. There are things in the bill that we like. For example, we now have a well-understood concept of sustainable forest management. When we operate in forestry, it is not just about trying to get as many trees as possible of a single species into the ground to

cover every square inch. As a sector and an industry, we moved on from that nearly 30 years ago. It is good to have recognition that forestry is an activity that balances production with care for the environment and working with people. That is useful.

It is also good that the bill strips out a lot of the text in the 1967 act, which was quite difficult to read. I have to confess that I tried to read it once or twice but gave up. The bill makes things simpler from that point of view.

However, in terms of modernising forestry and bringing it into the 21st century, the bill does not capture everything that we would like to see. For example, in the past, there was clear recognition that we wished to increase our forestry resource. In the 20th century, that was because we needed a strategic resource in times of war. In the 21st century, we face different challenges, but they are still challenges, to which forestry is a significant solution. We recognise that planting trees is vital if we are to meet our ambitious climate change targets, and we are talking about moving to 15,000 hectares a year by 2024-25.

We also know very well that forestry is becoming an effective local industry that provides well-paid, skilled jobs. As we look post-Brexit, there is more of an opportunity for forestry and farming to work together to support green, vibrant rural areas. It therefore makes sense that there is recognition of the benefits of expanding the forestry resource: both to secure the benefits for the rural community and to support the rural industry, because we know there is going to be a dip in supply, and for climate change.

We feel that that sort of ambition is missing from the bill. It deals with good management, regulation and effective and developing strategies, but it does not have any ambition. That is a significant missing element.

The Convener: Does Peter Chapman want to ask the questions that he has lined up? That might bring in other members of the panel.

Peter Chapman: I was going to do exactly that, convener.

Stuart Goodall mentioned sustainable forest management. Will the bill change any thinking on that in the industry? It was said that SFM is well understood and that it has been done for the past 30 years.

Stuart Goodall: We do not see anything at the moment that might change that, but the lack of a definition of sustainable forest management in the bill is a missed opportunity for two reasons. First, enshrining a definition would mean that there is clarity. Secondly, without that clarity, groups might ask what the bill is about and what “sustainable

forest management” means. We would not wish that to happen.

I appreciate from evidence that was given to the committee previously that there is reluctance to put in definitions where it is thought that things are relatively well known and understood, but the bill is all about sustainable forest management—it is right there in the first sentence—and there is an accepted definition in the accompanying guidance. We think that putting that definition in the bill would be useful in providing clarity.

Ian Thomas: Obviously, there is the issue of sustainable forestry versus sustainable development. Perhaps the differentiation between those needs to be drawn out. Because ministers are involved with other land uses and other, wider issues, that needs to be defined. There is a sustainable development aspect to this.

Peter Chapman: Stuart Goodall lamented the fact that there is no ambition in the bill, but it requires ministers to prepare and publish a forestry strategy. Perhaps the ambition statement could be in the forestry strategy. Should the bill state that particular issues must be included in the forestry strategy?

Ian Thomas: The forestry strategy has been a fine document. It is a great thing for the Scottish timber industry and forestry generally, and carrying on with business as usual with that statement and having it written into the bill as an obligation is a positive step. As Stuart Goodall said, it is widely understood, it has impacts on the ground, and it makes a real difference to have managed forests. It is therefore a good thing.

Brendan Burns: When we had our discussions in the Forestry Contractors Association, people kept saying about that, “Well, what does it say?” That makes it very difficult for us to respond. The contractors are practical people, but we felt that we had no comment to make on that particular issue. We have a lot to say about it, but we were unsure how to address it, and the result was that we did not do so.

In our meeting, the simple example of variations was raised. Forestry is looked on as one industry for the whole of Scotland, but forestry in the Highlands is not the same as forestry in the Borders, and forestry in Aboyne and the north-east is entirely different altogether. Such a document was therefore difficult to respond to, but that does not mean that we do not have opinions on it. A strategy might help.

The Convener: Does Malcolm Nicol want to come in on that? I noticed him nodding when it was said that the strategies are different in different parts of Scotland.

Malcolm Nicol: That is an obvious statement. Scotland is an incredibly diverse country in all sorts of ways. If we travel only a fairly short distance, there will be very different forest issues. We just have to go from the north side of the cairn to the south side and we will be in very different conditions. That is one of the problems with constructing a forestry strategy and policy for Scotland as a whole that treats everyone fairly and equally. We have to be aware of the regional differences.

I back up what Brendan Burns said. As someone who has not previously scrutinised any legislation, I find it difficult that, on one hand, the bill contains statements such as

“The Scottish Ministers must promote sustainable forest management”,

which covers masses of things, whereas, on the other, there are pages of detail on felling licences. There seems to be a mismatch. I share Brendan Burns’s view that, in trying to respond rationally and comprehensively to what the bill proposes, it is difficult to know what points to drill into and what points not to drill into. After all, “sustainable forest management” means different things to different people.

I think that there is an important omission. Somewhere in the bill, there should be a duty on the Scottish ministers on the education, training and promotion side. A lot of good work is being done on the use of wood at places such as Edinburgh Napier University, but I do not think that it is getting through to the public as a whole. If we are looking forward to a sustainable Scotland, timber has a big part to play in that. The Scottish ministers should have a role in promoting that, although that might lie outwith the scope of the bill.

The Convener: That is an interesting and important point.

Stewart Stevenson: This is a relatively small point. Malcolm Nicol properly points out that the bill deals with some things at a high level, whereas others—notably, felling—are addressed in great detail. The fact that something is in the bill means that it would take a long time to change it. If it was in secondary legislation, it could be changed fairly quickly.

Are you saying that the felling part of the bill, which is highly detailed, should be taken out of the primary legislation and put in secondary legislation—without changing the legal effect—so that it can be adapted over time? Is that what you are saying, in effect, or are you just making the general observation that you wish that it was easier to read legislation, which is an observation that you might get quite a lot of support for?

Malcolm Nicol: It was a general comment about trying to get one’s head round where the bill sits with other legislation. It is difficult for an amateur to say what should go in primary legislation and what should go in secondary legislation. However, I agree with your point—I question whether it is appropriate for a bill of this sort to deal with the detail of felling licences. I think that that would be better handled in secondary legislation.

Stewart Stevenson: That is fine.

The Convener: We will move on to the next theme.

Stewart Stevenson: I have a brief question about tree health and silvicultural material, which Stuart Goodall has mentioned. Essentially, responsibility for those matters—which are covered in the Plant Health Act 1967 and the Plant Varieties and Seeds Act 1964—will now lie in one place. Does the panel support that, or do you think that such matters should be dealt with in an alternative way?

The Convener: All the witnesses are looking away apart from Stuart Goodall, so you have the floor again, Stuart.

Stuart Goodall: You deserve a response. We support what the bill proposes; we do not see any problems with it.

Stewart Stevenson: In that case, I am finished, convener.

The Convener: The deputy convener, Gail Ross, will cover the next theme.

Gail Ross (Caithness, Sutherland and Ross) (SNP): Good morning, panel. You will be delighted to know that I want to return to the issue of sustainable forest management.

Section 9(1) states:

“The Scottish Ministers must manage forestry land in a way that promotes sustainable forest management.”

That might mean different things to different individuals. Do you think that section 9 will make any difference on the ground? Would you like it to be changed, or is it okay as it is?

The Convener: I am looking at Ian Thomas, as a practitioner.

Ian Thomas: I think that section 9 covers the issue. As I said, it is well understood. Section 9 is adequate and it should not really change anything on the ground.

However, I think that there is a concern that, with the wider remit and with this area coming under the ministers, sustainable development might trump sustainable forestry management. That is a concern, because it could mean that

deforestation takes place when there is a big financial incentive for that to happen. The Forestry Commission is almost 100 years old, and there is a concern that what it has achieved over the years—its focus on forestry and its role in pushing for forestry and being an advocate and facilitator for it—will be lost because other considerations come into play.

10:30

The Convener: Stuart Goodall, do you want to add to that?

Stuart Goodall: If I can. Gail Ross asked about sustainable forest management and section 9(1). For me, sustainable forest management is a balanced process—it is how you produce an outcome and, because you have engaged with economic, social and environmental interests, the outcome is intended to be what is appropriate for local circumstances. It is a flexible mechanism. There is a lot of guidance to help you to achieve that outcome and outline what it means for forestry. Where sustainable forest management is referred to, we are quite relaxed.

To pick up on Ian Thomas's point, section 9(3) refers to land as managed by the Scottish ministers. That section is in part 3, and if part 3 was designed to tie up Confor staff for hours trying to understand what it means, Scottish Government officials have been incredibly successful. We think that we have got our heads round it, but that is mainly because we have read the submissions and asked questions—we think that we are 95 per cent of the way there.

We have concerns about section 9(3). At the moment, we would look at public forestry land, which is the national forest estate plus land that is brought in, as being primarily there for forestry and managed for sustainable forestry purposes. Simon Hodge, who runs the national forest estate, would like to be able to use that land for wider purposes than just forestry. That is understood. We recognise that 200,000 hectares of the national forest estate is not covered in trees—there is 30,000 hectares of actively managed agricultural land—so it makes sense to say that that land can be managed for a purpose other than sustainable forest management.

However, the way in which section 9(3) is drafted implies that the forest land need not be managed for sustainable forest management. When Carole Barker-Munro gave evidence on 7 June, she said that the land could be managed for sustainable forest management or for sustainable development, which does not differentiate between land that has trees on it—which we would call forestry—or land adjacent to that forest, and land that is nothing to do with forest. Therefore,

somebody could manage that forest for sustainable development purposes rather than sustainable forest management purposes.

In the past, huge areas of forest on the public estate were cleared for wind farms. Section 9(3) appears to give the Scottish ministers, or whoever manages the national forest estate, the potential to say, "I can earn more money by doing all these things other than having trees, so, over time, I'm going to clear all the trees away." It is that lack of clarity or a safety net that concerns us.

Gail Ross: So there is ambiguity in what the sections of land are set aside for and how they will be managed. Section 10(b) mentions "other land". What you are saying is that it is not clear which sections of land are "other land", "forestry land" or land for trees.

Stuart Goodall: You have set out the issue that had us scratching our heads over the past week.

Gail Ross: Would you like to see more clarity in what the land is set aside for?

Stuart Goodall: We said in our submission that we thought that it would make a lot of sense and be very helpful if, rather than describing all land as "forestry land"—even if it is an active farm—just because it is owned or managed by the Scottish ministers through the proposed organisation forestry and land Scotland, "forestry land" is defined as land with forest on it or land that is associated with a forest unit. If it is land that is not associated with forestry, it is "other land", and sustainable development practices can be applied to it. Our second-guessing of Government—is it always a danger to second-guess Government—is that there are provisions elsewhere in part 3 for land that has no relationship to forestry to be purchased for the purposes of sustainable development.

It appears to me as though there are two parallel strands. Those strands do not simplify matters or make clear that, where the bill deals with sustainable development activity, it does not relate to forestry, and where it deals with forestry, it relates to sustainable forest management. If those aspects were clear, we would understand what on earth is happening, or could happen.

The Convener: I am quite keen to bring in Claudia Beamish, but I will take one more of the panellists before doing so. Ian was the first to indicate that he wanted to speak.

Ian Thomas: There is a linking point about forestry basically being, as we all understand, a long-term business. What the Forestry Commission has achieved over the past 100 years has been a result of arm's-length working—the buffer between the Forestry Commission and the politicians. That has facilitated the commission's

long-term role and been fantastic for forestry. Linked to the ambiguity on whether the land is to be managed for forestry or other things is the issue of direct ministerial control and whether a structure that buffers that and does not allow political expediency to have a huge impact on forestry would perhaps be worth considering.

The Convener: Would you like to come in at this stage, Claudia?

Claudia Beamish (South Scotland) (Lab): That is kind of you, convener. My questions are about part 3. Some of them are about section 13; some go beyond that section. The questions lead into one another. I do not know whether you would prefer it if the deputy convener continued her line of questioning first. I do not know what that line of questioning is, but she may well want to ask her questions before I start.

The Convener: Section 13 is the next section on our list to cover. If Gail is happy—

Gail Ross: I know that another of our themes is compulsory purchase powers, so I will let someone else deal with sustainable development.

Claudia Beamish: It might be appropriate if I waited to see whether other committee members ask the questions. If they do not, I will come in.

The Convener: I will bring in Jamie Greene, because our discussions so far naturally flow into the areas that he wants to ask questions about.

Jamie Greene (West Scotland) (Con): Yes, our conversation leads nicely on to the area that I want to pick up—section 13 on “Management of land to further sustainable development”. It will be helpful, because it will provide context to section 13, if I read out what the Scottish Government said at our previous evidence session on the bill:

“The purpose of section 13 is to fulfil the policy that, through the new executive agency forestry and land Scotland, the Scottish ministers should be able to have a broader land management role, moving away from a silo approach of purely managing forestry ... Land under section 13 is not forestry land; it is other land. The purpose for which it should be managed is sustainable development.”—[*Official Report, Rural Economy and Connectivity Committee*, 7 June 2017; c 9.]

First, before I ask about sustainable development, is the panel clear what “other land” is? In addition, if you have any views on section 13, now would be a good time to share them.

The Convener: Stuart Goodall has had a fairly good bash at answering that. Would you like to come in, Hamish?

Hamish Macleod: Yes. The question also connects back to Gail Ross’s question, which Ian Thomas answered.

I do not know what that “other land” could be, if it relates to sustainable development. I will go back to the question of what is sustainable forestry land. Having witnessed over the past few years the loss of so much land from forestry into other developments, including wind farm developments, our sector and our business would be horrified at the thought of losing any more land from forestry. Somewhere in the bill we should set out a minimum level of forest land. We should start off with the forest land that we have. We should not be looking to diminish it; in fact, we should be looking to build on it, as per Government policy. We need to have a bottom line before we even start looking at “other land”.

Brendan Burns: To repeat a question that has been asked previously, does that mean that forestry organisations would become the forestry tourism board? That issue was raised because, when we talk about “other land”, tourism starts sprouting up. Tourism is an extremely attractive industry—it gives high returns for not an awful lot of work. There is a genuine fear that the forestry industry could lose its vision if that side of it becomes too strong. We are all members of Confor and we pay Stuart Goodall to get staff to go through the bill. If they have difficulty in understanding it, will anybody else understand it when it gets further down the line? It is difficult to put all the different aspects into the bill.

Jamie Greene: I am also struggling with it, but my interpretation is that land that is currently forestry land could be purchased by the Government, through either commercial acquisition or compulsory purchase, and it could be converted for other uses, such as sustainable development. The Scottish Government stated that it did not want to define “sustainable development” as that was dealt with by case law, but some consultation responses stated that it should be defined so that it is not left too open ended. Does the panel agree with that?

The Convener: Before witnesses answer the question, I ask that they do not major on the compulsory purchase element. That issue will come up later and I do not want to cut across answers on that.

Stuart Goodall: I will leave aside the rights and wrongs of compulsory purchase.

After going through the bill for a length of time, we see the provision in section 13 as referring to a stand-alone activity that is separate from forestry. It is about the ability to acquire or purchase land that is not necessarily—and probably is not—forestry but not to do anything that is related to forestry with the land. It is a non-forestry land provision. As a forestry organisation, we see the provision as almost piggybacking on the rest of a

bill that is all about forestry, so we can put that provision to one side.

The inclusion of the term “sustainable development” in section 9(3) gives us concern, because it brings the impact of that term into forestry land. We get tied up in knots once we start looking at the national forest estate as being land that is all suddenly classed as “forestry land” and the purchase of land that is not forestry land but might be used as forestry land. We do not think that there is a separation between a simple process of acquiring land for sustainable development and that land having nothing to do with forestry. The evidence seemed to imply that, although it was not specifically stated.

The Convener: I will stop you there as you have made the point very clearly.

Claudia Beamish: Good morning, panel. My question builds on the previous questions. Do you see a need for the Scottish Government to have new powers to further sustainable development, and do you have any examples of situations in which it would be appropriate for the powers in section 13 to be used?

With the convener’s forbearance, I have a quick additional question. Where does agroforestry fit in with the bill?

The Convener: That might be a quick question, but there might be long answers.

Claudia Beamish: I am hoping for a short answer.

Ian Thomas: On the first question, the powers are basically all there. It is the old story of, “If it’s not broken, don’t bother fixing it.” Forestry in Scotland is a tremendous success story and the way in which it is delivered is totally functional.

Agroforestry is being promoted by the Forestry Commission at the moment and, having done agriculture and forestry, I would be greatly in favour of it having a higher profile. It is in the present grant system—I am veering off the bill a bit—and increasing grant rates would be a simple way of promoting it more widely in the grant system.

10:45

Stuart Goodall: As a forestry organisation, we do not have anything specific to do with sustainable development purchasing for sustainable development purposes that have nothing to do with forestry.

However, the bill also includes powers relating to compulsory purchase and acquisition for forestry. Our response on that point is that such powers have not been used to any degree. When we asked what the powers in the bill would be

used for, no real explanation was given. Our normal approach would be to ask why, if there is no clear justification for it, it is included in the bill. The inclusion of the power contains in itself some potential threats to people who may wish to plant forests, if they feel that by doing so they will bring themselves into a situation in which their land can be purchased by Government. It could be argued that the provision in the bill is a disincentive to tree planting. On balance, we would say that it is better not to have the power than to have it in relation to forestry.

The Convener: Mike Rumbles is looking at me, because he wants to ask about compulsory purchase. Would you like to ask a follow-up question?

Mike Rumbles (North East Scotland) (LD): Thank you very much, convener. I am particularly exercised by section 16, which states:

“The Scottish Ministers may compulsorily acquire land that they require for the purpose of exercising their functions under—”

sustainable forest management and sustainable development, which are dealt with under sections 9 and 13. In asking the bill team leader, Carole Barker-Munro about that, I said:

“the bill does not just transfer current compulsory purchase powers under the law as it stands; it increases ministers’ compulsory purchase powers.”

She replied:

“Yes, that is correct.”—[*Official Report, Rural Economy and Connectivity Committee, 7 June 2017; c 11.*]

When I pressed her further for examples, they were not forthcoming. I am suspicious of Parliament giving more powers to ministers when we do not know what they will be used for.

What do members of the panel think about section 16 on the compulsory purchase of land, which moves from the current position under the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to giving ministers what seem to be quite wide powers of compulsory purchase?

The Convener: Stuart Goodall has sort of answered that question already, so I will steer away from him. Ian Thomas and Malcolm Nicol might like to give a view.

Ian Thomas: The thing about forestry in Scotland is that it is a cultural entity that depends on the people within it and on them getting on. There is a good reason why the Forestry Commission has effectively never used the compulsory purchase powers that it has had over many years, because annoying farmers and every other landholder is not a good way to go about promoting forestry. There may be exceptional circumstances in which compulsory purchase powers are useful—if someone has been very

obstreperous or whatever, or there is a very good reason—but in general I do not see any reason for the powers to be extended. I think that use of the powers would be counterproductive in many cases.

Malcolm Nicol: I fully agree with Ian Thomas's comments. If the bill aims to promote forestry, I do not think that the section on compulsory purchase furthers that aim.

The Convener: Does anyone on the panel want to give a contrary view? If not, I am minded to leave it at that.

Mike Rumbles: Can I ensure that I have got this right? Do panel members believe that the compulsory purchase powers that were in the 1947 act are sufficient? Are you saying that we do not need the increased powers over sustainable development?

Ian Thomas: There is an issue about whether the Forestry Commission or the Scottish ministers exercise the powers. The Forestry Commission basically does not do compulsory purchase for the very good reasons that I have just outlined—there is a forestry culture and we all depend on each other—whereas ministers might have slightly different objectives. The powers are perfectly adequate as they are. The ideal thing is not to use the powers unless there are extreme circumstances. I think that changing the powers to give the Scottish ministers more of a say in the decision, and including other development, is not really about forestry. It extends the remit of the bill way beyond that.

The Convener: Do you have any examples of the Forestry Commission using compulsory purchase powers to further its aims for timber?

Ian Thomas: None whatsoever.

The Convener: The panel members are all shaking their heads. If we may, we will move on. I ask John Mason to develop the next theme.

John Mason (Glasgow Shettleton) (SNP): Sections 18, 19 and 20 talk about delegation to community bodies. I want to get your views on that. Is the definition of a community body in section 19 appropriate? If there is compulsory purchase, which we have just discussed, is it appropriate that ministers should be able to delegate the management to community bodies?

The Convener: That is quite a contentious question. Does Stuart Goodall want to lead on that?

Stuart Goodall: Confor believes that all types of organisations, parts of the country and communities can benefit from being active in forestry. We are keen for communities to plant land and become active in woodland. We have

seen that happening. For example, in north-west Mull, a community took on a piece of forest that was previously managed by the Forestry Commission and turned it into a real success story. There are good examples out there, so we know that that approach can work.

On the question of the definition of a community body, it seems strange to us that the definition is set out in paragraphs (a) to (h) of section 19(2), and then section 19(3) says that the Scottish ministers may ignore paragraphs (b) to (h). There is a lot of detail in section 19(2), but the next subsection basically gives the Scottish ministers the ability to ignore it and disapply all those elements. We question whether that makes sense.

John Mason: How would you deal with that issue? Would you take some of the detail out of the definition and leave it looser to start with, or would you restrict ministers' ability to change it?

Stuart Goodall: You are now asking questions that are above my pay grade, intelligence and interest.

John Mason: I will ask someone else at another time.

Stuart Goodall: We think that, if you have a provision that specifically provides for the purchase of forest—an asset that we think is valuable and important to the sector as a whole—it is important that there is something in legislation that defines what you are trying to achieve and sets out why it should happen. With that principle in mind, saying that paragraphs (b) to (h) of section 19(2) can be set aside seems to provide a lot of flexibility to Scottish ministers. We believe that the answer is somewhere in the middle, but cannot say exactly where.

In relation to the passing on of land that is obtained through compulsory purchase, we are not commenting on the issue of sustainable development of non-forestry land that is purchased and used for non-forestry purposes. However, I do not see why there would be compulsory purchase of forest land in order to pass it on to a community, and that is not explained in the bill. There is nothing in the bill, the evidence or the supporting documentation to say that that was something that was intended or that there was a reason for doing that. If that was allowed for under the bill, we would be concerned about that in principle, because it has not been stated as a possibility. It would be almost like saying that we can take land from somebody to give it to somebody else.

Mike Rumbles: May I come in at this point?

The Convener: Very briefly, because the next theme that we will deal with is quite big.

Mike Rumbles: Section 16 specifically gives ministers that power, does it not?

Stuart Goodall: That comes back to the time when we were scratching our heads. We provided our submission to the committee late yesterday afternoon because we were still struggling to understand some of the bill and the powers that it gives to Scottish ministers. The point that you raise is one thing that we did not get our heads around totally. However, if there were an ability to buy forestry land to transfer it to a community as opposed to a mechanism that involves the sustainable development of non-forestry land, we would have concerns about that.

The Convener: Rhoda Grant has a question on this point, as do others. I will try to bring in everyone, but doing so will curtail the time for the next theme that we will deal with.

Rhoda Grant (Highlands and Islands) (Lab): Often, forestry land is landlocked, which means that people cannot get the wood out and the land falls into disrepair. A community will often see an opportunity to use that land for a local business or a local community heat scheme. If the landowner just hangs on to the land and does not pass it on to the community, arguably the forest will fall into disrepair and will not be managed. That would therefore be a scenario where land could be compulsorily purchased and then handed to the community to preserve it as working forestry.

The Convener: I urge Stuart Goodall to give a very brief answer, please.

Stuart Goodall: I can understand where Rhoda Grant is coming from, but we in forestry are concerned about the issue. Someone who runs a business is in there every day, or at least five days a week, and someone who manages farmland does so pretty much every day. With forestry, however, a person can realistically plant a forest, do some maintenance work for a few years and then not do any activity for 20 to 30 years, although it actually makes sense to go in and thin it and do something more often. How do we come up with a clear definition that says that such land is just un-utilised and is waiting to be utilised? That is a very grey area for us and it raises concerns.

Claudia Beamish: Just for the record, I point out that it is the conditions in section 19(2)(b) to 19(2)(f) that can be disapplied. It is important that paragraphs (g) and (h) cannot be, because those are financial conditions.

Does any of the panel have concerns about the definition of the word “community” in section 19, as it differs from that in the Community Empowerment (Scotland) Act 2015 and in land reform and other legislation?

The Convener: Just to clarify, are you asking whether the panel is happy with the definition, including paragraphs (b) to (f)?

Claudia Beamish: No, I was just highlighting a point for the record that ministers can disapply only paragraphs (b) to (f), and not (b) to (h), which is important.

The Convener: Okay.

Claudia Beamish: My question was about whether the witnesses are content, to put it more positively, with the definition of “community”. I ask for brief answers, please.

Malcolm Nicol: I hope that the committee will look at that, because it is difficult if there are different definitions in different bits of legislation. The trouble is with effectively defining a community—in some cases, there might be very few individuals because forestry is sometimes in remote areas. That goes back to the point about the big diversity. I do not know how we define that diversity effectively, but commonality as far as possible would be valuable.

The Convener: We will leave that issue and move on to the next one.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Does the panel agree with the Scottish Government that a broader view of felling is needed? Are you content that what is proposed is consistent with sustainable forest management? Has there been adequate consultation on the part of the bill that relates to felling?

Malcolm Nicol: Although there is a lot in the bill on felling, I think that something is missing: the current exemptions, which are extremely important. For instance, people do not need a felling licence for felling in a garden or orchard or for doing certain kinds of arboricultural work. However, the exemption that is crucial to land management is that a small but defined amount of timber can be cut on a per quarter or annual basis. For example, we are replacing an old fence line at the moment and, over time, quite a lot of birch has grown up. It is a practical issue for farmers, land managers and so on that cutting a small amount of timber should be allowed.

I do not see any reference in the bill to the current exemptions. I also suggest that the current exemptions might be revised and modernised. That is my concern about the bill.

The Convener: The issue was raised at our meeting of 7 June. At present, a certain number of cubic metres can be felled for firewood each year without consent, but that is not in the bill. I think that the Government has accepted that.

Does anyone want to add to that?

Hamish Macleod: I am happy with what Malcolm Nicol has said.

11:00

Brendan Burns: I will give a practical example. If someone is clearing away wood on a forest site and, for whatever reason, the timber is not moving away, they may need to increase the size of a lay-by but they cannot do that and, all of a sudden, their whole operation grinds to a halt. That has happened many times. Flexibility, especially operationally, is vital.

The Convener: I will bring Jamie Greene in.

Fulton MacGregor: Convener, perhaps it was my fault for combining two questions, but I missed the panel's response to the second part of my question. Does the panel feel that there was adequate consultation on the felling part of the bill?

The Convener: Stuart, would you like to comment on that?

Stuart Goodall: My comment is, in essence, the feedback that I gave to John Finnie earlier. There was an awareness that felling would be included in the bill, and we understood that the basis on which we would be operating was similar to the basis on which we are operating currently. It is a detailed area to feed back on, and we are looking for reassurance that there will be a similar outcome. If we are assured of a similar outcome, including on exemptions, we will be content.

Jamie Greene: That leads nicely on to how the bill approaches felling. The Scottish Government's view is that it would prefer to have the detail in regulation rather than in the bill. According to the evidence that it gave us, it wants to "work with the sector" to create regulation post-legislation. Is that the best approach? Do you feel that you are part of that consultation process?

Brendan Burns: The simple answer is no: we are not part of it. Contractors are excluded. For the life of me, I cannot understand that, because we have the practical experience. That is the case not just with the Parliament but all the way through, from the top to the bottom, especially with the Forestry Commission. There has been no consultation.

The Convener: That is pretty forthright. Would Stuart Goodall or Malcolm Nicol like to come in? You both look as though you might have an answer.

Stuart Goodall: We are operating on a basis of trust in that we cannot see any reason to change the outcome. We understand that there are benefits in having the detail in secondary legislation, because, as has been highlighted, that

allows changes to be made more easily, and we are not aware of any reason why we should question the approach that is being taken. As long as that remains the case, we are prepared to work with what we are advised is the legislative basis that will allow felling to operate most efficiently.

The Convener: I might bring in Fulton MacGregor to round that discussion off. I think that he has a couple more questions on that area.

Fulton MacGregor: Is the panel aware of any circumstances in which Scottish ministers might refuse an application for felling permission? Overall, do you anticipate any changes on the ground as a result of the provisions?

Ian Thomas: I cannot see their having much impact. Felling must be regulated—we all agree on that. At the moment, to engage in felling activity in a forest of any size, we need a forest plan or a management plan. Those plans must be agreed with the Forestry Commission, but the commission is composed of pragmatic people who do not raise objections to felling for economic reasons and all the rest routinely, so I do not think that there is much to be concerned about. It is pretty much business as usual, which works as far as I can tell from where I am standing.

The Convener: Does anyone have concerns about refusals? There might be refusals for wildlife reasons. Is that a concern?

Brendan Burns: The wildlife side is a major problem that constructors recognise. We have to work ahead of time but the planning process seems to take a long time. If you look at all the reasons why we can and cannot harvest, you will see that there are only about two weeks in the year when we can harvest. It is shocking. We know that wildlife issues are important—we believe that, too—but the way in which things work at the moment is just not practical.

Stuart Goodall: We are not aware of any issue with an absolute refusal to allow felling so that trees can never be harvested. If there is important natural woodland, for example, it is clearly appropriate to apply provisions. However, if we are talking about a managed productive forest, I support Brendan Burns's comments.

The issue is not necessarily an absolute refusal but the guidance on when people can harvest so that they do not disturb birds, for example. In particular, we are told that birds of prey are disturbed and that people have to keep certain hundreds of metres away from them. Birds of prey then come down and eat sandwiches off the harvester cab. Guidance has been set, but we feel that it is perhaps incorrectly set and there is a danger that felling legislation could be used to create a blockage that would allow the guidance to kick in. We do not want to take anything away

from the need for felling control, but we must ensure that the guidance is correct.

The Convener: I am afraid that we will not get to one or two other questions that have stacked up, so we might submit them in writing afterwards. I ask Peter Chapman to move on to the next theme, please.

Peter Chapman: I want to explore notices to comply and compliance. Notices to comply are mentioned throughout the bill—for instance, chapter 6 is about registering notices to comply with continuing conditions on felling directions and restocking directions. Sections 42 to 47 provide the Scottish ministers with powers to ensure that directions that relate to felling are complied with, and sections 48 to 58 provide powers to ensure that the action that is required is undertaken. Are the compliance and notice-to-comply provisions an improvement on the current system? Could they be better?

The Convener: I know that I will not get short answers, but a yes or no answer would be fine.

Malcolm Nicol: Yes. Broadly, I do not see a massive change there. The issue does not come up a lot. Obviously, if something has not been carried out that it had been agreed would be carried out, the Scottish ministers need to have powers to come in and force the issue. However, that is generally done at the field level with field officers, and the issue is not contentious.

Stuart Goodall: I agree that it is about appropriate implementation, and we have seen implementation that we broadly agree with. It is a complex bill that pretty much takes through what was there before. As long as the intent of the bill is similar and the way in which the policy is applied is the same, we will be content with it.

The Convener: Let us move on. I invite Rhoda Grant to ask the next questions.

Rhoda Grant: This question is a bit of a catch-all question. Other than what has already been discussed, is there anything in the Forestry Act 1967 that is missing from the bill but that should be in it? Is anything missing from both the 1967 act and the bill that you would have liked to see in the bill? Will there be any unintended consequences from the changes?

The Convener: Does anyone think that anything has been missed?

Stuart Goodall: This may not be specifically missing, but the previous legislation contained the purpose, intention and ambition to expand the resource, and that ambition applied to both the private sector and publicly owned forest.

That goes back to a point that I made earlier about our concern that there is the potential for the

publicly owned and managed forest to be cleared because it is seen to have less economic value. We see the national forest estate as hugely important for the future of the sector. Around a third of the wood supply that supports 25,000 to 26,000 rural jobs and a £1 billion industry comes from the forests that are owned and managed by the Scottish ministers, but nothing in the bill recognises that or seeks to protect it. I am sure that Hamish Macleod can go into a lot more detail than I can on the need for long-term confidence to underpin long-term investment. Nothing in the bill seeks to protect the status of that forest, and that is of concern to us.

The Convener: You have made that point several times, Stuart, so I am sure that we have picked it up.

Malcolm Nicol: My point is not about something that has been missed but about the way in which it has been handled. It goes back to what we discussed before. Now that the Scottish ministers have taken the place of the commissioners, they are ultimately responsible for restocking on the national forest estate. However, they are also the people who enforce things by seeing that the restocking takes place, and I wonder whether there is an issue with that. It goes back to what was said earlier about the need for a chief forester. The person who is responsible for the action also seems to be responsible for policing it. I do not have an answer, but it seems to be a potential issue. There is concern about restocking, and I make that point across the board.

The Convener: We may leave that issue hanging and move on. John Mason will ask questions on our final theme.

John Mason: I have a quick question about the financial memorandum. It says that the bill's provisions will have

"no financial implications for local authorities or other bodies, individuals or businesses".

Are all our witnesses comfortable with that?

The Convener: Stuart, why not answer that? If you get it wrong, the cost will come out of Confor funds. [*Laughter.*]

Stuart Goodall: Yes, quite. I have never been asked to underwrite Government expenditure before.

We understand that the costs that are associated with that, and generally with rebranding and so on, relate to internal changes and will therefore fall on the Forestry Commission and the Scottish Government rather than on local authorities or other bodies.

John Mason: That is great. Thank you.

The Convener: I have a final question. We have heard from Stuart Goodall and Malcolm Nicol that there is concern that everything is being placed in the hands of politicians and that there might be a role for a forestry supremo whose job would be to promote forestry. I am not convinced that we have heard whether Ian Thomas, Hamish Macleod and Brendan Burns would support that principle. Perhaps they could address that point briefly or say whether they are happy with everything going to the Scottish Government.

Hamish Macleod: I repeat that, when both sides of forestry have been in the same house, if we can call it that—such as when we have had the overarching national committee, the regional forums and so on—we have had a structure of checks and balances and an audit and risk committee. One of my concerns is that, when what we used to call the forestry authority bit of it disappears into a department or division of the Government, there will not be public oversight of its activity or the checks and balances. At this stage, it is not clear how that transfer will be managed.

Ian Thomas: I support that view. Having a champion for forestry sounds nice. Without knowing the detail, I think it sounds as though it would be good. However, the issue is more important than one individual.

As I have said, forestry is a culture. For 100 years, the Forestry Commission has been the linchpin of that culture in Scotland, so that we have been able to achieve what we have done so far. The Forest Enterprise section is less concerned about dissipating the Forestry Commission but is concerned at least about the conservancy aspect, for practical foresters, of putting that culture into a much bigger one. In Scotland, we appreciate that we have to keep the critical mass in order to maintain the culture. The point is that, if we put that culture into a much bigger culture and it is not protected—or even if it is supposedly protected—it will inevitably dissipate and be dispersed.

That culture is more important than an individual champion in forestry. The whole of forestry in Scotland is a fantastic organisation that has achieved a lot. We may get reassurances that things will be protected and that everything will be fine but, if we look at the way in which changes have been made elsewhere—for instance, in Wales and perhaps with Historic Scotland in Scotland—we see that a dissipation of talent and enthusiasm has meant that the culture has gone. My fear is that we will destroy the whole forestry culture by incorporating it into the Scottish Government.

The Convener: Brendan Burns, would you like to give a short answer?

Brendan Burns: I will give a short one. The issue is about trust and confidence. I should explain that I work on the European Economic and Social Committee. In Europe, I have a wider remit that includes agriculture, and I see a huge problem with the rural community of agriculture and forestry businesses and the way in which it presently operates. We need people with practical experience who can understand what happens in rural areas, but we are not getting that. We have only to look at issues such as the one involving big supermarkets and farmers over milk to see the same problem going on at the moment.

The money is not staying in rural communities. We keep hearing about forestry, and we talk about sawmills and so on. Those are urban businesses that employ urban people. Rural communities are not the only beneficiaries when the money goes to the landowner, who we can only hope lives in Scotland and not in Canada, New Zealand or Australia. The issue is about money going into the rural community, and that has never been addressed. We need, at the top, technical people who will discuss the wider issues of forestry. At present, that debate is not taking place.

The Convener: Maybe that is the best place to leave that discussion.

I thank Stuart Goodall, Brendan Burns, Malcolm Nicol, Hamish Macleod and Ian Thomas for the evidence that they have given. The committee may want to ask further questions in writing. If there are issues that our witnesses think we have not looked at closely enough and on which they want to give further evidence to the committee, they should please write to the clerk.

I suspend the meeting briefly to allow our witnesses to change over.

11:16

Meeting suspended.

11:19

On resuming—

The Convener: We continue our evidence taking on the Forestry and Land Management (Scotland) Bill. I welcome our second panel: David Henderson-Howat is the chair of the central Scotland forestry forum; Claire Glaister is the chair of the Grampian regional forestry forum; Patrick Hunter Blair is the chair of the south Scotland forestry forum; and Richard Stirling-Aird is the chair of the Perth and Argyll forestry forum. We have received written evidence from the Highlands and Islands forestry forum, whose representative—sadly—was unable to attend.

I remind panel members that there is no need to push the microphone button to speak—the microphones will be activated for you. Please look at me if you want to give an answer and I will try to bring you in. Please also keep an eye on me once you start giving an answer, just in case you go off at a tangent and I need to bring you back. That saves me having to cut off your microphone, which would be incredibly rude. I have not had to do that yet.

John Finnie is going to ask about our first theme.

John Finnie: Good morning, panel. Thank you for your submissions. I suspect that some if not all of you were present when I kicked off the questioning of the first panel.

My question is about the role the consultation played in the development of the bill and what was, and what was not, consulted on. Are you content with how thorough the consultation was, specifically on the management of land by the Scottish ministers and felling?

David Henderson-Howat (Central Scotland Forestry Forum): The word on the street is that the Government did a consultation exercise but did not really listen to the responses. The policy memorandum focuses on the responses from organisations rather than the responses from individuals. We are told that more than half the organisations responded “Yes” to question 1 in the consultation, but if you look at the detail, you will see that even that is not quite true. Forty-nine out of 107 said “Yes” and quite a number said “Don’t know”.

Question 1 was a double question. It asked:

“Do you agree with the proposed approach for a dedicated Forestry Division in the Scottish Government (SG) and an Executive Agency to manage the NFE?”

It seems that what is in the bill reflects what was proposed in the consultation document and that not much attention was paid to the responses of consultees.

Claire Glaister (Grampian Regional Forestry Forum): I reiterate what David Henderson-Howat said about question 1. We in the Grampian regional forestry forum felt unable to answer “Yes” or “No” to that question, because we felt that we needed to comment on each aspect individually. Both had pros and cons, which we were not able to comment on, because of the way in which the question was formed.

Patrick Hunter Blair (South Scotland Forestry Forum): We were in exactly the same position. The south Scotland forestry forum was unhappy with the idea of the formation of a forestry division within the Government, and I responded to the consultation accordingly. When I

looked at the analysis of the responses to the consultation, I saw that what the Government said did not tie in with the fact that the majority of people and organisations were not in favour of the setting up of a forestry division within the Government.

The Convener: Do you want to develop that line of questioning, John?

John Finnie: Yes. My question was more about what was consulted on rather than the analysis of responses, which are often open to interpretation. A different relative value might be attached to a response from a representative body compared with a response from an individual, depending on the extent of their knowledge.

The management of land is an issue that the previous panel touched on. Was there a need to consider that issue as part of the bill?

Patrick Hunter Blair: This is where my lack of experience in dealing with such matters will show. I struggle to see what is appropriate to be contained in the bill, what might be in secondary legislation and what might be in the forestry strategy. I see the bill as enabling and empowering the Government, but I think that the detail should follow afterwards and should not necessarily be restricted by that.

Richard Stirling-Aird (Perth and Argyll Forestry Forum): I agree with that. In response to John Finnie’s first question, I note that the Perth and Argyll forestry forum consists of 12 members who are drawn from public and private sector organisations in farming and forestry and the Scottish Environment Protection Agency, and they are all of a mind that it is a bad idea to subsume the Forestry Commission Scotland into the Scottish Government. To keep it as an executive agency with its own brand—it is a very valuable brand—was the whole forum’s choice. Like the previous speakers, we were not very happy with the analysis when it came through, and it is clear that a majority—the great majority—of respondents were of the same view as us.

I agree with Patrick Hunter Blair that the bill is fairly bland and does not go into detail on management. We believe that the forestry strategy should go down to a much more local level.

The Convener: Okay. We are going to ask about the strategy in a moment. John, do you want to develop your question or should I bring in Stewart Stevenson on what should be in the bill but is not?

John Finnie: I have another small question, if that is okay, convener.

The Convener: Yes.

John Finnie: The wider programme for the devolution of forestry includes two things that are not in the bill—the cross-border arrangements and the new organisational arrangements. Are you happy with the direction that those parts of the programme are moving in?

The Convener: David, would you like to start? I will then bring in anyone who has an opposing view.

David Henderson-Howat: We are happy with the direction. We just have serious worries about what is actually going to come out. There are still an awful lot of unknowns with regard to the outcome of the discussions with the Department for Environment, Food and Rural Affairs and the Welsh Government and whether the money for research, for example, will be forthcoming.

The Convener: Does anyone have a contrary view or further concerns?

Claire Glaister: I do not have a contrary view, but I will make a point that follows on from what Stuart Goodall said earlier. As well as the three main priorities in the bill for cross-border co-operation, the forecasting inventory should be considered. That is the basis of investment decisions, as Stuart said, and if the methodologies and timing are slightly different in Scotland compared with other countries, that could be an issue.

I know that skills and education are devolved, but the skills required to operate a harvesting machine in Scotland are the same as those required in England. I would like reassurance that those links will be maintained.

John Finnie: Okay. Many thanks.

Stewart Stevenson: Confor states in its written submission for today's meeting:

"To ensure retention of professional staff in the long term, the bill should create a post of Chief Forester for Scotland."

The Highlands and Islands forestry forum said in its response to the consultation:

"Governance and accountability are critical. How appointments will be made is key to the whole thing."

I want to explore your views on Confor's specific proposal. I am interested to know whether you think that the proposed chief forester should be a champion who is external to the management of the activity or whether you believe it is important that the chief forester, or whatever the person is called, is the person who manages it. The model that I put to the previous panel was that of the chief scientist, who does not manage anything in Government but is simply the independent conscience of science that prods Government and champions science in the whole of Government.

The two alternatives that I have described are not necessarily the only alternatives, of course. What do you think about the chief forester idea that Confor has put forward?

Patrick Hunter Blair: The south Scotland forestry forum has not considered the concept. Having sat through the evidence from the first panel, I am not sure that I am any clearer in my mind—or, therefore, whether the forum is any clearer—about whether, if there is to be a chief forestry officer, they should have an executive role or be a non-executive. However, if the post is created, it will be important that the person have a professional forestry background, or an academic forestry background.

Stewart Stevenson: If you accept that there is a distinction between those two backgrounds, which would you give higher priority to?

11:30

Patrick Hunter Blair: I would like the person to have a professional background. If the committee has time to look at the experience in other countries—particularly in Ireland, north and south, and in Wales—you will see that chief forest officers in those places have various roles. Some have come from an administrative civil service background, some are professional foresters and some are academics. There are lessons to be learned from other countries.

The Convener: We will leave that theme there. Peter Chapman will introduce the second theme.

Peter Chapman: My questions concern part 2 of the bill, which concerns modernisation of forestry functions and bringing the provisions of the Forestry Act 1967 up to date. Do you believe that part 2 goes far enough in that regard? The bill also talks about sustainable forest management. We think that that approach is well understood and well used in the industry. Do you think that the bill will change how the industry will work in respect of sustainable forest management?

The Convener: Who would like to start? You are all being very polite.

David Henderson-Howat: Sustainable forest management is a well-understood term that has developed over the past 15 or 20 years. It is part and parcel of what Scottish forestry is all about, and it is right that it should be part of the bill.

Patrick Hunter Blair: Absolutely. One of the reasons why it is important is that it puts Scottish forestry in the context of international forestry. A lot of the timber that is used in this country is imported and, if we require certain standards of forest management in other countries, we should have our own house in order, which entails sustainable forest management.

Richard Stirling-Aird: I support that view. Our forum thinks that sustainable forest management should be linked to the United Kingdom forest standards, a point that has been discussed before. We also think that the bill should place greater emphasis on biodiversity.

Peter Chapman: The bill requires ministers to prepare and publish a forestry strategy. Would you like the bill to state that particular issues must be included in that strategy? How should the strategy look? What should it include and what does it need to do?

Patrick Hunter Blair: I do not think that that is a matter for the bill; it is a matter for the development of the forestry strategy. The bill should empower the Government to produce a forestry strategy, but the scope of that strategy has to be fairly wide. In some areas it could be strategic and in others there could be a bit more detail. However, that is a matter for the development of the strategy.

Claire Glaister: I am glad that there will be reference to a forestry strategy in the act. It would be nice to see the provision go further and say that ministers have a duty to enable the delivery of the strategy rather than just to prepare and publish it. That would give it some sort of direction.

Following on from the discussions this morning, I wonder whether a link should be made somewhere—perhaps not in the bill—to local authority forest and woodland strategies that pick up local distinctiveness and flavour.

David Henderson-Howat: All that I would add is that it would make sense for the act to say that the strategy needs to be revised once every 10 years or so.

The Convener: You would like a review clause to be included.

Peter Chapman: Do you think that, as Stuart Goodall suggested, the strategy should suggest a bit of ambition, with targets to be met and so on? We know that we are trying to achieve 10,000 hectares of new woodland a year, and maybe even 15,000. Should that be included as a target in the strategy?

The Convener: Everyone but Richard Stirling-Aird nodded. I do not know whether that was a careful ploy, but I will ask him to answer the question.

Richard Stirling-Aird: There should be a time limit on the production of a national strategy—two years, say. Further, as I said before, it is all very well having an overarching national strategy, but Scotland is diverse, and the strategy needs to be devolved down to a regional level.

The Convener: Claire, do you want to come back in on that or are you happy?

Claire Glaister: I just want to reiterate that I agree that an ambition should be set in the strategy.

The Convener: We will move on to the next theme.

Stewart Stevenson: This one will probably be fairly brief. The responsibility for silviculture and tree health will come together. Basically, we are bringing together in one place the provisions of the Plant Health Act 1967 and the Plant Varieties and Seeds Act 1964. Is that good news or bad news? You can just nod and say that it is good news if you wish.

David Henderson-Howat: It is good news. I would add only that it is one thing to have the powers on tree health, but scientific expertise is also needed to deal with that. To go back to the point about the cross-border function, it is important that we rebuild our expertise in tree health on a UK basis. We need the expertise as well as the powers.

The Convener: I see that no one has anything to add to that, so we will move on to the next theme.

Gail Ross: Good morning, panel. I will ask the question that I asked the first panel, which was about sustainable forest management. Section 9 states that the land must be managed

“in a way that promotes sustainable forest management”.

Will that make any difference on the ground? Would you like to see any changes?

I want to pick up on something that Claire Glaister said—it relates to a point that I wrote down when we heard from the previous panel. How will the bill integrate with the planning system and with local development plans and local woodland strategies?

I will add in the other question that I asked earlier. Are you clear about what is designated as “forestry land” and “other land”?

The Convener: I hope that the witnesses can remember those three questions.

Patrick Hunter Blair: I will answer them in the opposite order from the one that Gail Ross asked them in.

I am not clear about those designations. In my mind, I am clear about what sustainable forest management is, and I think I know what sustainable development is. The bill is a forestry and land management bill, not a forestry bill, so, right from the start, other land is involved. Under any definition of sustainable forest management, there is a requirement for open space in a forest.

In other words, not all forest land carries trees. Stuart Goodall gave statistics on how much open space there is in the national forest estate. There is land that is managed in conjunction with forests, which is forest land, even though it does not carry trees. There is also farmland that the Forestry Commission manages in some form or another.

We can see that there is a huge continuum of different types of land. One of my concerns, which was voiced by the earlier panel, is that, if the powers come through for the new agency, forest and land Scotland, to manage other land on behalf of Government ministers, sustainable development may well trump sustainable forest management. If ministers see a potential for another land use that is preferential to forestry, sustainable development will kick in and sustainable forest management will be left behind.

Richard Stirling-Aird: Gail Ross mentioned integration with local plans. I suggest that that will come through in regional forestry strategies; it is not something for the bill.

The Convener: Does Claire Glaister or David Henderson-Howat have a view on the terms “other land” and “forestry land” and the definition of sustainability?

Claire Glaister: I am very confused by the issue, too, and that is after several readings of sections 9 and 13. I am concerned that, as Patrick Hunter Blair intimated, sustainable development could trump sustainable forest management.

When I first read the bill, I thought that an answer to that problem would be to have in section 13 a phrase similar to that in section 9(3), which says that

“the Scottish Ministers may manage forestry land ... having regard to the forestry strategy”.

However, following the earlier discussion, I am not sure whether section 13 refers to other land or to forestry land plus other land. I am confused by the definitions in those sections.

Gail Ross: Is it too ambiguous?

Claire Glaister: Yes.

Jamie Greene: I believe that some of you heard our earlier discussion when we went into minute detail on section 13.

I would like to take a step back and get a broader view from you. Someone said that it is not just a forestry bill, but a forestry and land management bill. Given the complexities and ambiguities in some sections about what constitutes forestry and non-forestry land and whether land should be used for forestry or sustainable development, is the bill the right place to tackle general issues about land management? Do you have views about whether those issues

should be tackled separately from a forestry bill? Some of the evidence that we have received leads me to think that the bill is trying to do too much.

David Henderson-Howat: The policy intention is unclear. Is it simply to allow the Forestry Commission to run starter farms on the national forest estate, which would be great, or is it to allow the new body to take on the management of national nature reserves from Scottish Natural Heritage? We just do not know.

Claire Glaister: I sympathise with the question about the bill trying to do too much. If we look back at the 1967 act, the bill certainly expands and extends from that.

Forestry Commission staff manage non-forestry land, but we define that. I would not want the bill to restrict them from doing in the future the very good job that they do just now.

Patrick Hunter Blair: Integrated land use is one of the things that is starting to look like a success in forestry and land management in Scotland, and, as well as sustainable forest management and sustainable development, it deserves a definition of its own. When I was at university in the 1970s, integrated land use was a golden goal in Scotland, and we are now starting to talk about it positively and to achieve it in some ways.

I would speak against the idea that the bill is too far reaching. If it were restricted purely to forestry, we would be shutting forestry back into a silo that it does not deserve to be in. Trying to keep it open and, at the same time, trying to keep things clear will be a nice balancing act.

Richard Stirling-Aird: I certainly support that. I have spent half a century trying to integrate land management, forestry, farming, development and so on, and it would be wrong to limit the bill to forestry. The whole point is to try to bring in integrated land management, as others have said. Our forum has not specifically discussed that, but I feel sure that forum members would agree with me that that would be the correct approach.

Jamie Greene: I have a quick follow-up question. We had quite a substantial written response from the Highlands and Islands forestry forum, whose ideas were very clear.

The first question that we posed was a simple yes or no question. It asked:

“Do you agree with the proposed approach for a dedicated Forestry Division in the Scottish Government and an Executive Agency to manage the NFE?”

The forum’s answer was:

“No—we recommend these should be managed by an arm’s length nongovernmental public body (NGPB).”

What are witnesses’ views on that?

Patrick Hunter Blair: I think that you have in front of you a copy of that forum's response to the public consultation back in October or November last year. I simply worked on the presumption that the responses to that consultation from the other forestry forums have been made available to the committee.

Jamie Greene: I do not have them in front of me.

Patrick Hunter Blair: You may not have them in front of you, but you should have access to them. I speak for the south Scotland forestry forum, but I think that all the forums would probably say yes to the question whether they agree with the paper that you have in front of you.

11:45

Jamie Greene: Just to clarify, do you agree with the Highland and Islands forestry forum's response or with the proposed approach?

Patrick Hunter Blair: We agree with that forum's response that a dedicated forestry division in the Government is not the right way forward.

David Henderson-Howat: All the regional forums had their own discussions in different parts of Scotland last autumn. It was only when we came together a few weeks ago that we realised that we all had one voice in opposing the proposal.

The Convener: I guess that that is almost helpful if you are all together on that.

Mike Rumbles: I preface my question by saying that the bill will give ministers tremendous and increased compulsory purchase powers. We must put questions in that context, and I am glad that the panel members are listening to this. As MSPs, we can lodge amendments, which the Parliament will vote on, only to the bill; we cannot amend regulations that come forward—whatever the minister decides, that is it: we can either reject that or approve it. It is therefore really important to find out what you think should be in the bill.

I am focusing on compulsory purchase, and I am particularly concerned about section 16, which will change ministers' power to compulsorily purchase land. The 1947 act says that ministers can compulsorily purchase land for sustainable forest management, but the bill will give ministers enormous power basically to compulsorily purchase land for sustainable development without specifically defining what sustainable development is. Do you have concerns about that?

David Henderson-Howat: I do not understand why the compulsory purchase provision is in the bill. To my knowledge, the last time that the Forestry Commission tried to compulsorily

purchase land was in Norfolk in the 1950s. A parliamentary inquiry told it that it should not do that, and it has never tried to use the power since then, as far as I know.

Claire Glaister: My concerns are similar to those that David Henderson-Howat has expressed. If the power is not being used now, I do not see why it should be included in the bill, especially with a broader reach. That is a great concern.

Richard Stirling-Aird: Our forum discussed that. It was very concerned and felt that the Scottish Government needed to clarify exactly what the provision means and what the objective is in section 16. As we all know, compulsory purchase is a minefield; if it is not carefully focused, it will get mired down in the courts. We are not at all happy with section 16. It could encompass a whole raft of unintended consequences, so the provision should be much more focused—if it should be in the bill at all. As David Henderson-Howat said, in purely forestry terms, the power has hardly been used, but we are, of course, dealing with things other than just forestry, and how the provision is framed could lead on to all sorts of things.

The Convener: Does Mike Rumbles want to follow that up?

Mike Rumbles: No. Those responses are very helpful. To summarise, there is not a great deal of happiness about expanding the power in the 1947 act. That is what I have taken from those comments.

The Convener: The previous panel was not asked about the disposal of forest estate land. In the past, the Parliament agreed that there could be a certain amount of rationalisation, but that the money from the sale of forestry assets would be put back into forestry assets. Is that how things should proceed, or are you happy for the forest estate to be sold off and for the money from that not to go back into the assets but to go into the running of the forest estate, for example? I want to push you on that, but your answers should be quick.

David Henderson-Howat: The central Scotland forestry forum understands the rationale for the current relatively low level of disposals. We look at those disposals pretty carefully and would be extremely concerned about disposals at the level that the Scottish Government proposed seven or eight years ago, when it thought about getting rid of 25 per cent of the forest estate.

The Convener: Does Claire Glaister have an opinion on that?

Claire Glaister: This perhaps does not directly answer your question, but we would be worried

about the purpose for which that land would be disposed of and what controls would be in place to ensure that there was no net loss of woodland cover.

Patrick Hunter Blair: I have nothing different to add to that.

Richard Stirling-Aird: It is not so important who owns the forest; what is important is how it is managed, and whether it is extended.

The Convener: We move on to the next theme.

John Mason: Sections 18 to 20 would delegate functions to community bodies. Do the witnesses have any thoughts about that? Are you comfortable with the definition of a community body? Should the definition be in the bill or should it be elsewhere? Ministers have some powers to vary those functions. One of the requirements is that a community body should have 20 members. Does that need to be in the bill or should we give the ministers the power to vary that? If there is a compulsory purchase, as we have just discussed, is it appropriate that the function of managing that be delegated to a community body?

David Henderson-Howat: I understand that the reason for having those provisions in the bill is because it is already possible for communities to buy land from the Forestry Commission, although it is not always possible for communities to afford to do so. The provisions allow arrangements for communities take on long-term leases of Forestry Commission land, which is great. I think that the aim of section 19 is simply to find language to ensure that an activity is a bona fide community activity rather than something that is masquerading as a community activity. In that sense, I am comfortable with it.

The Convener: I think that one of John Mason's questions was whether land would be bought and then handed on to a community.

John Mason: That was a fairly clear answer—I am happy with that. Do any of the other witnesses want to comment?

Patrick Hunter Blair: It is just a point of detail. There are definitions that I am not familiar with, but as we have been talking a lot about definitions this morning, it would seem that there should be the same definition of community in the bill, the Community Empowerment (Scotland) Act 2015 and the Land Reform (Scotland) Act 2016.

John Mason: Are you aware of any reasons why that is not the case?

Patrick Hunter Blair: No.

Claudia Beamish: It is still morning, so good morning.

Have your forums had interest from community groups in the management and purchase of forest land, and indeed beyond that, given the integrated land use strategy, which I think Patrick Hunter Blair and Richard Stirling Aird highlighted that they are keen on?

The Convener: Patrick Hunter Blair was named, so he will have to say something.

Patrick Hunter Blair: I will go first. I suppose that I ought to declare an interest, because I sit on the community asset transfer evaluation panel. However, I will set that aside and talk about the issue from a forestry forum perspective. There has been very little interest from community groups.

David Henderson-Howat: In central Scotland, it tends to be much more about community engagement in woods in and around towns. It is a different story from community leasing or community ownership—it is about engagement. What I would also say is that—

Claudia Beamish: Can I stop you there? Do you see that as in any way being part of the bill?

David Henderson-Howat: No. It just relates to the way in which the Forestry Commission Scotland has engaged with communities. If our colleague from the Highlands and Islands were here, he would be the one answering this question, because such activity tends to happen much more—although not exclusively—in the Highlands and Islands.

Claire Glaister: I certainly echo what Patrick Hunter Blair finds in the south of Scotland. We do not have much interest from communities in the Grampian forestry forum area. There are community woodlands that are managed by communities, but there is very little interest on the forum itself.

Claudia Beamish: Is that because of the make-up of the forum?

Claire Glaister: Possibly, yes.

Richard Stirling-Aird: The Perth and Argyll forestry forum has visited community groups, particularly on Mull. There is real interest, which perhaps mirrors the Highlands and Islands point. Clearly, in those parts of the country there is a real interest in communities acquiring Forestry Commission land in certain circumstances and running it themselves.

The Convener: Let us move on to Fulton MacGregor's theme of questioning.

Fulton MacGregor: I thank the panellists for their attendance.

Do you agree with the Scottish Government that a broader view of felling is needed? Are you

content that what is proposed is consistent with sustainable forest management?

David Henderson-Howat: I heard the discussion with your previous panel and I broadly agree with what was said. There need to be felling regulations. There is a bit of surprise as to how much detail comes into the primary legislation as opposed to it going into secondary legislation. The definition of felling seems slightly bizarre, to say the least. It needs looking at, but there needs to be some sort of control over felling.

Patrick Hunter Blair: I concur with what David said.

The Convener: So there is too much information in the bill and the definition is not good enough. Is that the panel's general feeling?

Patrick Hunter Blair: On the amount of detail on felling, it seems that more emphasis is given to it than is perhaps necessary when you compare it with other matters in the bill.

Claire Glaister: I will pick up on a different area, which I think was discussed earlier. We are quite pleased to see the dislinking—that is not a verb, but you know what I mean—of illegal felling and the need to have a conviction before you can put on the power to restock. It is useful that they have been separated.

The Convener: Jamie, do you want to develop that?

Jamie Greene: I am a bit confused by some of the views on this. Some of the notes that we had on the felling sections of the bill said that it was lacking in detail, in that the bill would not deal with the specifics of felling regulations, licences and exemptions, and that they would be dealt with in secondary legislation. However, a few times this morning I have heard people say that there is a bit too much detail on felling. Which is it?

David Henderson-Howat: We need a lot of detail. We need to exempt, for example, gardens and churchyards. The question is whether we need all that detail in the primary legislation or whether it can be dealt with by regulation.

The Convener: Does anyone want to add anything to that? Jamie, are you happy with that?

Jamie Greene: I have no further questions.

The Convener: I think that Fulton has another question on felling.

Fulton MacGregor: I do not know whether all of you were here earlier, but the previous panel seemed to unanimously agree that the provisions on felling would not make much difference or make many changes on the ground. What is your view on that?

Claire Glaister: I agree with the previous panel. I do not see that there is any reason for there to be much or any significant change.

The Convener: David, do you have concerns or are you happy?

David Henderson-Howat: I am happy.

Mike Rumbles: Jamie Greene made the point that people have said that there is either too much or not enough detail on felling in the bill. Section 24 says:

“Regulations under subsection (1) may, in particular, provide that section 23 does not apply to—

- (a) particular categories of person,
- (b) particular places or activities,
- (c) particular circumstances,
- (d) trees of particular descriptions”.

It does not go into any of the detail. Appeals against decisions by Scottish ministers, applications for felling permission, decisions on applications to fell a tree, compensation and felling directions will all be in regulations.

I return to a point that I made earlier. The point of putting a bill through Parliament is that it gets proper scrutiny and that MSPs are able to amend what the Government is bringing forward in the bill. If all those things are delegated to regulations, we have no chance to get them right and make amendments to them. This is an opportunity to say that those things should be in the bill, or to say that we are content that they are not. Are you content that the regulations are left to Scottish ministers to decide, rather than Parliament?

David Henderson-Howat: We get into very technical issues, such as the de minimis exemption of 5m³ per calendar quarter. There is a lot of detail in the Forestry Act 1967 that, arguably, could go into secondary legislation so that it can be updated in a relatively streamlined way.

The Convener: I think that Mike Rumbles's concern is that, if something is in regulations, it can be arbitrarily changed and Parliament cannot look at it. Is that the point that you are making, Mr Rumbles?

Mike Rumbles: My point is that Parliament cannot amend regulations. In practice, the Government tends to bring forward regulations and, because there are a lot of good things in them, even if there are other issues, they tend to proceed without being thrown out, which members are reluctant to do. However, we can amend the bill without the loss of the bill, if you see what I mean. Are the witnesses content that a lot of the detail will be given to ministers to introduce in a way that we cannot amend?

The Convener: Sorry. I should have made my point clear. It was that regulations have to come to Parliament for scrutiny, too. They will go through the procedures.

Mike Rumbles: Absolutely, but we cannot amend them. That is my point.

The Convener: Does anyone want to add anything in light of what Mike Rumbles has just said?

Richard Stirling-Aird: One point that has come to our forum, which Claire Glaister has mentioned, is that the Forestry Commission seems unable to serve a restocking notice—restocking is very important—without getting a court order. That perhaps should go in the primary legislation, although I do not know. That is the single most important issue that has come to our notice.

The Convener: We will move on to the next question.

Fulton MacGregor: Mike Rumbles has probably covered the issue, but my question is whether the panel is aware of any circumstances in which the Scottish ministers might refuse an application for felling.

David Henderson-Howat: To clarify, normally, the powers are in the background and there is negotiation about felling. In large forests, a forest design plan will be agreed between Forestry Commission staff and the owner. It is rare for there to be questions of denying felling permission. For example, a few years ago, the owner of an oak wood in East Lothian wanted to clear-fell the oaks, and there was a huge row about that. Potentially, permission for felling those oaks could have been denied but, in fact, there was a long process of negotiation and a satisfactory solution was found. It is good to have those powers in the background, however.

The Convener: Unless anyone has anything to add, we will move on to the next theme.

Peter Chapman: My question follows on from what we have been discussing. It is about the compliance and notice-to-comply provisions in the bill, which we have been speaking about. Are those provisions an improvement on what we have now? Could they be improved further?

Claire Glaister: I must admit to being somewhat confused and uncertain about the need to register felling approvals. I am not certain whether all felling approvals, whether they are felling licences or long-term forest plans, will have to be registered with the land register and then deregistered. I am interested to hear what the interpretation is.

The Convener: Patrick, do you want to add anything?

Patrick Hunter Blair: No, thanks.

The Convener: Peter, do you want to develop that point?

Peter Chapman: It is about notices to comply with continuing conditions, felling directions and restocking directions. There are powers to ensure that directions related to felling are complied with. If something is not being complied with, the bill gives powers to ensure that the action is taken. The compliance stuff comes through in various sections. Are you content with it? Are there other things that should be in the bill or could improvements be made to what the bill states on compliance?

David Henderson-Howat: With respect, the danger of looking at the fine detail is losing the big picture. The big picture is that, through the bill, we will lose the Forestry Commission, which has had about 100 years of history. It has done the job, meaning that, by and large, the notices of compliance and so on have not been needed, because there has been a long process of negotiation and working with forest owners and managers on the ground to get things done. Therefore, notices of compliance sit in the background in the legislation and are not called forward, because of how forestry arrangements have been made. The big potential change in the bill would be to throw out that structure.

Richard Stirling-Aird: I suppose that we are used to seeing such regulations in the background. They seem to work in the system that David Henderson-Howat has just mentioned. I do not have any comments on them; I do not see them as being particularly threatening.

The Convener: We will move on to the next theme.

Rhoda Grant: Are there any provisions in the Forestry Act 1967 that should be included in the bill but are missing from it? Obviously, I do not want to hear about anything that has been discussed by the committee; I only want to hear about different matters. Will there be any unintended consequences from what is in the bill?

David Henderson-Howat: The big thing that is missing is the existence of the Forestry Commission or Forestry Commission Scotland.

The Convener: Does anyone want to add to that? That is the biggest miss. Rhoda, do you want to push the issue at all?

Rhoda Grant: We are aware of concerns about the Forestry Commission. That issue has been covered; people have expressed concerns about it. I was thinking more about the detail of the bill. Are there other things that might have unintended consequences? Are things missing from the bill?

Claire Glaister: Earlier this week, one of our members was not confused—that would be the wrong word—but curious about the powers of ministers to enable hare and rabbit control or to make it happen. She thought that that was an interesting deletion from this bill.

The Convener: We will move on to the final theme of questioning.

John Mason: The financial memorandum categorically states that there will be

“no financial implications for local authorities or other bodies, individuals or businesses as a ... result of the”

bill. Therefore, by implication, any financial impact will be borne by the Government. Do you have any comments on that? Are you all comfortable with that?

David Henderson-Howat: I was interested that the financial memorandum mentions one-off costs of between £6 million and £12 million, largely for information technology. At your last evidence session on the bill, you showed scepticism about the IT costs. I looked through the financial memorandum to try to see what savings the Government thought would come from the proposal to move Forestry Commission Scotland to a forestry division in the Government. There did not seem to be much in the way of proposed savings from the changes. I wondered why.

John Mason: Why did you think that there might be savings from the changes?

David Henderson-Howat: As I have said repeatedly during this session, the Scottish Government wants to make a fundamental change to how forestry is organised in Scotland, so I thought that it might have had justification on the grounds of savings, but—

John Mason: I thought that the Scottish Government was arguing that the changes would lead to a more democratic situation, rather than being about making it cheaper.

David Henderson-Howat: Interestingly, that moves on to the Government’s point about why it is making the proposals. At the moment, stakeholders have a much greater say through the non-executive directors who are appointed to become forestry commissioners—or whatever their replacements might be in the proposed agency—whereas under the proposed arrangements, it will be much more opaque in the sense that there will be a division in a directorate within the Scottish Government, which is hidden in the Scottish Government website, for example, as opposed to an organisation that people can know and approach.

John Mason: I am probably not going to go into that area at the moment. On finances, does no one else consider that—

The Convener: Richard Stirling-Aird has indicated that he wants to speak.

Richard Stirling-Aird: I may be going off at a completely different tack here, but if the bill is successful in gradually increasing the amount of forestry by 10,000 or 15,000 hectares a year, that will clearly have an impact on local authorities, infrastructure and roads and so on. That is an implication.

John Mason: Is that because of the bill or is it more because of the general aim to increase the amount of forestry?

Richard Stirling-Aird: That is one of the general aims of the bill, is it not? That is bound to have implications. An increase in the amount of forestry is nothing new as the process has been on-going for many years, but the amount of forestry will increase a bit.

The Convener: That brings us to the end of the evidence session. I thank David Henderson-Howat, Claire Glaister, Patrick Hunter Blair and Richard Stirling-Aird for coming to give evidence. It is always useful to hear the views of other people and doing so allows us to make an informed decision.

I will briefly suspend the meeting but ask committee members to remain seated so that we can move directly on, and ask the witnesses to leave as quickly possible.

12:10

Meeting suspended.

12:11

On resuming—

Petition

Marine Fish Farms (Legislative and Regulatory Control) (PE1598)

The Convener: Item 2 is consideration of petition PE1598, on protecting wild salmonids from sea lice from Scottish salmon farms. Previous consideration of the petition is detailed in paper 3. I note that in April the committee received a letter from the petitioner. I also point out that members of the committee visited a salmon farm barely two weeks ago to look at how it operated. Would any members like to comment on the petition before I move on to make a suggestion about further action on it?

Stewart Stevenson: For completeness, I put it on the record that I have also visited a salmon farm recently and have met representatives of the petitioner, so views were expressed to me personally that I will not directly share. It is clear that the salmon fishing industry and the wild salmon industry are both significant and important industries for Scotland. Whatever we choose to do with the petition, it is a perfectly proper petition. We should certainly treat the matter seriously and make sure that at the end of the day we come to a balanced view and help to inform public policy.

John Finnie: I did not participate in the recent visit that the convener and others went on but I, likewise, have visited a farm on the back of a request to do so. I am also keen that we are seen to be addressing the understandable and growing public concern about the issue. I understand that the convener will make a suggestion and we will maybe take the matter forward from there.

Mike Rumbles: I also visited a fish farm when I was previously a member of the Parliament, although I have not done so recently. The issue has been on-going for years, is really important and we should address it. I look forward to the convener's suggestion.

The Convener: I need to chastise myself for being remiss and not declaring an interest at the outset of the discussion, as I have a wild fishery interest in my entry in the register of interests, which members can look at.

I take the points that have been raised. I suggest that the committee might like to consider allowing the petition to continue and, to address the points that John Finnie and other committee members have raised, to look to carry out an inquiry into aquaculture, probably early in 2018. It would be extremely helpful to try to find common ground between the interests, which Stewart

Stevenson has said are very important to Scotland as a whole. I seek the committee's approval to carry that out. Are we agreed on that?

Members *indicated agreement.*

The Convener: There is one other matter to bring to the committee's attention. An opportunity has arisen to have some research carried out by the Scottish Parliament information centre: a review of the literature on the environmental impacts of farmed salmon in Scotland. I propose to ask SPICe to carry out that work in advance of our inquiry. I make it clear that I have been in conversation with the convener of the Environment, Climate Change and Land Reform Committee to discuss how we can consider the issue together, to ensure that we have the best possible impact.

Mike Rumbles: I make a request that the research look at the situation in other countries, such as Norway and Ireland, where there has been an issue for years. Specific research has been done on those countries that could be useful to the committee.

The Convener: Absolutely. The research will take the form of a literature review, which will be as broad and far reaching as possible, to allow us to make proper and informed decisions.

Subordinate Legislation

Meeting closed at 12:16.

Milk and Other Products (Public in Educational Establishments) (Scotland) Regulations 2017 (SSI 2017/178)

Seed (Fees etc) (Scotland) Regulations 2017 (SSI 2017/179)

12:16

The Convener: Item 3 is the consideration of two negative instruments. Members should note that no motions to annul have been received in relation to the instruments and that no direct representations have been made to the committee on them. Do members have any comments to make on the instruments?

There being none, does the committee agree that it does not wish to make any recommendation in relation to the instruments?

Members *indicated agreement.*

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