



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 30 September 2015



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**RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE**  
**29<sup>th</sup> Meeting 2015, Session 4**

**CONVENER**

\*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

**DEPUTY CONVENER**

\*Graeme Dey (Angus South) (SNP)

**COMMITTEE MEMBERS**

\*Claudia Beamish (South Scotland) (Lab)

\*Sarah Boyack (Lothian) (Lab)

\*Alex Fergusson (Galloway and West Dumfries) (Con)

\*Jim Hume (South Scotland) (LD)

\*Angus MacDonald (Falkirk East) (SNP)

\*Michael Russell (Argyll and Bute) (SNP)

\*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Richard Cooke (Association of Deer Management Groups and Lowland Deer Network Scotland)

Bruce Cooper (Angus Glens Moorland Group)

Alex Hogg (Scottish Gamekeepers Association)

Robbie Kernahan (Scottish Natural Heritage)

Alasdair MacTaggart (Scottish Assessors Association)

Douglas McAdam (Scottish Land & Estates)

Duncan Orr-Ewing (Scottish Environment LINK)

Rupert Shaw (NFU Scotland)

Colin Shedden (British Association for Shooting and Conservation)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

The Robert Burns Room (CR1)



# Scottish Parliament

## Rural Affairs, Climate Change and Environment Committee

Wednesday 30 September 2015

*[The Convener opened the meeting at 09:30]*

### Land Reform (Scotland) Bill: Stage 1

**The Convener (Rob Gibson):** Good morning, everybody, and welcome to the Rural Affairs, Climate Change and Environment Committee's 29th meeting of 2015. The committee continued its fact-finding tour of Scotland this week by visiting the Borders on Monday. We met tenant farmers, as well as representatives of Roxburghe Estates and the Lowland Deer Network Scotland. I thank those we met for their time and the views that they provided, which help us with our overview of land reform throughout the country.

I remind everyone present to switch off mobile phones, as they may affect the broadcasting system. People might notice that members are using tablets because the meeting papers are provided in digital format for those who are into the 21st century.

Agenda item 1 is an evidence-taking session on part 8 of the Land Reform (Scotland) Bill, which is on deer management. We have been joined by a panel of stakeholders: Alex Hogg, the chair of the Scottish Gamekeepers Association; Robbie Kernahan, unit manager of wildlife operations at Scottish Natural Heritage; Richard Cooke, the chair of the Association of Deer Management Groups and the Lowland Deer Network Scotland; Duncan Orr-Ewing, the convener of the LINK deer task force in Scottish Environment LINK; and Douglas McAdam, the chief executive of Scottish Land & Estates. I welcome them all. We will go straight to questions.

As the witnesses know, the committee undertook an incisive inquiry a couple of years ago into the management of deer and suggested that the voluntary approach to the preparation of deer management plans should continue. The then Minister for Environment and Climate Change decided to give deer management groups two years to complete them. Is that approach by the Government working? Does it give time to allow the voluntary approach to deliver?

**Richard Cooke (Association of Deer Management Groups and Lowland Deer Network Scotland):** Yes, that approach is working. Many groups had deer management

plans before the review, but those plans were operational in purpose. The need to reflect the public interest in deer management has come into the picture and is now a dimension of deer management planning. Robbie Kernahan will be able to confirm this, but I think that the number of new deer management plans that are being written is in the mid-20s, with a number more in the pipeline. Many of those new plans replace old ones and they all address the public interest aspect, as well as the operational aspects, of the deer management groups' activities.

**The Convener:** We will consider some of the detail in a minute. Richard Cooke mentioned Robbie Kernahan; what is his view of the development of plans?

**Robbie Kernahan (Scottish Natural Heritage):** At the last session that we had on deer, we highlighted the point that the package of measures that exists in Scotland can provide the basis for a modern approach to deer management. However, we also acknowledge that owners, DMGs and public bodies need to do more to demonstrate willingness to look beyond the private objectives of land management and think about demonstrating much more enhanced action to deliver public interest.

We have done an awful lot since those meetings back in late 2013, which we found hugely helpful because they provided us with a focus to work more closely with the ADMG and be clear about exactly what we need DMGs to do: how we need them to operate—openly, inclusively and transparently—and, more important, what we need them to deliver. That has provided a good focus for how we construct plans and what goes into them. Since the committee last considered the issues and the minister responded, we have spent a good deal of time working with the ADMG to produce a benchmark to clarify our expectations of what a DMG should do and how it should operate.

We have also worked through all the national policies, translating them for the local level so that DMGs can get their heads round what delivering a deer management plan will mean for them.

We have undertaken a fairly substantial audit, principally for upland DMGs, to measure how far from that benchmark they are. That has also helped to highlight for DMGs exactly what focus needs to go into deer management plans.

In short, we found the committee sessions hugely helpful in providing some of that focus. To be fair to the DMGs and Richard Cooke's association, the penny has finally dropped that real and meaningful progress needs to be made in the next 18 months.

**Douglas McAdam (Scottish Land & Estates):** I echo the points in those statements from both

Richard Cooke and Robbie Kernahan. I also sit on the executive board of the ADMG and get a view of the progress that is being made. It is crucial that our discussions do not prejudice the outcome of the review that will take place in 2016. In some of the previous evidence to the committee, there has almost seemed to be the suggestion that the direction of travel is towards statutory management. From our point of view, it is very important that we do not prejudice. We see a sector that has taken the signals that have been given to it and is making progress.

**Graeme Dey (Angus South) (SNP):** Where the penny has not dropped, and satisfactory progress has not been made, in your experience, Robbie Kernahan, is there a problem across the entire deer management group area, or is it only one estate that is the problem?

**Robbie Kernahan:** It is interesting in that it is a very mixed picture. What we have seen is that it needs those people who are sitting in the important positions of chair or secretary of these voluntary groups to drive the process forward. Across the board, we have seen genuine and meaningful engagement from all the individuals who have been tasked with leading the groups. We give them every encouragement to do so. We have provided financial support over the past and present year to help them to construct their plans. For the 44 upland deer management groups that we have assessed, we have already issued 26 funding packages and another seven are expected. Some of the other groups are developing plans in-house. Our expectation is that all of them will have produced meaningful plans by the end of 2016. That is a good news story.

I will caveat that slightly, because developing the plan is just the first step. The more important and more challenging step is to deliver the plan and make it happen. It is still early days, but progress over the past 12 months has been particularly good.

**Duncan Orr-Ewing (Scottish Environment LINK):** The intervention of the RACCE Committee in hearing evidence on deer management and the involvement of the minister in the issue have been hugely helpful. During the evidence sessions, the committee heard about the ecological issues that are being faced in the uplands of Scotland, in particular from high deer populations in some places. That is affecting our ability to deliver a whole range of public outcomes, from the protection of designated sites through to the expansion of native woodland, the protection of peatlands, hitting climate change targets and so forth.

Although there has been progress, I would concur with Robbie Kernahan that the focus to date has been on process and getting deer

management plans in place. Having clear deadlines has been very helpful, but in the future, post-2016, we need more deadlines and a focus on outcomes and implementation.

**Richard Cooke:** The commentary on deer numbers is always that there are far too many deer in Scotland and that the environment is in crisis. I contest that, because, in the areas with which I am most familiar, deer numbers have reduced markedly. I look to Robbie Kernahan to confirm whether the national picture reflects that. For example, when I was the secretary of the east Grampian deer management group, we counted 36,000 deer in the early 1980s in that area. The number at the last count was 17,000, so there has been a reduction of more than 50 per cent.

I would also refer you to a piece of information that I got yesterday from SNH when I specifically asked it what the condition was of the designated features on the designated sites where deer are present. SNH said:

“85.3% of features within deer range are in either favourable condition, recovering due to management or unfavourable but with the SCM”—

site condition monitoring—

“herbivore targets being met.”

In other words, deer numbers are in accordance with SNH targets. The proportion of designated sites that are still suffering from excessive deer impacts is 14.7 per cent. That is not something to be complacent about, but nor is it a crisis.

**The Convener:** We will explore those issues in detail in a minute or two. Does Alex Hogg have anything to add?

**Alex Hogg (Scottish Gamekeepers Association):** We are worried about the socioeconomic side of things—jobs, for example. We must remember that it is in the public interest to have men and families up the glens. If our deer numbers get too low in places, jobs will be under threat. We must be aware of that impact all the time.

**The Convener:** We will, and we will explore that point in more detail, so thank you for making it. Just before we do, Richard Cooke talked about the reduction of deer from—was it 28,000 to 17,000?

**Richard Cooke:** The reduction was from 36,000 to 17,000.

**The Convener:** That does not necessarily tell us whether the figure is in balance with the ecology.

**Richard Cooke:** You make a crucial point. The issue is impacts not numbers. The SNH information that I cited was about impacts. The other point that must always be borne in mind is that deer are not the only herbivores occupying

the open hill range—they share the range with sheep, whose numbers have also declined markedly over the past 10 years. Indeed, I think that sheep numbers have declined by 1 million, which is about 30 per cent. Overall, grazing and trampling pressure is undoubtedly coming down at a significant rate. It takes time for exposed habitats to respond to that change in utilisation.

**The Convener:** We are talking about much of my part of the world—the far north-west on the mainland and some of the islands—where sheep numbers have reduced. Overall, however, stories about pressures in the central Highlands and so on continue to be raised with us.

I want to look at the content of the plans and the processes that the deer management groups have been undertaking. I ask Michael Russell to fire away on that.

**Michael Russell (Argyll and Bute) (SNP):** Before I come to inputs and outputs, I want to mention the figures given by Richard Cooke. Let us be accurate on the figures. Page 6 of your publication, “LDNSNews”—the Lowland Deer Network Scotland news—mentions that, in the native woodlands survey of Scotland,

“Only 46 per cent of native woods are in satisfactory ecological condition. On a comparable basis, 54 per cent of native woodland designated sites as at June 2014 are in favourable condition ... a decrease of 5 per cent since 2010.”

There are figures that perhaps give a less rosy view than the one that you gave.

**Richard Cooke:** Yes, exactly. The NWSS report was extremely useful, and it will be a reference point of value for some time. I said that there are no grounds for complacency and I do not for a moment say that there is not a problem, but the problem is proportionate and it can be managed.

We had one issue with the native woodlands survey. It had a default presumption that the condition of any area of native woodland not in favourable or improving condition was due to deer. I know from the estate for which I am responsible that the area where that woodland was deemed to be in an unsatisfactory state has no deer present—they are excluded by fencing—and the damage was done by sheep. There are nuances in the situation that require further exploration.

The point is that if the woods are not in satisfactory condition, something needs to be done about that. That is not just about the deer, but the deer are part of the situation.

09:45

**Michael Russell:** I was at an event on Friday in Strachur in my constituency that was organised by

forestry and deer interests, and the inescapable conclusion of those at that event—I will come on later to how deer management plans are put together and how deer management groups operate—was that the problem is not being solved. It was felt that the Forestry Commission, for example, has great intent but is not solving the problem, and neither are private landowners; that the figures that are being used are inaccurate; and that there is a complacency about the situation that is causing enormous difficulty. There are many people who disagree with your take on the situation, Mr Cooke, and who want to see more radical action.

However, on the question of the deer management group process, whoever wishes to do so can talk me through that. What does a deer management group meeting feel like and look like? Who is there? What is the public participation? What is the outcome? Just talk me through what you believe is happening.

**Richard Cooke:** The groups are not exactly the same, because they reflect their local circumstances. However, typically, deer management group meetings will be attended by a mix of the proprietors of the estates or landholdings concerned, the people who work on them and representatives—those are the prime movers, so to speak. Almost without exception, Scottish Natural Heritage’s wildlife management officer will attend the meetings, which will also almost always have a representative from Forest Enterprise, because there are blocks of Forestry Commission land within nearly all the deer management group areas. Typically, the meetings will also be attended by the local police wildlife officer, and a number of other interests will be represented, too. For example, if the mix of estates concerned includes charitable bodies, they will be represented; and if they include public bodies, they will be represented in that capacity.

Where the groups still have work to do is in how they engage with the public; that point was made in the review and we are taking it very seriously. The ADMG has been spending some time thinking about the best mechanisms for engaging with the public. We have developed a simple off-the-page website that we will launch in about a month to all the deer management groups so that they can use it as their principal window and people can get information from it about deer management plans, minutes of meetings and the action plans of individual deer groups.

We are addressing the issue of public engagement. We accept that it is a matter of significant concern for this committee and that you expect to see progress on it.

**Michael Russell:** Why do the public not show any interest? Is it because they do not have any

interest or because they do not think that their interest would have any influence on the deer groups?

**Richard Cooke:** It is different in different circumstances, but I know of a number of circumstances in which deer management groups have attempted to engage with the public but found that there is very little interest. This is not a deer-related issue, but I have an example of rural communities sometimes being content with what is going on around them and not wishing to intervene or take an interest. On the estate that I look after, I recently offered an area of woodland to be community woodland around the settlement in the glen concerned. I held a meeting at which as many of the community who were able to attend were present, and they took the view that they would rather not have the burden of looking after the woodland and were perfectly happy for it to be looked after by the estate.

**Michael Russell:** I could take you to lots of groups who would cut your hand off to get an area of woodland, but there we are—I suppose there is nowt so queer as folk.

**Duncan Orr-Ewing:** Like Michael Russell, we think that there could be greater transparency in the deer management planning process. We are surprised that there is no link to transparency in part 4 of the Land Reform (Scotland) Bill. For comparison, there is the Forestry Commission's public register, which means that all new plantings and all forest design plans have to go through a standard system, and it is published on the Forestry Commission's website. We think that there should be a similar approach on the SNH website and that, in particular, all deer management plans should be published on the website, especially now that public money is involved through the Scottish rural development programme and SNH is contributing £200,000 to the production of deer management plans.

Mr Russell correctly said earlier that there are genuine concerns about deer numbers in some places and about impacts on the natural heritage, particularly designated sites. SNH is targeting deer management in particular as one of the key issues. If we are going to resolve some of the outstanding issues causing damage to features of designated sites and achieve native woodland expansion, we need deer densities of under five, but probably closer to two, per square kilometre, which we do not have in many places in Scotland.

**Michael Russell:** None of the targets that Forest Enterprise is setting itself on that are being achieved.

**Duncan Orr-Ewing:** That is correct. You should also remember that it takes a third of the deer cull.

**Michael Russell:** Indeed, and it is not still achieving its targets.

**Duncan Orr-Ewing:** That is correct.

**Douglas McAdam:** With regard to Richard Cooke's point, the way in which deer management groups engage with the public must be very much horses for courses, and different groups will want to do that in different ways. In some places, it will be easier to engage with the community than in others. For example, the Monadhliath deer management group held such a meeting and there was quite a good attendance, but that is a pretty engaged and populated area where there is interest. Perhaps its being part of the national park helped things. However, there are other areas where such an approach is not so easy or appropriate, in which case the portal that Richard Cooke has outlined will provide an extremely useful public view or window.

**Michael Russell:** I have a final brief question for the panel, who, after all, have great experience in these matters. You might wish to challenge this, but I think that, if you take the long view of deer management in Scotland, you will inevitably come to the conclusion that the state and legislative action so far have failed and that public bodies, in particular, have failed by leaving the matter—as they have done from the establishment of the Red Deer Commission onwards—to landowners and large public undertakings. That approach has not worked, and the problem has got progressively worse; indeed, problems with growing trees, particularly native woodlands, are insurmountable in some areas. The solutions to date have not cut the mustard, and much more radical action needs to be taken to stop the problem getting even worse. Well intentioned though they are, the solutions that come from public bodies such as Forest Enterprise and SNH do not work either.

**Duncan Orr-Ewing:** Mr Russell is right to remind us about that. In the 1990s—it was 1994, I think—SNH published a report entitled “Red Deer and the Natural Heritage”, which suggested that the red deer population needed to be reduced from 200,000 to 100,000. We now have a population of more than 400,000 red deer in the Highlands of Scotland. You are therefore correct.

**Douglas McAdam:** We have to remind ourselves that, at the moment, we have a voluntary system that is delivering in the public interest across a number of areas, including deer management, at very little cost to the public purse.

**Michael Russell:** What is your definition of “delivering”? The numbers are rising and damage is getting worse. That is not “delivering”.

**Douglas McAdam:** There is dispute over whether the numbers are rising. The review that will take place next year will look at exactly the



question that you have raised about whether the system is delivering. Perhaps we should await the outcome of the detailed review that people are working towards.

**Michael Russell:** People out there know that the system is not delivering. Your members know that.

**Douglas McAdam:** I dispute that.

**Michael Russell:** That is what I hear from people throughout my constituency and from the rural sector in Scotland. The reality is that the numbers are growing and the management methods are not working. They are well intentioned and are having an effect in some places, but, overall, the problem has been getting worse over perhaps the past 100 years and effective action is required now. Voluntary action has not been effective.

**Douglas McAdam:** This probably goes back to your previous point about native woodlands, too. We need to differentiate between management of the red deer range through the deer management groups in that area and the Lowlands situation—

**Michael Russell:** I accept that.

**Douglas McAdam:** Undoubtedly, the population in the Lowlands is growing and there is a problem there that needs to be dealt with. We might come on to talk about that. However, we have to differentiate between the two aspects. I would guess that quite a part of your constituency might be feeling the effects of that Lowlands issue.

**Michael Russell:** That is not true.

**The Convener:** Let us hear from SNH now.

**Robbie Kernahan:** A number of interesting observations have been made, and I think that I need to come back on some of them.

It is clear, from last week's meeting in Cowal, that the lack of an established deer management group in that area has resulted in a lack of cohesive deer management. People will continue to act in isolation. We have long recognised that, in managing red deer as a resource, we need meaningful collaboration, and it is a shame that the deer management groups in Cowal have fallen by the wayside. It illustrates that there is a problem, that people are not happy with the current provisions and that something needs to be done.

As for the question of how effective the legislation has been, it was only relatively recently that natural heritage was encompassed in legislation—in the Deer (Scotland) Act 1996, I think. Prior to that, it was not really considered to be much of an issue. Since the 1996 act, the approach of the Deer Commission for Scotland and then SNH has always been to encourage and

facilitate effective management and to intervene formally only when that has not worked. We can demonstrate that some of the provisions in the legislation can work—I can cite two or three good examples of meaningful reductions in deer numbers. In Caenlochan, Breadalbane and other areas, we have significantly changed deer densities—

**The Convener:** We will look at that later, but two or three people want to respond to Mike Russell's point first.

**Richard Cooke:** I now understand what Mr Russell was talking about. I do not know a great deal about the Cowal area, because it is not in our network—as Robbie Kernahan said, there is no deer management group in the area—but we have been speaking to SNH about Cowal, because we recognise that it is an area where collaborative management is necessary. As part of what we might call the 2016 process, we are not only trying to get the existing deer management group areas up to speed but looking at areas where there is a case for introducing a deer management group or similar collaborative mechanism that is not currently present, and Cowal is one such area. The issue has not escaped our notice.

In general, the statistic that I gave about the impact of deer on designated sites says something about impacts. Mr Russell quoted from the Lowland Deer Network Scotland newsletter, and the point was well made: most of the native woodlands are not in the condition in which we would want them to be. I accept that, although, as I said, the problem is not always just deer. We have to ask ourselves what the role of native woodlands is. Native woodlands are there not just for their own sake or for timber production but to provide shelter, feeding, amenity and landscape. They are multifunctional; they play a utilitarian role in the countryside as well as an amenity role. From that point of view, their providing accommodation in winter for wild deer, sheep and other herbivores, including other species of deer, reduces pressure on the exposed land nearby.

**Michael Russell:** But the native woodlands do not regenerate now. If you took that as your argument and allowed that to happen, we would reach a stage at which there were none left.

**Richard Cooke:** Exactly, and it is important that they should regenerate. In general, that can be encouraged on a rotational basis by using fencing. There are good examples of that all over Scotland.

**Michael Russell:** I do not want to dominate the discussion, and I promise that this is my last question. I just want to make the point that, although I am using Cowal as an example, I have received information from other areas—I am a former environment minister, so I have had

experience of the problem—and my long view of the matter is firmly that the system to date has not worked. Good things have been done in places—nobody is denying that—but we require a more radical approach to ensure that the problem is brought under control and contained. We need stronger statutory approaches, because, by and large, the voluntary approach has failed.

**Duncan Orr-Ewing:** We have one of the least-regulated deer management systems in Europe and perhaps some of the biggest ecological issues that arise from large deer populations in some areas. In some places, our red deer populations are 10 times as large as populations in Sweden and Norway.

In its report, the land reform review group said that urgent action on deer management is required. The group recommended that SNH should determine deer cull levels and that there should be compulsory deer returns, for example. We would certainly support such measures and we hope that they will be in place in due course.

**The Convener:** I will give Alex Hogg a wee shot.

**Alex Hogg:** There are two points that I want to make to Mike Russell about his problem at Strachur. First, I used to work for the Forestry Commission, on the west coast of Scotland at Loch Awe. When I worked for the commission in the late 1970s and early 1980s there were 33 wildlife rangers in that wee area alone. Now, there are none left in the Forestry Commission in Scotland compared with how many there used to be. When you were the environment minister, I asked you why the Forestry Commission was not starting to employ young rangers. There are no wildlife rangers, and part of the problem is that there is no ground to manage any more. Contractors are coming in and shooting the deer under spotlights, and they are not part of the community. Secondly, there are lots of locals in the areas in question who would be prepared to take on a wee bit of ground and to control deer, but they never get the chance. Those are two major problems in deer management.

**The Convener:** We do not have the Forestry Commission with us today, but we note your remarks and we will explore them in due course.

Graeme Dey wants to ask a supplementary question.

**Graeme Dey:** It is timely, given what Mr Hogg has just said. If deer management groups are to operate successfully, we need to be able to call on all the available expertise. I am sure that Mr Hogg remembers that, in our previous work in this area, the committee highlighted the need for gamekeepers to have a voice in deer management groups. Is the voice of your

members and their expertise now influencing the work of DMGs, or are we still in the same position?

**Alex Hogg:** We are much more involved and are asked for advice to a much greater extent. Many of the stalkers go along to the meetings of deer management groups. There is a far more broad-brush approach.

10:00

**Claudia Beamish (South Scotland) (Lab):** Good morning, panel. I have a question that is particularly for Robbie Kernahan and Douglas McAdam, but other members of the panel could comment briefly, too. It is about the process for putting public money in to support the deer management groups, which I understand is part of the KickStart programme. Is there still an expectation that estates should be putting money in to support deer management groups? How does that process work? It is right that public money is being put in in areas where the deer management system is not functioning at all. However, looking to the future, where will the money come from to manage, for example, the appropriate advertising for public participation or whatever the issue might be?

**Robbie Kernahan:** Going back to first principles, deer management groups operate on a voluntary basis and are organised voluntarily. Most of the organisation of the groups is done by their members; very little money from the state goes towards helping to facilitate the effective functioning of deer management groups.

SNH and FCS staff attend deer management group meetings and provide advice, support and guidance as necessary, as well as providing a public interest voice. However, we recognise that collaborative deer management requires a certain amount of facilitation expertise, and one of the problems that we have always had with DMGs is that they sometimes struggle to have the necessary capacity and expertise to mediate conflicts or resolve situations that arise. It is in the public interest for them to do so, so we are content to provide an incentive for groups to function and plan more effectively.

With that in mind, we have managed to secure funding through the SRDP to help deer management groups to function. That funding can be drawn down through the new collaborative action fund. There is money available to plan at a landscape scale and to help groups such as DMGs operate on that basis and deliver deer management more effectively.

When the committee last considered deer management, there was a bit of a hiatus in the SRDP, which is why SNH and the Scottish

Government came up with a sum of money to help groups to produce such plans with the express expectation that, given that we had gone through the process of better identifying what public interests we expected DMGs to deliver, the plans would be designed to address some of the concerns. We made £100,000 available last year and we have done that again this year. Most of that money will have been drawn down by the end of the financial year to help groups to produce plans.

Moving forward, public money will be available for monitoring the delivery of the plans. Money will be provided for habitat impact assessment to measure the impacts that deer are having and the benefits of putting the plans together.

**Richard Cooke:** The funds that SNH has made available are available on a match-funding basis—in other words, the deer management groups concerned are all raising new money to pay their 50 per cent of the cost of the deer management planning process.

Going back to a point that Graeme Dey made, I advise the committee that three of our deer management groups are now chaired by gamekeepers—stalkers—and I am very keen that that should continue. I completely agree with the premise that the people on the ground are the people who know best and that they are the ones who should drive the deer management process. I am very keen to encourage that.

On Mike Russell's point, I am very concerned that deer are being portrayed, possibly by you and the people who speak to you, as being of no value in themselves—as being vermin that should be removed like rats. If that is the case, we must bear in mind that considerable benefits, including environmental benefits as well as employment and social benefits, flow from the management of the deer population in a sustainable way.

We are working strongly towards the sustainable management of the deer population in general. Deer management is a reactive process—it reacts to change—so there are and always will be areas where there is work to be done. However, I firmly believe that the voluntary principle—the voluntary system with the flexibility that underlies it—is the best possible way of addressing that.

**The Convener:** We have heard that before.

**Michael Russell:** I put on record that that is not what I said nor what I intended to say. I would be grateful if what I said was not misrepresented.

**The Convener:** I do not think that we need to talk about rats and so on, because it does not help the committee in what it does. We are about the

environment and we recognise all parts of the environment, even if other people do not.

**Douglas McAdam:** Going back to the original question, I agree with what Robbie Kernahan says and I think that the provision of public money to help that initial process to get going is a good use of that money. We can see parallels in other areas where we are trying to break ground. Of course, the bulk of the cost of deer management across Scotland is still borne by the private sector, in terms of the cost of the day-to-day management. We are talking about a very small part of the whole cost, and it is important that we all recognise that.

**The Convener:** The portal was mentioned. Will agendas, meeting papers, minutes and so on be available on that portal?

**Richard Cooke:** Yes.

**The Convener:** Will it contain the sort of things that we would expect to be published on notice boards in village halls and so on?

**Richard Cooke:** Yes, indeed. Different deer groups will find different ways of addressing their local community interests, but I expect that, over a period, the web portal will become pretty standard and will be the best means to find out what is going on.

**Graeme Dey:** Looking at the bill's approach, I would welcome your views on whether SNH should have a power to amend plans rather than just the power to approve or reject them. Should it have the power to impose its own plan if it is unhappy with the plan that has been prepared by a DMG, and would it have the expertise to do that?

**Richard Cooke:** That is what happens in practice. The development of deer management plans is a process of negotiation that SNH is closely involved in, particularly in view of the public money aspect of it. SNH amends as well as approves plans, and it is fair to say that, if SNH disapproved of a plan, the grant would not be paid and it would not work.

The measures that are proposed in the bill would give SNH additional powers to intervene in specific circumstances when things were not working. I would not have a problem with that. If an individual—it might be two or three individuals—was not collaborating with their neighbours in the management of a shared deer population and normal powers of persuasion were not sufficient to change that, we would not have a problem with SNH having the opportunity to intervene if it needed to do so. However, I remind the committee that the powers that SNH already has under section 8 of the Deer (Scotland) Act 1996 have not had to be used. I give credit to SNH for that, because it likes to use its influence and

persuasive powers rather than a big stick, as far as possible.

**The Convener:** That is an interesting diplomatic gloss on the situation. We will hear more about that in a wee while.

**Duncan Orr-Ewing:** SNH will shortly publish a review of progress on deer management planning in Scotland. That has not been published yet. We understand that some private landowners are not following the process—they are outside deer management groups or whatever. We agree that the proposed new powers for SNH to intervene in the deer management planning process are required, and we think that they should be implemented now rather than later, as is recommended in the land reform review group's report, which came out after the evidence that the RACCE Committee was given a couple of years ago. We think that those powers will be required in any case, because some landowners will be outside the system.

**The Convener:** We are dealing with the bill as it is and the proposals in it as they are, not implementing things earlier. Nevertheless, we hear what you say.

**Douglas McAdam:** SNH already has powers under sections 7 and 8 of the 1996 act. It has the power to intervene and to drive deer management plans in a certain direction, which is important. However, it is also important to maintain the balance between public and private interests in how the plans are developed. Moving to a more top-down, draconian process could upset that balance and what we are trying to achieve. Duncan Orr-Ewing talked about looking across the water to Scandinavia, and the processes there are not top-down. We should take note of that as well.

**The Convener:** We could have a long, philosophical discussion about local government in Scandinavia compared with local government here, where we do not yet have local decision making.

**Robbie Kernahan:** Returning to Graeme Dey's question, I want to pick up on a point that Mike Russell made. The process by which the plans are constructed is crucial. With every DMG, we have attempted to take some of the national policies, such as Scotland's biodiversity 2020 route map and Scotland's forestry strategy, and distil them down into meaningful bite-sized chunks for deer management groups across the country. We have effectively tried to spell out the ask of the policy direction across the country to help DMGs understand what that really means for them.

From an ecological point of view, if the need for healthy ecosystems is what is driving a lot of the debate—and I think that it is, quite rightly—we are asking groups to begin to think about how they

address the 56 per cent of native woodlands that are in poor condition at a local level, and what they can meaningfully do to demonstrate that they are aware of the problem and are addressing it locally. When it comes to woodland expansion, we ask groups of estates to consider what is realistic. For designated features, we ask how many we can begin to address.

We are therefore beginning to spell out what the ask is. There are some things that groups have to do because there is a legal requirement, and there are some things that they should do because it is sensible from a deer management point of view—creating new woodland, for example. Groups are being encouraged to think about those things, but they are not regulatory requirements.

The groups are being encouraged to implement Government policy voluntarily, and we will incentivise them to do so, but a lot of the discussions are about what the groups consider to be the priorities for them, because the priorities for peatlands up in north-west Sutherland and Caithness may be different from the priorities in the Angus glens, where woodland may be considered more important. It is not a one-size-fits-all approach. We are asking the groups to think actively about what they consider the priorities to be locally and then to address some of those priorities in the plans. We think that that is a sensible way of working.

SNH is fully engaged in the process. Our staff go along and help to facilitate some of the conversations and to support in providing direction as to what we think should go in the plans, because they are really about delivering in the public interest. As I said, it is early days and we have seen only two or three of the draft plans with the public interest outcomes built into them. I know that it is quite an ambitious ask that we are putting to deer management groups, because I suspect that they will not be able to do everything that has been set out. However, it is the start of a process and we are trying to get them to be ambitious about what they can do in the next five years. If there are things that they cannot tackle, we want them not to lose sight of them because they are big issues and we need the DMGs to grasp them.

**The Convener:** We need to move on but, before we come to sections 7 and 8, Dave Thompson has a question for the SGA.

**Dave Thompson (Skye, Lochaber and Badenoch) (SNP):** My question is to do with the socioeconomic impacts of the plans. I note that the SGA submission states:

"We would also hope that deer management practice which goes against the socio-economic interests of communities will be similarly liable for penalty."

That last phrase refers to something that you mention a little earlier in the submission. That is a good point, and there is a real concern, which I understand, about jobs and about the effect on people in those areas.

You may find some comfort in section 4 of the Regulatory Reform (Scotland) Act 2014, which already places a duty on regulatory bodies. It says:

"In exercising its regulatory functions, each regulator must contribute to achieving sustainable economic growth, except to the extent that it would be inconsistent with the exercise of those functions to do so."

That is legalese and I dare say we could argue about what exactly it means, but it would appear that there is already a duty to take into account socioeconomic factors. That act is only a year old, so I would be interested to hear comments from SGA and SNH about how we balance such things and take socioeconomic factors into account.

10:15

**Robbie Kernahan:** I am happy to go first. You are right: part of our founding legislation includes balancing duties when carrying out our functions. We are already obliged to take into account the interests of owner-occupiers of land and the needs of agriculture and forestry in the natural heritage in reaching decisions—specifically decisions about the appropriate density and numbers of deer, if we are talking about the Deer (Scotland) Act 1996. The obligation also applies to our natural heritage functions.

Although, legislatively speaking, the regulators code and the duty placed upon us are relatively new, for some time there has been an expectation that our decision making will take into account the interests of owner-occupiers and the socioeconomic impacts associated with any of our decisions. We welcome the new code, but our view has always been that we should balance ecological, social and economic outcomes in everything that we do. That is a key part of any of our decision making. For example, when we are thinking about deer reduction, we must consider what impact it will have on local economies and jobs.

**Dave Thompson:** Does King Solomon work for you? It cannot be easy to get that balance right.

**Robbie Kernahan:** It is not easy, but that is our task. We are there to facilitate and to mediate between the public interest and what the legislation expects of us in terms of preventing damage and taking into account the needs of agriculture, forestry and sporting objectives. That is why we get it in the neck from everybody. That is part of the job.

**Dave Thompson:** Is the SGA comforted by the existence of the Regulatory Reform (Scotland) Act 2014 and by the comments that have just been made by Robbie Kernahan?

**Alex Hogg:** I never knew about that act, and it sounds as though there is a wee bit of protection there.

When you have a man up the glen, he is not just a deerstalker; in a way, he is policing that glen as well. In this day and age, it is important to recognise what it means to have someone on the ground, seven days a week.

**The Convener:** Thank you. Several other people want to comment.

**Duncan Orr-Ewing:** I make the point that we need more, not less sustainable deer management. We need to have circumstances that facilitate the ability for more people to carry out deer management. Sometimes, the systems that are in place prevent the wider engagement in deer management that we hope could arise.

**Douglas McAdam:** I welcome Dave Thompson's point, which allows us to look at deer from a slightly different angle, which is as a sustainable resource. Having the right economic sustainability requirements built in is very important. Deer are a natural resource that we have to harvest; to do that sustainably we need to ensure that there are sufficient numbers. We welcome the approach.

**Richard Cooke:** Duncan Orr-Ewing has largely made my point, which is that deer management needs people. As far as the community benefit from deer management is concerned, the committee will have heard on Monday that there is a lot of grass-roots involvement, particularly in deer management in the Lowlands. The Lowland Deer Network Scotland is keen to see that involvement proliferate and become the general pattern.

**The Convener:** Let us stick with deer management and look at what happens if the management plans are not agreed. Sarah Boyack will lead on that.

**Sarah Boyack (Lothian) (Lab):** We have spent a lot of time talking about things that are working. We want to explore the issue of what happens where voluntary control agreements have been introduced. In particular, we want to get a sense of how sections 7 and 8 of the 1996 act work together, because the powers in section 8 have never actually been used. I certainly want to tease out the calculations behind that.

In its evidence, SNH has spent a bit of time talking about how section 7 works in practice. Can you tell us how fast you can get a section 7 agreement to use control agreements for deer

management? How straightforward is the process?

**Robbie Kernahan:** I can tell you that. At the moment, there are nine control agreements in place across the country, ranging from small agreements with two or three properties to a fairly significant agreement in Breadalbane, where the whole deer management group is signed up to a section 7 control agreement involving 27 estates and where we have taken a population over 75,000 hectares down from 12,000 or 13,000 to 8,000. In another agreement with 10 estates in Kinloch, we have taken the population down from just over 12,000 to 5,000 deer.

That demonstrates that we can negotiate meaningful agreements over large tracts of Scotland with very different and complex ownership patterns. Obviously, the length of time that it takes to negotiate a solution will depend on the number of people you are trying to negotiate with, which means that some negotiations might take longer than others. However, the Wildlife and Natural Environment (Scotland) Act 2011 tried to ensure that section 7 and section 8 were more integrated, and we can now put a very clear timescale on securing a voluntary agreement. That is time-bound to six months, and we have good experience of being able to secure some complex agreements within that time period.

That shows that, as I tried to point out earlier, the current provisions can work, and we have good examples of where they have worked and where we can secure environmental gains. In each of the agreements, we can demonstrate meaningful progress in habitat outcomes and improvements in habitats as a result of the interventions while at the same time ensuring that they are reasonably compatible with on-going sporting management. To me, that is quite reassuring.

I think that the process is reasonably well understood by those who have been exposed to it. That said, whenever we introduce the concept of a control agreement, it is not universally well received. People still think that it is state intervention and that it is not always necessary, and we still have to do a little bit of a selling job to make it clear that the agreement is voluntary, that we can negotiate and that we are willing to be sensible and reasonable. However, we need to be clear about what success looks like, and that will be dictated by habitat response and environmental outcomes. I do not know whether that goes as far as you would like as a response to your specific question.

With regard to the use of section 8, we tend to flex our muscles as and when we need to if negotiations become difficult. The very fact that we can threaten the use of section 8, which offers less

room for manoeuvre and negotiation, actually helps the discussions reach a voluntary outcome. We are never that far away from such a move if we are having very difficult conversations.

**Sarah Boyack:** That was a really useful answer, because it is clear that section 8 itself has not been used and that no control schemes have actually been imposed. In your submission, you spend quite a lot of time highlighting what SNH perceives to be the risks of using section 8, and it made me wonder whether you thought its use was a priority, given the process of assessing whether or not it would be useful. Clearly you use it as a backstop and as a means of banging people's heads together, but what happens if a section 7 agreement is in place and, although most people are playing ball, one or two are not?

In that respect, I want to tease out the issue of the one-off assessment. You have said that it is quite risky and you question whether it would actually do the trick and, indeed, whether there is a need to go through a whole process before getting to that point. Are the section 8 control schemes as currently identified appropriate? Is the process too tough to use, or is section 8 useful only as a backstop, which is the impression that I got from your submission?

**Robbie Kernahan:** In order to move forward with the section 8 control scheme, SNH as the regulatory body needs to be clear that deer are the primary cause of damage. We are reassured when we are able to follow a course of events in which we can clearly demonstrate that damage has been associated with deer management.

The issue is our risk appetite. It is now reasonable to conclude, on the basis of a one-off assessment and with our knowledge of the impact that deer are having and the number of deer involved, that if we cannot secure a voluntary agreement we can move on to use section 8. That carries an increased risk of successful challenge, because ecological relationships are complicated and there are other herbivores involved. We would have more confidence if we could be more assured in our assessment that the damage had been done by the deer and there was a clear audit trail that allowed us to reach that conclusion.

**Duncan Orr-Ewing:** Sections 7 and 8 are useful tools in the toolbox. The processes can be quite lengthy to negotiate, however, and we would argue that a swifter system is required.

I remind the committee that section 7 agreements are geographically focused, particularly in relation to the improvement of the condition of designated sites and road safety. The range of public outputs that we now require from our uplands goes much wider than the designated sites and road safety issues that are covered by

section 7. They also cover the protection of peatlands and native woodland expansion. We think that there is a case for expanding the scope of SNH's involvement across a range of issues in the uplands.

**Richard Cooke:** I share Robbie Kernahan's analysis of the value and benefit of section 8. It has been helpful.

I anticipate that, as the deer management plans that are now being developed are rolled out, they will remove the need for intervention of the sort that SNH has had to make under section 7, with the section 8 powers in the background. They will also meet Duncan Orr-Ewing's point that action should address the wider environment, beyond the designated sites that have been the focus of interventions under section 7.

**The Convener:** It would be remiss of us not to mention Ardvar before we leave this issue.

Ardvar throws up a contrast between, on the one hand, the neighbouring landowner saying that there are far fewer deer than were counted previously and, on the other hand, a failure by three landowners—only three, not 27—over two years to get to a discussion about a land management order.

The John Muir Trust is not prepared to accept a land management order that includes fencing. That is the only way that fencing can be paid for. A section 8 order has not been applied in that case.

I read in the local press that the number of deer are said to be fewer than when last counted. As I said earlier, and as Richard Cooke agreed, the impact of however many deer there are can still be well out of balance with the landscape's need to regenerate. What is going to resolve the situation if three landowners cannot be persuaded to move over a two-year period?

Who is going to pick that up?

**Richard Cooke:** Shall I stick my head in the noose to start with?

The Assynt situation is an extremely interesting one because it is a crucible of all the difficult issues and potential conflicts that deer management groups face. In that particular case, there is an absolute stand-off between the competing objectives of the different landowners, all of whom have valid aspirations for their pieces of land.

In circumstances such as those, there is a use for the intervention powers of the state through SNH, since it has been proved over a reasonably long period that it is impossible to get the parties to find some compromise and middle way that addresses the common ground.

It is difficult to foresee how that situation is going to develop. The issues, albeit pretty extreme in Assynt, are typical of those that are under discussion in groups right across Scotland.

10:30

**Robbie Kernahan:** I can bring the committee up to date with where we are on Assynt.

We rehearsed some of these arguments when we met 18 months ago. We have effectively asked the Assynt peninsula to develop a deer management plan along the same lines as we have asked all our deer management groups to do. With the best will in the world, what has been produced falls significantly short of what we had hoped to see. That is partly because of the very complex and competing land management objectives of the players in the peninsula and it is partly undoubtedly down to the capacity of the group to reconcile them.

If I were to draw any analogy with the current provisions of the bill, I would say that we are essentially rehearsing the arguments: we have given those estates a notification to produce a plan, but what has been produced has fallen short of our expectations and we have recently notified the estates of our intention to secure a voluntary control agreement.

I went up to Assynt and chaired a meeting two weeks ago to explain that process to all the owners, not just the three owners of the designated sites but some of the smaller estates as well. I explained what was in a section 7 control agreement, the processes associated with it and what we might like to see. In our view, the deer management group has proved to be largely dysfunctional.

That notification was not met with open arms. It has been made quite clear that there are estates up there that are opposed to signing a section 7 control agreement. We have condensed the timescale within which we would like to secure arrangements with them. We have given them a three-month time period. We will meet them one-on-one to explain what we would like to see, where we will go and what the risks are.

I suspect that we will come back to the SNH board and potentially the minister to take a view about whether we have the appetite to regulate a system that involves two community-owned estates, two or three very small sporting estates and an environmental non-governmental organisation, because they have not been able to work through the issue among themselves.

**The Convener:** The powers in the bill to raise fines and so on ought to be a message to those people out there to get their act together.

**Robbie Kernahan:** The firm message coming from SNH has been that the risk that the landowners run of not securing a voluntary agreement takes us into section 8 territory, and potentially significant financial penalties, too.

**Duncan Orr-Ewing:** I have a wider comment. In the context of the bill there is a land rights and responsibilities statement, which very much focuses on who owns land. We would argue that there also needs to be a strong emphasis on how natural resources are used in the public interest as part of that statement. That might help set the context for some of the disputes that are occurring across upland Scotland, as Robbie Kernahan said. We cannot have a fencing solution for deer across much of upland Scotland.

**The Convener:** Indeed. Without going into the detail of that comment, do you want to respond, Mr Kernahan?

**Robbie Kernahan:** I want to make a passing comment, just so that the committee is aware of this. You should not underestimate the strength of feeling and the significant breakdown in relationships between all the estates up there, which make sitting around the table and having a meaningful, mature conversation even more challenging than it is normally.

**The Convener:** Thank you for that bit of evidence.

**Sarah Boyack:** I want to come back to the powers that SNH has. In your evidence, you point out that a control scheme can only remedy damage that has been caused; it cannot seek to enhance a site. Do you think that that is a deficiency in the powers? You have to go through all the effort of getting people in a room to get agreement, but all that you are doing is remedying the past problem; you are not necessarily getting a better solution that everybody would be able to sign up to and which would benefit the area.

**Robbie Kernahan:** My observation on that is that the way in which the Deer (Scotland) Act 1996 is written is such that the regulatory impacts are to restore or prevent damage, not to incentivise enhancement. That is why some of our other tools are about buying enhancement, rather than using regulation to potentially enhance habitats to a condition in which they have never been before.

That goes back to the point about whether we have the appetite to use section 8 on the basis of a one-off visit. To be honest, the condition of a lot of the designated sites at the point of designation does not provide us with a meaningful baseline against which we can demonstrate that deterioration has occurred. That highlights the complexity of the legislation and of trying to make meaningful assessments of ecological condition if we are going to use regulation to restore it.

**Sarah Boyack:** You stressed the legislative requirement that deer must be the primary cause of damage, but one or two of the panel members have said that it might not be just the deer and that other things might be going on as well. How do you get an integrated approach? Deer management control orders might be a very effective way to get everyone around the table working together. How do you get those other issues dealt with in a way that could give you a long-term solution that addresses the deer problem and brings an area up to scratch?

**Robbie Kernahan:** We go into all those negotiations very cognisant of the fact that, as often as not, domestic stocks have an integral role to play. Occasionally, we find that it remains for an estate to make decisions on the most appropriate balance between domestic stock and wild herbivores. To use the Assynt situation as an example, there are 12 townships in the Assynt Crofters Trust property and there is the Unapool common grazings, which is part of the Quinag estate, which the John Muir Trust owns. When we introduce the additional complexity of domestic stock and wild deer, the negotiations take more time. That illustrates why it is proving difficult to get a sensible solution.

**The Convener:** Why do you not publicise the details of those agreements or even their existence on the SNH website?

**Robbie Kernahan:** I think that we have done that in the past. Certainly, all the agreements with the Deer Commission for Scotland were readily available, as was the count information. There is certainly no reason why that should not be available, so we will take that on board.

**Douglas McAdam:** I have a quick point on the decision about wild and domestic grazing. The other side to that issue is to do with the policy signals and drivers that come through things such as the common agricultural policy. Those will of course have an influence on stalking rates. We have seen in the past year or so that people are reacting quite strongly to that. In some areas, a lot more domestic grazers have been put back out on the hill than there were two years before. Obviously, in other areas, there have been reductions. That is a significant point, too.

**The Convener:** We should move on to deer management planning in the Lowlands, for a change.

**Alex Fergusson (Galloway and West Dumfries) (Con):** Indeed, convener. We will come to what seem to be the comparatively peaceful pastures of Lowlands deer management. There seems to be some dubiety over whether upland deer populations are increasing or decreasing, but I do not think that there is any doubt that, in



Lowland areas, they are very much on the increase—“exploding” might not be too strong a word. Pardon the pun but, in Lowlands deer management, we are quite literally dealing with a very different beast, because we are dealing with very different species.

At the meeting that the committee had on Monday, I was struck by just how much of Lowland Scotland has no recognised deer management. Another point that was very well brought home was that the bill has a sort of one-size-fits-all approach in that there are no specific recommendations for Lowland Scotland as opposed to upland Scotland. In the Lowlands situation, we are talking about deer management in and around heavily populated urban areas and areas where there are more owner-occupied farms and those sorts of situations. Many of the submissions from the panel members asked how the Government intends the measures to work in Lowlands situations. Will you comment on how you think the bill as introduced would impact on Lowlands deer management?

**Richard Cooke:** As you say, we talked about the issue on Monday. We speak about Lowlands deer groups to distinguish them from deer management groups. That is an important distinction because, as you say, looking at the issue in a black and white sort of way, the only common ground between deer management in the Highlands and that in the Lowlands is that they share the word “deer”. There are different species with different habits, and a different geographical context and everything else.

The Lowland Deer Network Scotland was formed in 2011 and its purpose was to introduce a culture of collaboration in the Lowlands. Such a culture exists in much of the Highlands, but it had not previously existed in the Lowlands. Since then, the number of Lowlands deer groups has increased from six to 10, so that is happening, but there is an absence of a deer group over much of Lowland Scotland—indeed, each deer group has only partial cover of the area where it operates. There is little formal collaboration, and it is not terribly formal even at its most formal, but that does not mean that deer management is not taking place at all. There is a big appetite and considerable demand—in the sense of personal interest—for deer management.

I entirely accept Mr Fergusson’s point that deer numbers are increasing rapidly in the Lowlands and that we should be very concerned about that, and that is why we are trying to develop mechanisms to deal with it. A large number of individuals are involved in deer management in the Lowlands, but we just do not know whether that is enough. We do not know what the deer population is, but we have good evidence that it is

increasing—given, for example, the increase in road traffic accidents and the increase in economic damage to plantations, woodland and agricultural land.

We are talking about a sector that is very much behind the red deer sector and which has a great distance to go to develop its potential capacity. However, I emphasise that there is deer management going on among people who are remarkably committed and skilled. I have been immensely impressed by the individuals whom I have dealt with, and I think that we can make good progress in that area.

Applying the same approach that we are taking in the uplands is not really workable. It is impossible to write a deer management plan for the Lowlands that follows the model that we have designed with SNH for the Highlands. We have only just begun to think and talk about what a deer management plan, or deer management planning in general, would look like in the Lowlands. Therefore, I cannot say very much about what it would look like, other than that it would require a register of the ground covered and a list of the people involved, along with their level of qualification and a record of their culls. It would be more difficult than simply doing a stock take to have an action plan.

**Alex Fergusson:** I would like to hear Robbie Kernahan’s view on the same question. Anybody else who wants to answer can do so, too.

**Robbie Kernahan:** It is important to reflect on the very different context in which deer are managed in Lowland Scotland. Our previous considerations at committee have been very red deer-centric and upland focused, and it is important that we do not lose sight of the very real deer management challenges in Lowland Scotland.

The challenge in Lowland deer management is to ensure that we take a proactive and preventative approach before problems arise. We talked about section 7 of the 1996 act and how SNH can respond to a problem. We can do that in Lowland Scotland with problems such as vehicle collisions with deer or specific issues to do with designated sites and forestry, but that is still quite a reactive approach.

Although we helped to set up the Lowland Deer Network Scotland, we did so to try to provide a bridge to those very skilled practitioners—to whom Richard Cooke referred—who have the appetite and expertise to do a job and manage deer effectively. However, we tend to struggle to get the owners of land and the people who have the rights to start thinking proactively about deer management, because it does not seem to be a big issue for them. For those people, whether they

are local authorities or the big agricultural owner-occupiers, deer do not sit particularly high up the priority list.

The challenge is to match the skills of the practitioners, with whom we have good engagement and who have taken the time, energy and effort to set up some of the Lowland groups, with those owners. That is a challenge for us; I do not think that there is anything that we can do legislatively. It is a question of raising awareness of the need for deer management among those people who own land.

We have mixed experiences of trying to engage with local authorities in that regard. They are big landowners and they have a responsibility to think proactively about deer management in all the properties that they manage. There are good examples—such as Dundee City Council and Aberdeenshire Council, and latterly Perth and Kinross Council—of authorities that are beginning to think about their position on deer management, but across the rest of the local authorities it is not top of the priority list. We need to continue to tackle that issue.

**The Convener:** Graeme Dey wants to make a supplementary point.

**Graeme Dey:** I want to pick up on Robbie Kernahan's point and put a question to Richard Cooke. Councils had responsibility for deer management handed to them by the Wildlife and Natural Environment (Scotland) Act 2011, did they not? If, by and large, they are not exercising their responsibilities or taking the lead in that regard, what do we do?

**Richard Cooke:** The WANE act places a duty on public bodies to manage deer sustainably, and it is the responsibility of the land managers to do so.

You ask a very good question. SNH, backed up by LDNS, has done its best to bring representatives of local authorities into the same room to get them to understand that they have a responsibility and to consider how they might address it. So far, with one or two good exceptions, we have not been very successful.

**Graeme Dey:** That is a cause for concern.

**The Convener:** We will make a note of that.

10:45

**Douglas McAdam:** Down in the Lowlands, large landowners can give a lead to the process. Many of them already have internal deer management plans in place. One of the biggest challenges in the Lowlands is the huge number of people involved. We are talking about a whole different pattern of land ownership that involves

many small-scale owners and is quite fragmented. The big challenge is how to achieve collaboration between such a large number of people.

**Richard Cooke:** On Monday, I made the point that a financial incentive might help people to collaborate and might bring farmers and local authorities in particular into the picture. I referred to the environmental collaborative action fund, which is new territory, because it is not yet available. If the fund were to be available to Lowlands deer groups, it would be a strong incentive for individuals who are already carrying out deer management to form groups and would promote collaboration. That could be a step in the right direction, but it is untested and I simply do not know whether a loose grouping such as a Lowlands deer group would be able to put together a proposal, for example for the creation of a larder. On Monday, I mentioned the need for the creation of larder facilities in the central belt and the possibility of that type of investment being covered under the environmental collaborative action fund. A financial incentive would be very much in the public interest.

**Alex Hogg:** I want to make a point about the European game meat hygiene regulations, which do not allow an amateur deerstalker to take a piece with the jacket on into a butcher's; to make it legal, the deerstalker must take the jacket off in his shed before taking the meat to the butcher. If we could tweak the game meat regulations, it would allow all local butchers and restaurants to have legal access to venison, which none of them can get at the minute.

The way it works up north is that the game dealers pick up massive amounts of lots from estates. That is fine, but when you break it down into the wee lots of woodland and stuff in the central belt, there is no way to get it into the market. If that were sorted, it would be a massive help with deer control.

**The Convener:** We have got the picture and we will make a note of that. There are things that go beyond the bill and which might be more to do with the business of developing plans on how to do such work.

Dave Thompson has a supplementary.

**Dave Thompson:** It was good to meet Richard Cooke and his folk in the Borders on Monday, but I have a point for clarification. One of the leaflets on the table in front of us on Monday showed the area that the LDNS covers; a moment ago, Douglas McAdam referred to the Lowlands as being down there, but the leaflet's definition of the area covered by the Lowland Deer Network Scotland includes what most people understand as being the Lowlands, which are down here, as well as an area up the east coast, through

Aberdeenshire and Moray, taking in the Black Isle and parts of Easter Ross. Those are the Lowlands, but most folk think of the area roundabout the central belt when they hear the word “Lowlands”. To get it on the record, am I right in thinking that when we are talking about the Lowlands in this context, we are looking at the area that goes right round the east coast and even into Highland?

**Richard Cooke:** That is correct. There is significant overlap between the Highlands and the Lowlands, which means, if we relate that to the species, that there are red deer to be found in the Lowlands and roe deer to be found in the Highlands. The picture is far from clear. The map to which you refer shows in orange the Lowlands—in terms of their height above sea level—and is correct. The Banff and Buchan deer group, for example, is a very effective group; indeed, it is one of the best and covers a very large area, although not the whole of Banff and Buchan. There is nothing further north than that.

**Dave Thompson:** Your map appeared to show the Black Isle and parts of Easter Ross.

**Richard Cooke:** The map does not pretend to indicate where there is collaborative management, rather it indicates the areas where there needs to be collaborative management.

**The Convener:** Thank you for that. I was going to finish up the section, but perhaps Alex Fergusson has another question. I do not want to interrupt the flow.

**Alex Fergusson:** It could be a comment on the same point, convener. Who knows? I hear that progress is being made and that there are moves to establish three different groups in south-west Scotland, my part of the country, but there is a big increase in the deer population, which is likely to continue. The obvious question to ask, therefore, is whether the committee should assume that that approach will take care of the problem, or whether we need to do more to encourage a more rapid, and perhaps more organised, expansion. I absolutely understand about the professionalism and dedication of the volunteers involved—I do not doubt that at all—but I have to ask whether, even with the best will in the world, it is enough to rely on that to deal with what is going to become an even greater problem.

**Richard Cooke:** There are things that need to be done and those have already been alluded to. One is to get the local authorities to pay attention and to understand that they have responsibilities in this respect. The other concerns farmers. Although we have NFU Scotland representatives on our group, they are not really as responsive on this front as they should be. Farmers are the biggest land holders and land managers in the

area, so their active participation and involvement are important.

We are a voluntary organisation. We have some support from public funds, but it is difficult to make people co-operate who are not inclined to do so, so anything that can be done to encourage that and draw attention to it would be valuable. I have already alluded to the possibility of making some of the SRDP funds available to support collaborative management mechanisms and projects that people might want to do.

**Michael Russell:** I do not want to appear constantly to be a Jonah in such matters—

**Alex Fergusson:** But!

**Michael Russell:** Exactly, Mr Fergusson. But what we have just heard mirrors things that we have been hearing for years in other parts of Scotland about how we tackle the problem. As Mr Cooke has said, the Lowland Deer Network Scotland is a voluntary organisation and there is an acceptance that there is no great unity among those involved, that some organisations and people do not want to be part of it or need to be reminded constantly of their duties by local authorities, and that there is no accurate figure for the problem. I could take you back to analyses of the situation in other parts of Scotland 10, 15, 20, 30 or 40 years ago, and we would find exactly the same issues being raised. I do not doubt the will, determination or desire to have change, but it seems to me that you do not actually have the mechanism for change, because all the same problems are now repeating themselves in the south of Scotland. If you go on doing the same things, you will get the same outcomes. I think that the issue requires us to do different things, so we need stronger statutory regulation. I reiterate that point, and what we are hearing about the Lowlands alarms me, because it repeats what we have heard about other places for a long time.

**Richard Cooke:** You got me into trouble before for putting words in your mouth, so I will not do that again. However, if the Lowland Deer Network Scotland had not been set up under the voluntary principle—it was promoted and initiated by the ADMG, because we aspire to manage deer throughout Scotland—you would not be hearing about the Lowlands at all, except when deer cause problems along the highways and byways of Scotland. We are moving in the right direction. It is not good enough or fast enough, but I would have grave concerns about a statutory approach to deer management, because you would have the greatest difficulties in designing one that would work.

**Michael Russell:** When you hear about problems with the number of deer—I am not going to fall back into a position where I can be

described as anti-deer, because I am not—people often say, “I wish we had acted earlier and with more information,” because whatever the issue they thought they had, it turned out to be much worse. I am not criticising the people who are doing good work, but I am saying that the common elements of the issue are the same elements that were in place 20, 30, 40 or 50 years ago in other parts of Scotland, and the problem kept getting worse. We should learn from that, step back and say that we need to do something entirely different to resolve the problem in the south, and I do not see what difference can be brought apart from a much stronger statutory framework that makes real demands on getting the problem solved. That is a difference of opinion between us, but I think that people learn from their mistakes. If we go on doing the same things, we are not learning from them.

**Richard Cooke:** We are doing a lot more of the same things, and that is leading us quite firmly in the right direction in the Highlands and the Lowlands. You make an important point about information. I should perhaps have said in response to Alex Fergusson’s question that we are short of information when it comes to Lowland deer. Doing a count of the roe deer population is, in practice, impossible, and Robbie Kernahan might want to comment on that.

What we really need to know is what is being culled and where, and we need to monitor the impacts of deer where they are. We cannot get information on what is being culled. SNH collects data on culls where it knows that culls are taking place, but that provides a partial picture, because it can send out returns only to people it knows about. I suspect that it is within the power of Government to join up some of the information-gathering processes—I am thinking about agricultural returns—to get much more accurate and complete information on deer culls.

**Michael Russell:** I am not sure that deer cull information would necessarily tell you how many deer you had. It would tell you how many deer had been shot, but not how many deer there are.

**Richard Cooke:** As we have said on many occasions, the number of deer is less important than their impact. If you are using the cull as a proxy for what is taking place—it is possible to extrapolate populations from culls—bearing in mind that you are cross-referencing with habitat impact and economic impact, the number of deer in itself is not a vital statistic.

**Michael Russell:** Again, information from the past suggests that it is impossible to extrapolate numbers from culls. It simply does not work, because what you are doing is measuring effort and impact, not numbers. I am sad to say that,

rather than reassuring me, Mr Cooke, you have added to my worries.

**Richard Cooke:** I do not agree with you that using culls as a reference for population is inaccurate. Population modelling as has been developed by SNH is extremely valuable in relating the one to the other. However, as I have said, for decades—as long as I have been in the deer sector—the numbers have been viewed as being less important than the impacts. If the impacts are negative, management action is required to put things right.

**The Convener:** We are dealing with a bill that—just to remind you—includes a land commission. One of its priorities will perhaps be to find a way towards a solution to this matter or a method of dealing with it.

**Robbie Kernahan:** I want to make a couple of points to build on that discussion. Since the committee last met to talk about deer management, SNH has updated and refreshed Scotland’s national approach to deer management. A reasonably light-touch discussion had been envisaged but, after our discussion with the committee, it was decided that a more root-and-branch approach would be taken. We have tried to spell out where we see the priorities over the next five years. Collaborative planning and ensuring that deer management groups raise their game are certainly among those priorities. Other priorities will be Lowland and urban deer. We have alluded to some of the challenges in relation to that issue. I am sure that some of the provisions in the bill will not do any harm, but we have all accepted that they will not necessarily solve all the issues that we have touched on.

There is no doubt in my mind that there is a need to ensure that we raise awareness of the need for and benefits of effective deer management. That is truly about public perception. Some of the nervousness on the part of local authorities is due to the fact that it is still quite difficult for them to have a discussion about whether killing wild animals is a good thing or a bad thing. We have seen that in a number of reasonably high-profile cases.

My last point concerns our understanding of what is happening in the Lowlands with regard to roe deer management in particular. We receive records for the culling of 100,000 deer a year in Scotland, based on returns from about 3,000 properties. There are 20,000 properties on the agricultural census, and I suspect that most of them will be killing deer. That highlights our lack of knowledge about what is happening in Lowland Scotland. If we are going to tackle the issue, we need to think about how we can ensure that we better understand some of the issues.

The matters are recognised in the Government's strategy for wild deer, but there are some pretty tricky issues for us to work through.

**The Convener:** Douglas McAdam, do you want to add to that?

**Douglas McAdam:** Awareness is a key thing that LDNS is trying to address. We must remember that the people I was talking about in relation to fragmented ownership are farmers and their principal job is farming. It is possible that, up to this point, they have not recognised that they have a responsibility for deer management on their ground.

**Duncan Orr-Ewing:** It would help if it was made clear as part of the land rights and responsibilities statement that everybody has a responsibility for the sustainable use of natural resources, which include deer.

**The Convener:** Before I hand over to Claudia Beamish, I have a question. Doubt was raised about the information on road accidents involving deer. Do we have a method for ascertaining not just the ballpark figures on deer deaths, but the effects on humans and vehicles? Although the matter is not in the bill, if we could get that information, it would be one of the factors that could engage people in the Lowlands in a big way, just as it does people in the Highlands.

I do not know whether Robbie Kernahan can help us with that. The figures that SNH provided to the committee have been challenged and I would like an up-to-date picture.

11:00

**Robbie Kernahan:** I am happy to talk about that in a bit more depth. I would be interested to know where the challenge has come from, because I am not aware of it.

**The Convener:** There have been letters in *Scottish Field* and other places suggesting that your figures are wrong and far too high.

**Robbie Kernahan:** We have spent a little bit of time over the past five to 10 years trying to better understand and to quantify the scale and extent of the problem of deer-vehicle collisions. With the best will in the world, using the data available to us, which comes from a range of sources such as Transport Scotland, local authorities and insurance companies, we have estimated that there are between 7,000 and 10,000 accidents a year involving collisions between deer and vehicles.

On where those accidents take place—this picks up Dave Thompson's point about the Lowland deer network area—70 per cent of them involve roe deer, rather than red deer, so the

problem is the interaction between people and deer, rather than there being too many deer—it is about where we have busy carriageways.

We can break that data down further into how many of those accidents result in significant personal injury and fatalities. We have a certain amount of confidence in the data because it has been through a reasonably rigorous quality assurance process. We encourage upland DMGs and others to respond to those figures.

The solution is not straightforward because it relates to driver behaviour and awareness, speed, roadside vegetation, poorly positioned fencing, and—occasionally—deer numbers. The solutions are complex.

Such triggers allow SNH to intervene using its powers to resolve issues at specific hotspots in the country. We have done that in a number of ways at various locations. If we know that there is a problem, we can respond to it. However, that does not address the issue of a national perspective and we are still responding on a reactive basis.

**The Convener:** Thank you for the update, we understand the situation.

**Claudia Beamish:** I want to turn our minds to the penalty for not complying with a control system. Section 71 of the bill would increase the penalty for non-compliance with a section 8 control scheme from £2,500 to up to £40,000. When members of the Government bill team came before the committee, they explained the rationale for that, which is that the current relatively low penalty for complying with a control scheme could mean that a landowner chooses simply to pay the fine rather than comply with the requirements. Do you accept that rationale and do you have any other comments on increasing the penalty?

**Robbie Kernahan:** I understand the rationale for opting for that increase for refusing to comply with the control scheme. The sum of £40,000 is consistent with the maximum fine for other wildlife crimes, and I understand why the Government would want the fine to be comparable to that for other environmental crime. Compliance with a control scheme could bear significant costs.

**Douglas McAdam:** It is worth making the point that even before you get to the fine, SNH has the power to recoup all its costs for implementing the required measures. It is not correct to say that avoiding the compliance costs is an incentive for people to pay the fine, because they would still have to bear the cost of implementation of the control orders, whether that is done by SNH or whoever. Bearing that in mind, the fine represents a substantial increase. I challenge the idea that non-compliance is comparable to some of the environmental crimes. Serious pollution incidents are at the top of the league and might justify such

finer, but not complying with a deer control order is not of that magnitude.

**Alex Hogg:** Does the fine apply if there are nine owners who want deer and have not got any, and one owner has shot all the deer? Does the fine apply the other way about?

**The Convener:** We will ask the Government that question and find out the answer.

**Jim Hume (South Scotland) (LD):** Section 69 makes a minor amendment to the Deer (Scotland) Act 1996, on the role of deer panels. Such panels are consultative panels that SNH can appoint to advise on deer management at a local or national level. Are there any comments or thoughts on the implications of the proposed amendment to the 1996 act?

**Robbie Kernahan:** We have not used panels as often as we might have done. However, as part of the rationale of ensuring that the localism agenda is sufficiently addressed, using a panel to ensure that local community interests are sufficiently heard seems to be a sensible addition.

**Jim Hume:** Does anyone else have any views? Are you content with that?

**The Convener:** They are all nodding; if everyone is content, that is fine by me.

I thank all the panel members. It has been an informative session.

11:07

*Meeting suspended.*

11:15

*On resuming—*

**The Convener:** We will continue to take oral evidence on the Land Reform (Scotland) Bill. The second panel will give evidence on part 6, which is on the entry in the valuation roll of shootings and deer forests. I welcome back Douglas McAdam, chief executive of Scottish Land & Estates, and Richard Cooke, chair of the Association of Deer Management Groups. I welcome Colin Shedden, director of the British Association for Shooting and Conservation; Rupert Shaw, vice-chair of NFU Scotland's legal and technical committee; Alasdair MacTaggart, president of the Scottish Assessors Association; and Bruce Cooper of the Angus glens moorland group.

I will kick off with a question that goes to the heart of the issue. Are the panel members clear about the policy objectives of part 6, and do you agree with the justification for ending the exemption for shootings and deer forests while continuing to exempt some other rural businesses, such as those in agriculture? That is a two-part

question. I see that Doug McAdam is keen to answer.

**Douglas McAdam:** The answer to the first part is no. I noted that, in evidence to the committee, Scottish Government civil servants said that exemptions were being retained for agriculture and forestry because they are sustainable and in line with Government policy priorities for agriculture and forestry. Given that the exercising of sporting rights, shooting and deer forests are essentially about the sustainable harvest of a natural resource, and given that they deliver a range of public benefits such as deer management, which we have talked about, as well as vermin control, biodiversity and conservation, rural employment, food production, landscape management, wildfire management, investment in local businesses and much more, I consider those areas to be absolutely in line with Government policy.

The other day, Fergus Ewing, the Minister for Business, Energy and Tourism, came to launch a bit of research into community attitudes to such socioeconomic benefits, and he whole-heartedly put his backing, and the Scottish Government's backing, behind what shooting and shooting sports deliver for Scotland. I would have said that everything that that delivers is slap bang in Government policy priorities, so I am slightly perplexed as to why those uses would be treated differently from other land uses.

**The Convener:** We can explore that.

**Rupert Shaw (NFU Scotland):** NFU Scotland is absolutely opposed to part 6 and I am glad that I just witnessed the previous evidence session. It seems to me, as a farmer member of the union, given the risk and the responsibility for managing the wild resources that are about to be transferred to us, at cost, and given that we might have to pay rates on that activity, that the proposition does not suit the 17,600 agricultural holdings that we talked about, many of which are on the floor because of the price of commodities.

We have a challenge in educating our membership as to what shootings are. Throughout the south of Scotland, where I am, shootings are not managed commercially. Many shootings in my area are casual affairs that are dominated by the scallop boat men, many of whom come on to copses, whinnies and whins on dairy farms and take the opportunity for a country pursuit.

There is a risk that, for many landholdings that are under pressure, bringing in rateable and legislative requirements on them to register as shootings will mean that the opportunity to exercise sport by many will be withdrawn and that shootings will become focused on larger

landholdings where it is a commercial activity. We are firmly against the proposal.

**The Convener:** We have just heard the NFUS's proposals. What about those of Colin Shedden from BASC?

**Colin Shedden (British Association for Shooting and Conservation):** I will make a couple of fundamental points on the issue. We have in the past produced evidence that has demonstrated that shooting and deerstalking are worth about £200 million to Scotland. Perhaps some people have looked at that and thought that that is quite an attractive target to tax. The unfortunate thing is that, when we delve down and look at the detail, we find that about 88 per cent of the businesses are run at a loss or break even. Few of the businesses are profitable, because most of them do not follow a profit-making model. I was pleased to see that Scottish Land & Estates recently produced evidence that demonstrated that 90 per cent of such businesses are not run as profitable businesses.

Doug McAdam demonstrated clearly that there is a lot of wider benefit to the environment and society from shooting businesses. It is unfair to look at those businesses as we would look at businesses that are based on profit-making models, because they are not such businesses.

**The Convener:** We will have to discuss the balance of the issues—that is what we are here for.

**Richard Cooke:** On the grounds that have been mentioned, we also oppose the removal of the exemption for sporting rights. I do not want to repeat what has been said but, as I said in the previous session, deer management needs people, and imposing an extra cost against deer management is likely to attack the major cost of deer management, which is employment. Should the additional cost be introduced, I would be concerned about the implications for employment and the infrastructure that is necessary to continue deer management across the country.

**Alasdair MacTaggart (Scottish Assessors Association):** We have no opinion on whether the tax should be imposed. That, along with what the exact wording of the legislation should be, is a matter for the Parliament to decide on. Our role is simply to apply the tax if and when it is legislated for and, in the meantime, to advise the Parliament and officials about the preparations towards that.

**Angus MacDonald (Falkirk East) (SNP):** I will follow on from the general comments that we have heard so far. Panel members may be aware that the Scottish Wildlife Trust has proposed a revised rate that

“could, for example, be based on the level of deer cull required to protect public interests and then only be charged when an owner or occupier was not achieving adequate culls.”

What would the panel members think about that proposal being worked on?

**The Convener:** Does Bruce Cooper have anything to say?

**Bruce Cooper (Angus Glens Moorland Group):** I have nothing new to say—it was all said before me. It is hugely important to consider where the money will come from. I am a manager working on a Highland estate and I know that we do not make a profit. Any further taxation on the estate may affect our ability to employ people.

**Richard Cooke:** I am delighted that the Scottish Wildlife Trust has made that suggestion, because we made it, too. Our submission says:

“We would therefore propose that relief should be available for sporting rights which are managed in a way which meets relevant public interest criteria. For example a landholding which participates in a Deer Management Group for which there is an effective deer management plan, endorsed by Scottish Natural Heritage, might qualify for relief. This would have the effect of promoting collaboration, furthering the public interest and strengthening the voluntary approach to deer management.”

That is a constructive way of turning what could be a penalty into an incentive for sustainable deer management.

**Rupert Shaw:** If I cite what I heard in the earlier session about red deer-centric upland-focused legislation, I feel that there is a similar danger here. What are we doing to—

**The Convener:** I have to correct you. We looked at the whole gamut of deer in the earlier evidence session. Let us be clear about that. I would not want to traduce the previous witnesses. We heard all about the rest of Scotland and, if you were there, I hope that you did, too.

**Rupert Shaw:** I did, but I live in a part of Scotland where there is currently no deer management group, so it was odd to hear the refrain about bringing in a rateable activity to incentivise people to take part in something that, in many areas, has not yet been constructed or fully established.

**Douglas McAdam:** Although I do not necessarily agree with the detail of what the Scottish Wildlife Trust has suggested, the principle of reliefs and of reliefs for demonstrating good management is good. We mentioned that in our submission.

I agree with Richard Cooke about having functioning deer management groups and deer management plans as a basis for such relief. I also commend the wildlife estates Scotland

initiative, under which more than 30 estates across Scotland are accredited. That provides a way to demonstrate delivery for wildlife and biodiversity and is independently accredited. That route would provide the basis for a relief that incentivised the right sort of management.

**Michael Russell:** Like it or not—most people, if not all, do not like to be taxed—the tax is likely to be implemented, given what is proposed in the bill. We should focus on the accuracy of the measure—the definition of what is being taxed—so that it does the minimum harm possible and perhaps does some good.

Could I ask you to concentrate on three possibilities? We have heard the SWT proposal. In general discussion over the past few months, I have heard that effective deer management should not be taxed because it is essential for a variety of reasons, including environmental ones. I also hear that there should be the utmost care about taxing small and medium-sized enterprises, particularly those in tourism, if they are price sensitive—I have seen no evidence of price sensitivity, but an absence of evidence does not prove that it is not there—and we would need to see evidence of that.

We should tax large-scale recreational activity. If such a tax was a real disincentive, its removal in 1995 should have created additional economic activity in the countryside, but there is no evidence that that happened from 1995 onwards—indeed, the reverse is true. There is no evidence that such a tax creates a disincentive in those circumstances.

Could the panel suggest how those distinctions might be applied and any other distinctions that might be made?

**Colin Shedden:** When you talk about large-scale recreational activity, are you talking about large, relatively intensive, driven game bird shoots?

**Michael Russell:** Yes, if they are happening on large estates.

**Colin Shedden:** Such shoots make only a small profit. I would be concerned that, if they were taxed, they might fail to remain profitable and would need to intensify even further. Most of us agree that, whether it is grouse, pheasant or partridge shooting, the activity is not of the same intensity as it is in some other parts of the United Kingdom and we would not want to move in that direction. It would worry me if a tax drove people to intensify their game management, rather than to reduce its intensity.

**Michael Russell:** Could you be positive about other exemptions? If it is likely that such a tax will be introduced—and it is likely—we need to find the

right or accurate way to apply it. That is what I am trying to get to. Can you think of any positives?

**Colin Shedden:** Yes, certainly. I support Doug McAdam's comment on wildlife estates Scotland and Richard Cooke's point that effective and sustainable deer management should be exempt. My concern is for the assessors, because they would be in the invidious position of having to determine which properties to include and which to exempt. It will be an awful lot of work over the next few years to bring in all the properties concerned and an even greater burden of work to determine which are to be exempt or to benefit from relief. That starts to become a complex problem in an area where the maximum revenue could be £4 million.

**The Convener:** The timescale will be determined by secondary legislation, so there is not necessarily a time limit on taking it forward.

**Alex Fergusson:** I try to agree with Mike Russell when possible, but it is not always possible. He just said that, since the rates were repealed in the mid-1990s, there has been a great decrease in sporting activity—if I can put it that way. From my experience, I would say the opposite.

11:30

**Michael Russell:** I meant rural employment.

**Alex Fergusson:** I beg your pardon. In that case, I will shut up.

**Michael Russell:** You see—we can agree. Peace has broken out.

**The Convener:** I am glad that they are agreeing again. I call Rupert Shaw, to be followed by Sarah Boyack.

**Rupert Shaw:** A challenge for the NFUS in getting to a position on the proposal was not having sight of some of the detail that the committee is now touching on. That is the key issue. Many smaller landholders fear that, if they have a couple of whins that roe deer harbour in overnight, that will mean that they are liable for an additional tax. Before we proceed with the proposal in the bill, we need to unpick what shootings could mean. What will be an assessor's take on a small family farm that happens to have a clump of trees with roe deer?

**Michael Russell:** Those were never on the valuation roll prior to 1995. As the bill seeks simply to remove the 1995 exemption, it is safe to assume—the bill does nothing to contradict this—that it will use the same definition. At the previous meeting, I asked about definitions. If we assume that to be the case, can you be a little more positive about some exemptions?



**Rupert Shaw:** The fear remains, because we are talking about an assessor's view of sporting potential. A dairy farmer might not look at their holding as a sporting opportunity. As with so many areas, we need a process of consultation and education to help the many landholders and farmers and so on who are currently outside the field sports or game cover activity to understand whether they will become liable for a rating.

**Douglas McAdam:** I hope that it is worth making the point that I disagree with your assessment, Mr Russell. Our understanding is that, if the exemption is removed, we will go back to the original valuation acts. What we are valuing is the sporting right—shootings and deer forests. That applies to virtually every non-urban acre across Scotland where a sporting right exists. In our view, it applies to small farms. It applies to the small field outside Falkirk where someone is now paying 100 quid to shoot rabbits. It applies across the range. The 8,000 entries that were on the valuation roll before were not doing the job.

**Michael Russell:** I do not think that anybody in this room or in the Parliament expects the rates to be applied to a field outside Falkirk with 100 rabbits.

**Douglas McAdam:** That is what the legislation says.

**Michael Russell:** I do not think that it does. It is clear that sections 66(1), 66(2), 66(3), 67(1) and 67(2) of the bill have no such intention. I say with the greatest respect that I do not think that what Douglas McAdam said helps the debate. The debate is about whether the rates should be reintroduced and what exemptions should apply. I would not support the imposition of sporting rates for a field outside Falkirk with 100 rabbits. I would not support it for the dairy farmer who has one shoot a year. There are businesses that will be taxed—that is likely to happen. We need a sensible discussion about how that should go forward. I do not really think that mentioning fields outside Falkirk helps that sensible discussion.

**The Convener:** I call Sarah Boyack, who has been very patient.

**Michael Russell:** I am sorry for introducing Falkirk when the member for Falkirk East is present.

**The Convener:** The member for Falkirk East agrees. There is no such field. [*Interruption.*] There are more rabbits than that.

We have to try to focus this a bit. Perhaps Sarah Boyack will do that.

**Sarah Boyack:** I have a question for the Scottish Assessors Association. We have heard from a few people about not-for-profit businesses. How would such businesses fit into the small

business bonus scheme? Have you thought about all those issues?

**Alasdair MacTaggart:** I am not sure whether that is talking about the same thing. As assessors, we value a right or an occupation of property. Whether that occupation is financially viable is largely of little importance, because we are valuing a hypothetical tenancy.

If there are difficulties in meeting the ultimate rates bill, that is a matter for the ratepayer and the director of finance to address in the context of the ability to pay and any reliefs that might be available—

**Sarah Boyack:** Sorry—I think that you misunderstood my question. It is not about someone's ability to pay; it is about setting a threshold so that, if a business is valued below a certain level, it is automatically exempted. I am trying to tease out what research we have on how many businesses would fit into that category.

**Alasdair MacTaggart:** I do not think that there is anything in legislation that says that businesses below a certain value do not need to be entered in the valuation roll. As Doug McAdam said, hypothetically, every shooting right should be in the valuation roll. However, over the 100 years leading up to 1995, a degree of pragmatism came in and the valuable shootings—the shootings for which the right was exercised and for which there was some value in that right—were the ones that were entered in the valuation roll. Assessors will now have to re-establish the position in the next two to three years. We will analyse the nature of the landscape, if I can call it that, and see what can be valued and how it is valued.

**Rupert Shaw:** What Alasdair MacTaggart has just said confirms our concern that the proposal has the potential for unforeseen consequences that, because of the nature of the holdings, may impact the poorest in the most remote areas of Scotland.

**The Convener:** We are talking about various thresholds and so on in the small business bonus scheme and suggesting that those thresholds could be applied in relation to sporting rights. It is a live issue that we will ask ministers about. The impression of assessors and so on will be determined by what the secondary legislation comes out with. However, we have agreement that the idea of exemptions for good behaviour, if I can put it that way, might be a way forward.

**Rupert Shaw:** I just want to reinforce what I said about unforeseen consequences. An assessor's view of the potential of a holding may impact some of our poorest and smallest farms in the most fragile and remote areas of Scotland. I am sure that it is not the intention that the bill should introduce another tax burden for them.

**The Convener:** I think that we are on parallel lines. We are talking about the small business bonus scheme for low-income businesses, and there is the potential to look at the impact of deer on a small business—that is what Sarah Boyack has been talking about.

**Alex Fergusson:** With respect, it is not just about deer; it is about shootings as well, which takes us into a completely different realm. I see what we are talking about working in relation to deer management, but I have real difficulty in seeing how it could work for a small-farm shoot. I leave that on the table for now.

**Angus MacDonald:** Can Alasdair MacTaggart give us some assurance that there is the capacity for assessors to go out and speak to the sector? We have heard that, in order to meet the statutory duties, all sporting rights should be valued and entered in the valuation roll regardless of whether those rights are exercised. I am curious to know whether you feel that the sporting rights would have a nil value should they not be utilised.

**Alasdair MacTaggart:** That is a possibility. We would have to establish the proprietors, tenants and occupiers of the various shooting rights that exist across Scotland. That would be the first and immediate task that we would face, and it would be quite a significant task given that the sources of that information may be wide and varied. We would have to undertake a fair amount of research to establish the position.

Thankfully, my colleagues have already had meetings with representatives of the different interests, such as NFU Scotland, which the gentlemen to my left—Rupert Shaw—represents. Meetings have taken place as recently as last Thursday and we have made some very good progress thus far on how we go about our business over the next couple of years.

There is a provision in the bill that might be of assistance, because it will insert new section 1A into the Local Government (Scotland) Act 1975, which says that valuations of shootings and deer forests will be entered into the valuation roll

“in so far as exercisable”.

There might be shooting rights out there that cannot be exercised. In that case, the bill provides that such rights might not need to be entered into the valuation roll. We need to discover how many such cases there might be.

Another point to stress is that assessors do not make a value but follow the value that others make. The value that assessors apply in the valuation roll is an assessment of net annual value, which is the rent that passes for the property. To establish that, we will look at what is actually paid by way of rent between landlords and

tenants—in this case, for shooting rights—and we will analyse that and come up with what we think is a fair and reasonable level of value for various subjects in various parts of the country. Again, that will be the assessor's opinion, but that opinion can be challenged as far as the courts if we cannot reach agreement on it.

**Richard Cooke:** This is more a question than a statement on the subject of the small business bonus scheme. Am I right in thinking that the scheme has a different standing in statute from that of the bill and that it is separate from the bill? Is there any guarantee that the small business bonus scheme will continue to be applied in the future outwith this statute? If not, this discussion is, to some extent, hypothetical.

**The Convener:** Okay—we take your point.

I should correct slightly something that I said earlier about secondary legislation, because the bill's explanatory notes state quite clearly that the Government's intention is for the proposed change to take effect at the next revaluation on 1 April 2017, when properties are valued as at 1 April 2015, which is the tone date. Therefore, there will be no secondary legislation, but the discussion about the small business bonus is germane to us and our report, so it is relevant to consideration of means to encourage people to do things well.

**Alasdair MacTaggart:** Just to add to that, although the proposed change is to be introduced on 1 April 2017—that is, shooting rights will be brought back into the rating system from the date of the next revaluation—there are already provisions whereby the assessor can introduce that value at any time up to 31 March 2018. Where the information is not fully complete or the analysis is not concluded, the existing legislation allows that value to be introduced retrospectively up until 31 March 2018.

**The Convener:** Okay.

**Colin Shedden:** Can I ask a question relating to the term “exercisable”? My understanding is—

**The Convener:** Wait a minute—members of the panel cannot continue to cross-question one another.

**Colin Shedden:** No, but the issue was raised and my recollection and understanding is that, pre-1995, the owners of land that had a sporting potential were taxed whether they used it or not. The term “exercisable” probably related to the inaccessibility of land or another physical barrier that prevented the shooting rights from being exercised. The important point is that, pre-1995, if someone owned land and chose not to exercise shooting rights, they were still taxed on that rateable value.

**The Convener:** Okay. Thank you for that clarification.

**Douglas McAdam:** We covered that issue in the meeting that we had with the assessors last week, so this might be a useful point of clarification. We discussed the issue of an area where the rights could not physically be exercised. We asked for an example and were told that, for instance, it might be to do with old glebe land that was still inside a village, which would mean that there were actual physical barriers to exercising the rights. However, any other land where a sporting right exists would have to be identified, surveyed, valued and put on the roll.

**The Convener:** Okay. We will ask the ministers about that.

**Richard Cooke:** I am concerned about what Alasdair MacTaggart referred to earlier as the pragmatic approach, if it is to be reapplied as it was in the past. Mike Russell made a point about scale. I can think of a situation in which a deer management group might have a number of members who take 100 stags and 200 hinds annually and other members who take one stag and two hinds annually. If one member is exempt because their take is small, that is inequitable for the neighbouring estates that share access to the same deer population.

**The Convener:** We hear what you are saying and we will ask questions about that—that is our job. Thank you for your points.

We have to move on to the expected tax take.

11:45

**Jim Hume:** My question has a couple of strands. One is on the accuracy of the Scottish Government's estimate that it will get a gross revenue of around £4 million. Basically, it seems to justify that by looking at what was brought in in 1994, which was about £2 million, and doubling that, because non-domestic rates have doubled since then. However, in my simple view, non-domestic rates relate to property values rather than shooting rights. What are the panel's views on the accuracy of that figure?

We also have to look at what the net revenue would be. Would it be cost effective to gather the rates, bearing in mind the small business bonus scheme, which we have talked about, and the extra staff that local authorities might have to take on?

**Douglas McAdam:** The £4 million figure is obviously a guess in the dark. It is based on what was on the roll previously. As we have already covered, what was on the roll previously is not what would be on the roll in future, and we do not know what percentage would be liable for reliefs.

That goes to the heart of the matter, which is that we cannot put a proper figure on it, because there has been no full analysis or due diligence of an economic impact assessment. In part, that is because the mechanism has not been clarified. For such a process, surely there should be steps that are gone through, which are generally referred to as due diligence, so that we all understand what the measure will look like and can make informed decisions. I do not think that that has been done. Hence, I would say that the figure is not accurate. We have no way of knowing what it will be.

**Bruce Cooper:** I would like to ask whether the expected take of £4 million will encourage landowners to employ people and to keep small and fragile communities alive. There is no profit, and rural communities need heavy investment to survive as they are now.

**The Convener:** Indeed.

**Alasdair MacTaggart:** I would not like to speculate whether the increase would be £4 million, £6 million or £2 million. That needs to be established after all the evidence has been looked at. However, I will point out a couple of matters that might affect individual views of the estimate. First, the values that were gathered when that part of the rating system was removed in 1995 were actually 1988 levels of value. That was the tone level that was set for the 1990 revaluation. Therefore, today, those values are 27 years old. That is the starting point.

In our response to the consultation, the assessors stated that a number of factors will have affected value in the interim, including the fact that the removal of the tax might have made more money available for rent, so landlords might have taken a larger proportion of income by way of rent. There has been a significant change in the legislative background, which we have heard a lot about this morning. We have had the Deer (Scotland) Act 1996, firearms legislation, food hygiene legislation and a number of other acts, all of which affect the use that can be made of land and will have impacted on rents and therefore rateable values.

In addition, of course, the economics of the rural landscape have changed. We now have large tracts of the upper lands covered with wind farms. How does that impact on the value of shooting rights? We need to examine all those matters to see whether they impact and, if they do, by what amount.

**Jim Hume:** I have a follow-up question for Alasdair MacTaggart, as president of the Scottish Assessors Association. The work will take some man and woman power from assessors, so surely your association will have estimated how many

man and woman hours it will take and will be able to give us slightly better information about the financial implications.

**Alasdair MacTaggart:** Our original estimate was based on the assumption that we would put back in what was there in 1995, which, if I remember the figures rightly, was something like 2 per cent of the total number of subjects on the valuation roll. As was mentioned earlier, if we are to consider every possible entry that might be made from the largest estate down to the smallest croft in Scotland, we might be looking at whether entries should be made for 52,000 to 55,000 additional properties. Those properties are largely in the areas covered by assessors that have smaller numbers of non-domestic properties and the amount of staff and expertise that are in those offices today is much changed since 1995, because staffing levels have been reduced. The assessor for the Scottish Borders might have a more significant task than I would have in Renfrewshire.

We have been discussing with Scottish Government officials how to deal with that. Our plan is that the values will be in place by 2017, provided that we can get responses to our information requests. Assessors rely almost entirely on the information that we gather using the rights that we have to obtain information under the valuation acts. If we get that information and work collaboratively with the industry, I am sure that we will manage to achieve what we plan, but it will take co-operation for us to get where we need to be by the date of the revaluation.

**Sarah Boyack:** Do we know what the impact was on revenue intake, income tax, national insurance and VAT when the rates were last abolished? To what extent were any jobs created? It would be useful for us to pin that down. I am not going to ask anyone for an answer unless they have it in their back pocket just now, but it would be good for the committee to know that. The Royal Institution of Chartered Surveyors commented that it believed that a review or economic analysis would be needed before implementation of the proposal and that, without that, part 6 should be removed from the bill. What are the panel's comments on that submission from RICS?

**Douglas McAdam:** As I said at the outset, I totally support that. If you pardon the expression, we are all shooting in the dark a bit here and, if we are to make informed decisions, we need that due diligence.

**Colin Shedden:** The business and regulatory impact assessment was rather weak in that area, in our view.

**Sarah Boyack:** There is a BRIA that we can look at, however, and it might be one thing that we

want to examine, given the evidence that the panel has provided this morning.

**The Convener:** We have dealt with exemptions and so on. Claudia Beamish, do you have any points to make?

**Claudia Beamish:** I have a brief comment. Alasdair MacTaggart talked about Scottish Borders Council. How much extra work will ending the exemption mean for local authorities? Will they have the capacity to deal with that extra work in the time available?

**Alasdair MacTaggart:** There are two components to that. The first is the valuation work that the assessors will have to do; there is then the work that the directors of finance will have to do to collect the tax. The greater part of that work will be in establishing the values. The billing mechanism is fairly well established; there will just be a small addition to that. The harder part will be in establishing who should be entered in the valuation roll and at what level of value. That will take some time.

There is also a cost for doing it. We have mentioned that in discussions with Scottish Government officials, and it has been raised with the Convention of Scottish Local Authorities, which has taken it on board. When discussions on setting budget levels are had, I hope that the costs in areas where there will be a significant additional impact on workload will be taken into account.

**Douglas McAdam:** Valuations are a crucial part of the issue. In the previous system, we ended up with valuations that were roughly based on bag data, which was used to come up with the hypothesis of the rental value to the hypothetical tenant. As we know, that system resulted in mass appeals. The values moved further and further away from reality, and we ended up in a situation in which there were mass appeals because the values were challenged. We do not want to end up in that position again; no one does.

**Alasdair MacTaggart:** I want to make it clear that, although we talk about a rate per bag or a rate per number of animals taken, that is not what we are using. What we are valuing is our estimate of the net annual value, which is the rent.

Once we have done that, we work back to something that is readily recognisable so that we can make a comparison. With shops, it is a rate per square metre; with public houses, it is turnover; with cinemas, it is the number of seats; and with shootings, it is the bag—but it could equally be a rate per hectare. It is just a mechanism that we use to enable us to draw comparisons. If we do not agree, the right of appeal is always there. Ninety per cent of appeals are settled amicably.

**The Convener:** The commission on local tax reform is looking at different forms of local taxation, separately from the bill, so those issues are going to be germane. There will be a very different way of assessing certain local taxes in future, which the assessors will have to do as well. Those issues are not to be seen in isolation.

**Graeme Dey:** I want to explore whether the ending of the exemption is consistent with sustainable deer management and land management objectives. For example, could it have a negative impact on biodiversity?

**Richard Cooke:** Potentially, yes. As was referred to in previous remarks, if reintroducing rates adds cost to deer management, the casualty is likely to be employment. That means that there will be less ability in the system to control deer numbers and prevent negative environmental impacts, so, undoubtedly, the answer is yes.

**Colin Shadden:** On the biodiversity front, the independent work that we were involved with demonstrated that shooters in Scotland spend the equivalent of £35 million in conservation activity each year. That is very wide-ranging conservation activity, from pest and predator control, land management and habitat creation to feeding pheasants and ducks. All those things fall into the category of conservation. It is very important. It is very concerning that, if the removal of the exemption were to affect the viability of shoots, it would affect the viability of the conservation management that takes place as well.

**Douglas McAdam:** If you increase the cost of any operation, it will have a negative impact. In this case, it will have an impact on biodiversity. As our submission states, about £35 million a year is invested in conservation management as a result of the exercise of shooting rights across Scotland, and it provides about 3,500 full-time equivalent jobs. There will obviously be consequences. It also comes back to the process of valuation. If bag data and those sorts of things are used, we can end up producing some pretty perverse outcomes. For instance, people might shoot fewer deer, which would increase biodiversity impacts. A lot of thought is needed to avoid perverse outcomes.

**Rupert Shaw:** I echo some of that in relation to the conflict that is involved. Under the current CAP reforms, farmers are being asked to pay attention to greening, to have greater wildlife margins and to have areas on their holdings that have an ecological focus. If the land manager or farmer undertakes all that activity and is then told that they have created something that is rateable, where is the focus? Is it on increasing biodiversity or getting people in to deal with what is now harboured there?

12:00

**Bruce Cooper:** We need boots on the ground to deal with the rabbits, moles and deer that are causing erosion. If we remove the men who are doing the job, that will have a dire effect on the landscape.

**Graeme Dey:** But you would not be abandoning the tasks. Your ability and capacity to undertake the tasks, and their extent, might be diminished slightly if one gamekeeper is removed, but in reality you would, in the main, still be carrying out the same tasks.

**Bruce Cooper:** The more gamekeepers there are on the ground, the more likely it is that the tasks will be carried out to the level they should be. A blind man could probably see the increase in mole numbers that has occurred in rural communities over the past few years, and that increase has come about purely through a change in legislation. We definitely need to put those workers on the ground, and the only way to do that is to encourage the landowners to employ them.

**Dave Thompson:** I have a quick follow-up question, which is not directed to any witness in particular. I am intrigued by a number of the statements that were made about shootings not following a profit-making model. That point relates to the bigger estates rather than to farmers. If the model is not profit making and we want to encourage folk to improve the environment, we should stop running a model that does not make a profit but actually loses money, and use the money that is saved to employ people to do the jobs that Bruce Cooper mentioned with regard to addressing environmental issues. Is that logical, or is it daft?

**Bruce Cooper:** It is very difficult. Believe you me, we have tried to make a profit, but it is very difficult to do so with what we have available to us. This season, for instance, we have had very bad weather and our income from driven grouse shooting has been cut by 75 per cent.

The landowner does not want to pay off his six keepers; he just hopes that the weather is a bit better next year so that he can narrow the margin a little. On the deer management side, that is very difficult, because that element is such an expense to run. You need the gamekeeper, the ghillie, the Land Rover and the Argocats. It is a very difficult environment in which to make a profit; we are just trying to do the best that we can.

**Dave Thompson:** I accept what you are saying, but the logic is that, if landowners stopped doing those things, they would save money. If a landowner wants an estate with a nice environment, it would surely make sense for him to stop doing things that are not effective and which are costing him money, and to use the

money to improve the environment more generally, while still employing six people and maybe even more. Do you understand the logic of what I am saying? If it is so difficult to make a profit, landowners should stop trying to do that and should instead use the money for better things to improve the environment in which the landowner can live and that others can enjoy.

**Bruce Cooper:** But what are those other things? A lot of other things have been explored. We have put a burn-flow hydro system in our glen to generate some income, but what else can we do?

**Dave Thompson:** You could employ more gamekeepers to keep the moles and rabbits down, and generally to improve things. You were on about erosion, for example. The point that I am trying to get at is this: why are people wasting their money on a non-profitable exercise?

**Bruce Cooper:** I do not think that they are wasting their money, because when it is good it can be money making—

**Dave Thompson:** So the suggestions that we heard earlier that the model was non-profit making were incorrect.

**Bruce Cooper:** The aim is always to make a profit, but it is very difficult to do so. Finding an alternative to making a profit and keeping the men on the ground would be extremely difficult.

**The Convener:** We are not going to go any further with that particular line of argument. I am sure that everybody would love to talk about what is profitable, what is good and bad and all the rest of it, but that was not the question in the first place. We can leave that issue hanging in the air, although the committee will follow it up later, because Dave Thompson has made a point that we need to explore with the ministers.

We will now move to Michael Russell's questions, time being as it is.

**Michael Russell:** Let us suppose that people from another universe are observing this discussion. Having arrived here by rocket, and having been sitting through the meeting, they might define what we have heard so far in this evidence session as people who own lots of land but who say that they do not make any money from it—I am sorry to go back to Dave Thompson's point—saying to the Government, "If you dare to tax us in the same way as you tax other people, we will lay off staff." From the perspective of someone looking at the argument from the outside, is that a fair representation of where we find ourselves? It seems to be what I am hearing.

**Rupert Shaw:** I do not view that as a fair representation of NFU Scotland's view. We seem

to have lost sight of the fact that field sports and rural sports—it is not only about deer; it is about shooting rabbits, pigeons and the rest of it—are leisure activities enjoyed by many of the rural poor. Around where I am, it is mostly the self-employed and people who do not have access to land who do such shooting. There is a fear that an unintended consequence of the proposal is that such activities become purely a commercial concern and, therefore, soon the only people who would be able to take part would be parties of Europeans who have paid significant sums to come over and shoot over the land. Of course, if we take away from many people in our rural areas the opportunity for this leisure activity, I am sure that they will seek it out in other ways.

**Michael Russell:** Skirting around your description of the rural poor, which we could have a great debate about, I would not support anything in the bill that was discriminatory against people who live in the countryside. You can take it as read—you do not have to take my word for it, although I will offer you my word on it—that what we are trying to do is to get to the stage at which there is workable legislation that does not penalise small and medium-sized enterprises and does not bear down unfairly and wrongly on deer management, which we want to see improved rather than made worse. We are trying to find a way through this.

Let us take your objection, although not the way that you have put it, as read. My point is that there is an element of the economic impact of this that I do not understand. Douglas McAdam argued for a full economic study. What I have heard is a succession of figures without any cogent proof that there would be an impact on rural employment. Where is the proof? When will it be handed to the committee? I have heard good arguments that the state of the euro is impacting on people who come from other countries to take part in this activity. When will we see the proof that the proposal is disadvantageous to specific people?

**Douglas McAdam:** I will go back to your previous question before I address that one. If I had come down from outer space and was looking at the situation across Scotland, I would say, "Look at these people who invest private money on a huge scale into the operation of those landholdings and look at what they deliver." I commend to anyone on the committee who has not seen it the report by Scotland's Rural College and the University of the Highlands and Islands that Fergus Ewing launched last week. It looks at some of the issues and what the local communities think about them. I would also say, "Let us value this, treasure it and use it in the right way."

I fully agree with your point about the evidence, which is why we think that the issue needs to be looked at in a lot more detail, because even now we are discussing what the mechanism might look like. How is it possible for individual businesses to understand the consequences for them and their operation if they do not know how the mechanism will operate, what it will cost and, hence, what the impact on them will be? I agree with Mike Russell that that diligence needs to be done.

**Michael Russell:** You can make some assumptions from today's discussion, and more discussion and more questioning of ministers is to take place. In those circumstances, I encourage your organisation to look at the issue—making those assumptions—and bring real evidence. I am not unsympathetic to the debate, but I have not seen real evidence presented to the committee that says, "These are the people who will be affected." However, I have heard it being said in discussion, "If you impose this, these people will not be employed." That strikes me as an unfortunate way to deal with the Government.

**Douglas McAdam:** I will make two points. First, we have surveyed our members to get a handle on the economic situation of sport across Scotland. As Colin Shedden said earlier, 90 per cent of respondents said that their costs were more than their income for the operation.

As far as the sort of information that you talked about is concerned, BASC has done some work on that. Its submission includes figures that try to estimate what the cost could be and what that would mean for the employment of gamekeepers. I will pass over to Colin Shedden to continue the point.

**Colin Shedden:** I will not talk specifically about the employment of gamekeepers, because that is hypothetical at this stage, but it is inevitable—indeed, anyone looking down at the situation from above would see this—that when a tax is imposed on an activity, those who will pay it will ultimately be those who enjoy the activity. We are concerned that the 100,000 people who enjoy shooting will ultimately have to pay the price, because the tax will be passed down from the farmer on to the rent and on to the syndicate. A syndicate is a collective group of people who enjoy shooting, and that is the most common form of shooting in Scotland.

**Michael Russell:** What would make people who enjoy shooting exempt from taxation? At some stage, someone will quote Emerson, so it may as well be me: death and taxes are inevitable.

**Colin Shedden:** Yes.

**Michael Russell:** Therefore, what makes shooting so special that it should not be treated in that way?

**Colin Shedden:** We have discussed exemptions for sustainable management and things like that. I am concerned that, although wildlife estates Scotland can demonstrate that large estates are behaving sustainably, the small farm may not have the resources to go through the process. The multitude of people who enjoy shooting in the form of small syndicates on farms may have difficulty in enjoying that exemption. I am concerned that ordinary working people—not just those who live in the country, because the majority of those who take part live in the central belt or come to Scotland—will be the ones who ultimately pay.

**Michael Russell:** If we exempted the small farm and the type of thing that you are talking about, you would have no objection.

**Colin Shedden:** If small farms were exempted, that would be good, but we are concerned that there would be a collective effect, because the majority of small farms do not just have their farm business and their shooting business; they have diversified into many other areas.

**Michael Russell:** Putting that to one side, if we were to exempt small farms and that type of shooting, would you be content?

**Colin Shedden:** I would still have concerns relating to the wider employment issues that Bruce Cooper alluded to on the larger estates.

**Michael Russell:** It is very hard to get people to be positive today, convener—alas.

**The Convener:** It is Pinky and Perky—now it is Perky.

**Alex Fergusson:** Thank you, convener.

Had Mr Russell been able to join us on Monday—I fully accept his reasons for not being able to do so—he would have heard from an individual who runs the shooting on an estate in the Borders as a commercial enterprise and employs seven people in the area. His concern was that having to pay rates would make his business uncompetitive compared with similar businesses just south of the border, which is not far away from where he lives. I found that quite a powerful argument. I dare say that there is a level of rateable value that it might be possible for the business to absorb, but there must be a level whereby the competitive argument comes into play. Does anyone have a brief comment to make on that aspect?

**The Convener:** Brief comments are welcome; long comments are not.

**Alex Fergusson:** I said brief. *[Laughter.]*

**The Convener:** You did.

**Douglas McAdam:** I share that concern, but there is obviously a particular geographic rationale to it, too.

I will pick up on Mike Russell's point about no taxes being paid. I remind the committee that estates pay tax. They pay income tax, national insurance on employees and existing non-domestic rates where it is due in other parts of their business. Therefore, we are talking about just one part of a much larger operation.

**The Convener:** The estate in question has business dealt with by Capital Investment Corporation of Montreal Ltd.

**Alex Fergusson:** We are talking about the principle rather than individual circumstances.

**The Convener:** Indeed. I thought that I would just add that little bit of detail.

**Dave Thompson:** It is estimated that the income generated from the tax will be £4 million, and I think that Colin Shedden mentioned that there are 100,000 shooters. I take Mike Russell's point about the idea of small farms being exempted but, for the sake of argument, let us say that £4 million is divided among 100,000. That works out at £40 a year, which is 80 pence a week. Are we really saying that that level of taxation is going to destroy shooting?

**Douglas McAdam:** If I am right, previously the average level of tax paid by those on the valuation roll was about £10,000. Is that figure correct? It was certainly of that magnitude. If the tax was £40 a year, everyone would qualify for the small business bonus scheme and there would be no issue. Until we have done the work to understand that, we cannot say, but I think that the figure was significantly more than £40, which is why people are concerned.

12:15

**Dave Thompson:** I would be interested to hear what others have to say, especially the assessors, but if it was £10,000, by definition the operations must have been much bigger—not the very small ones that Mike Russell and others were talking about exempting—so that would make the point about the exemptions for the smaller operations. It would be interesting to hear what the assessors have to say on that.

**Alasdair MacTaggart:** I can give you information based purely on what was there in 1995, although clearly that might not be the soundest of places to start, because things have changed, as I said earlier, and we are talking about averages. I do not have every valuation with me, but I have some valuations here from the Borders area. Shooting rights at Abbey St Bathans, near Duns, were valued at £155, and in

Argyllshire, where there are larger estates, you could find values of £4,000 and £7,100.

Even if the smallest of those values increased by a factor of 10, if the small business bonus scheme applies, the places concerned will still not reach the threshold for paying any rates on that basis. Obviously, that is a different matter from valuation. It is a rating relief matter, which is not for assessors to deal with—it is for the Government and finance officers to deal with. However, at that time there was a range of values, from quite substantial values to values in the small hundreds. We have to establish where that all sits now.

**The Convener:** That little monetary sequence was very helpful. We will need to follow that up. I will now hand over the chair to the deputy convener, as I have to go to meet the First Minister.

**The Deputy Convener (Graeme Dey):** Moving on, we have a brief question from Alex Fergusson.

**Alex Fergusson:** I was going to ask about the whole process of assessment, but I think that we have covered most of the whys and the wherefores.

There is an issue that I want to ask Mr MacTaggart about. We have sort of touched on it, but I am still really unclear about where we lie with it. It goes right back to a question that I asked Mr McLaren, one of the civil servants who appeared before us. I asked:

“will you confirm that, whether or not they are levied, rateable values will have to be applied to virtually every non-urban acre in order to identify those that are to have sporting rates levied on them?”—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 2 September 2015; c 32.]

The answer that I got was not exactly clear, if I can put it that way, and I am still not clear on exactly where we lie with that.

I have anecdotal evidence that some of your colleagues believe that, in order to meet their statutory duties, all sporting rights will have to be valued and entered on the roll, whether they are taken up or not. Are you able to put on the record, for the sake of clarity, exactly what the position will be? My understanding is that every acre or hectare of non-urban land will have to have a rateable value attached to it as part of this exercise. Can you confirm whether that is the case?

**Alasdair MacTaggart:** The bill proposal directs assessors to reintroduce an entry in the valuation roll for all shootings and deer forests. That is tempered by the phrase

“in so far as exercisable”.



We discussed earlier what that might mean. It might refer to a piece of ground where shooting rights cannot be exercised for one reason or another.

To establish what needs to go into the valuation roll, assessors first need to identify the ownership and occupation of each and every piece of ground. That is not simple or straightforward to deal with. The valuation roll plus the council tax valuation list are probably the most extensive and current lists of property ownership and occupation in Scotland. Agricultural lands and forestry lands are currently exempt. We have to examine that part of Scotland and establish what the current landscape is in terms of ownership, occupation and use.

Once we have established that, we can look at what the value of that land is, and that is the complex part of it from our point of view. The time-consuming part is establishing who is there, what they use it for and what it is worth. Once we have done that, we can decide what entries should be made in the valuation roll and at what level.

If the will of Parliament is that we should not enter certain classes of lands and heritages because of reason A, B or C, we may need to modify the terms of the legislation. In such circumstances, assessors—and, I hope, colleagues here—would be willing to sit with Government officials and find a form of words that might temper the impact of the reintroduced provisions. However, as they stand, we will have to look at every nook and cranny.

**Alex Fergusson:** So the short answer to my question is yes. That is what I was looking for.

**Alasdair MacTaggart:** Sorry.

**Alex Fergusson:** Not at all—the explanation was useful, too. Thank you very much.

**The Deputy Convener:** Thank you for providing that clarity.

We are moving towards the conclusion of the meeting. As there are no further questions from colleagues, I thank the panel for what has been a very helpful and informative evidence session—it will certainly help to inform our lines of questioning for the Government.

The next meeting of the committee is on 7 October, when we will consider three pieces of subordinate legislation and take evidence from stakeholders on human rights aspects of the Land Reform (Scotland) Bill. We will also consider a petition on the control of wild geese.

As previously agreed, the committee will now move into private session to consider the evidence that we have heard this morning.

12:21

*Meeting continued in private until 12:44.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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