



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Monday 2 November 2015

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**RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE**  
**32<sup>nd</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:**

- Aileen McLeod (Minister for Environment, Climate Change and Land Reform)
- Rachel Rayner (Scottish Government)
- Kate Thomson-McDermott (Scottish Government)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

Easterbrook Hall, The Crichton, Dumfries



## Scottish Parliament

### Rural Affairs, Climate Change and Environment Committee

*Monday 2 November 2015*

*[The Convener opened the meeting in private at  
16:34]*

17:06

*Meeting continued in public.*

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

**The Convener (Rob Gibson):** Good evening, everybody. I am the convener of the Rural Affairs, Climate Change and Environment Committee. This is the committee's 32nd meeting in 2015. The first item on our agenda, which was to continue consideration of our work programme, was completed in private. We now move to agenda item 2, which is on the Land Reform (Scotland) Bill.

The committee is delighted to be in Dumfries as we conclude our oral evidence sessions on the bill at stage 1. Thank you to everyone here for their interest in the committee's work and for attending the meeting.

The committee has had five meetings on the bill so far and has taken evidence from a wide range of stakeholders. In addition to that formal scrutiny, we have endeavoured to hear from as many groups as possible informally via fact-finding visits and external meetings. To that end, we have visited Fife, Islay and Jura, the Scottish Borders and Registers of Scotland in Edinburgh. We have held external meetings in Orkney and Skye, and now we are here in Dumfries. I formally thank all those who have engaged with us and supported us in our scrutiny of the bill by submitting evidence, meeting us or giving oral evidence at a meeting such as this. We very much look forward to discussing with the Minister for Environment, Climate Change and Land Reform all the evidence that has been heard to date.

We will not hear from the Cabinet Secretary for Rural Affairs, Food and Environment this evening as, unfortunately, he has been unable to join us because of family illness. We will take evidence from him on Wednesday morning. That meeting will, as usual, be available by webcast.

Before we move to item 2 on this evening's agenda, I remind everyone present to switch off mobile phones and so on, as they may affect the

broadcasting system. You may notice some committee members consulting tablets during the meeting; that is because we provide meeting papers in digital format.

I welcome our witnesses, who will give evidence on parts 1 to 9 of the bill: Aileen McLeod, Minister for Environment, Climate Change and Land Reform; and from the Scottish Government Kate Thomson-McDermott, head of the land reform policy team; Rachel Rayner, solicitor; and Stephen Sadler, head of the land reform and tenancy unit. Good evening to you all. I invite Dr McLeod to make a short opening statement.

**The Minister for Environment, Climate Change and Land Reform (Aileen McLeod):** Good evening and thank you for inviting me to give evidence on the Land Reform (Scotland) Bill this evening in Dumfries. It is nice to be in my own patch—I thank the committee for that.

The bill has been the culmination of years of work and I take the opportunity to thank everybody who has been involved, including all those who were part of the land reform review group and the more than 1,000 organisations and individuals who responded to our consultation on the future of land reform in Scotland.

Land reform is a vital part of the Government's aspirations for a fairer, more equal and socially just Scotland. We want to ensure that the people of Scotland have access to land that is required to promote business and economic growth and to provide good-quality and affordable food, energy and housing. However, access to ownership and the use of land is unevenly spread across our society. The bill is a significant step forward in ensuring that our land is owned and used in the public interest and to the benefit of the people of Scotland. The bill supports and takes forward our existing work to pass power to people and communities.

When enacted, the bill's provisions will fundamentally change the relationship between the people of Scotland and the land that we live on, work on and depend on. They will make it easier for communities to take ownership and control of the land on which their livelihoods depend, now and in the future.

The measures in the bill are bold, wide ranging and ambitious. They will make a series of key changes to the way in which land is governed that will encourage and support diverse and responsible land ownership; increase the transparency of land ownership; help to ensure that our communities have a say in how land in their area is used; and address issues of fairness, equality and social justice that are connected to the ownership of, access to and use of land. Crucially, the bill will put communities at the heart

of land reform by empowering them through the right to buy land to further sustainable development.

Underpinning the bill is an ambition to fundamentally change the framework of legal and social rights and responsibilities that determine how our land is used and governed and the benefits that our land can bring to our economy and our communities. Effective land reform aims to ensure the correct balance of land rights and how that can be managed to deliver best for the people of Scotland.

The bill is not the end point in Scotland's land reform journey, but it is a vital next step in a much wider on-going programme of reform across urban and rural Scotland. We cannot roll back hundreds of years of history overnight. The creation of a land rights and responsibilities statement and the establishment of a dedicated and permanent Scottish land commission, which will ensure that the focus is maintained, underline our commitment as a Government to land reform by putting an end to the stop-start nature of land reform that has limited progress in Scotland.

The bill is a big step for radical change in how Scotland's land is owned, used, governed and managed. I am determined to deliver it to ensure that our land benefits all the people of Scotland for generations to come.

I have been following the committee's consideration of the bill closely and I very much welcome the high level of support that has been shown in the evidence to the committee on the bill's aims. However, I am aware that there are those who feel that we need to go further and that some feel that parts of the bill could be strengthened. I continue to be open to ideas and suggestions that will further improve the bill as it makes its way through Parliament. I will continue to work with stakeholders and colleagues to consider what is possible to ensure that the bill is effective and, of course, within competence. I recognise that we are working within a fairly strict timescale for the passage of the bill.

I look forward to receiving the committee's stage 1 report in due course, which the Government will respond to. I welcome this opportunity to answer the committee's questions.

**The Convener:** I thank the minister for her statement. We all recognise that the bill has been introduced to enshrine in legislation the public interest in land. We will discuss the detail in the various parts of the bill today, but first we will look at the bill's structure, and I will start with a process point. Some people have criticised the bill and said that some of the provisions are overly complex. We want to tease that out. Do you consider that an

appropriate balance has been struck between primary and secondary legislation?

17:15

**Aileen McLeod:** We believe so. The Parliament has every right to consider where the balance should lie. We have included as much detail and content as is possible at this time in the relevant sections of the bill, while retaining the flexibility that is required to consider and develop matters more fully over time. The bill is robust and clear and, as we have demonstrated in the policy memorandum, we believe that the regulation-making powers that are being taken strike the right balance between setting out provisions in primary legislation and using secondary legislation.

In bills, areas of detail that are largely administrative are often left to secondary legislation. It is normal for the full picture on a legislative issue to be made up of a combination of primary and secondary legislation.

**The Convener:** How do you respond to the view that taking wide powers to make regulations removes the Parliament's ability to conduct a full European convention on human rights assessment of some provisions as part of its scrutiny of the bill, which means that ECHR scrutiny is deferred until regulations are laid?

**Aileen McLeod:** That is absolutely not the case. As we stated in the policy memorandum, we believe that the regulation-making powers can be exercised within legal competence, so we do not see the bill as being more or less susceptible than any other bill to legal challenge on the ground of non-compliance with ECHR.

For each element of the bill that provides a regulation-making power, we have carefully considered why it is appropriate and whether an alternative option is available. For example, the regulation-making power that is considered appropriate for section 35 ensures that the Government will consult stakeholders and the public in general so that the regulations, when made, will be robust. Furthermore, the use of regulations under section 35 will allow the definitions of

"persons affected by land"

and

"persons in control of land"

to be amended over time to adapt to changing land ownership and management structures, which will ensure that the regulations are effective.

The committee has heard from a wide range of parties about the bill's ECHR implications, which I hope has added to members' understanding of and discussions on the bill. If I or my officials can

do anything to help with the committee's consideration of the ECHR implications of the bill, we are happy to do it.

**Alex Fergusson (Galloway and West Dumfries) (Con):** Good evening, minister. Leaving ECHR to one side, I note that there are 43 bits of the bill under which regulations will be introduced later, and some of them concern substantial areas such as codes of practice and the formulation of a new method for setting rent in agricultural holdings, which I appreciate we are not discussing tonight.

I know that the practice is not unusual, but substantive aspects are being left to secondary legislation, which makes it extremely difficult for us to scrutinise them properly. Do you really think that that is satisfactory in a bill of this size? Is it a result of the tight timescale that we have for considering the bill, which you mentioned?

**Aileen McLeod:** There is always a trade-off between what is in a bill and what goes into regulations. We feel that we have struck the right balance. If something is in a bill and we need to change it, we have to legislate again. Secondary legislation gives us greater flexibility to review regulations later and it means that we can adapt provisions to changes in circumstances, information and stakeholder views.

Given the land reform journey that we are on, the use of secondary legislation gives us flexibility to keep the legislation relevant. Parliament will still be able to scrutinise the regulations, so there is no lack of democratic oversight.

**Alex Fergusson:** I say with absolute respect, minister, that I think that you would agree that there is not the same degree of scrutiny of secondary legislation as there is of primary legislation. I believe that the extent to which you are using secondary legislation is undermining our ability to scrutinise the bill properly.

**Aileen McLeod:** We have received the Delegated Powers and Law Reform Committee's report and we are carefully considering our response to it. We will respond in full to that committee's recommendations by 10 November. We are happy to take away and consider all the recommendations that this committee might make in that regard.

**Alex Fergusson:** As I am sure you know, that committee has raised quite serious concerns.

**The Convener:** We are interested in the bill being understood by people. How will you ensure that its provisions and the new structures that are to be put in place will be easily understood by members of the public?

**Aileen McLeod:** The bill is written as simply as possible. We consider it to be as clear and as

readable as primary legislation can be. In accordance with the requirements of standing orders, we prepared the accompanying explanatory notes and the policy memorandum to provide further explanation.

I reiterate that, as officials have told the committee, we will prepare supplementary guidance on the bill as and when it completes its parliamentary passage. The Scottish Government always prepares guidance on legislation. We are reviewing numerous examples of that—not least the guidance on the existing community right to buy.

**The Convener:** We move on to some of the detail of the bill. Michael Russell will lead on part 1, which is on the land rights and responsibilities statement.

**Michael Russell (Argyll and Bute) (SNP):** Good evening, minister. From the way in which the land rights and responsibilities statement is presently constituted, what it is meant to achieve is a little unclear. Is it about the Government's land reform policy or is it a wider statement that should allow Scotland to consider land and the way in which the nation and the people of the nation relate to land? In other words, should it help us to define ourselves in relation to the prime national asset that we have?

**Aileen McLeod:** The Government's intention in providing for a land rights and responsibilities statement is to provide a context in which we as a nation can consider developments of the rights and responsibilities around land and realise the full public benefits from land. Land reform is an on-going process. We are committed to a forward-looking rolling programme of land reform. We want to ensure that a proactive approach is taken to land governance and the on-going consideration of the balance of rights and responsibilities over land. The statement will set out the Scottish Government's objectives for future land reform and will provide a reference point for future land reform policy by proposing a vision and a set of principles that will guide the development of public policy on the nature and character of land rights.

**Michael Russell:** That goes wider than the provision that is set out in section 1(2), which says:

"A 'land rights and responsibilities statement' is a statement of the Scottish Ministers' objectives for land reform."

As you expect that to be widened, I will widen my question. How will the statement interact with not only the ECHR obligations—which we understand, complex as they are—but other issues?

You will be familiar with the amendments that I lodged to the Community Empowerment (Scotland) Bill, which you were good enough to

accept, to bring in consideration of the International Covenant on Economic, Social and Cultural Rights. There is also the question of the "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security". How can we put all those things together so that we do not simply say, "This is what the Government wants on land reform—it complies with ECHR, so take it or leave it," but look at the global context and the way in which communities and individuals are empowered to move forward with land as a major asset?

**Aileen McLeod:** I certainly agree that the land rights and responsibilities statement might be a suitable place for referring to the covenant or the voluntary guidelines in relation to land reform. However, there is a wealth of ideas and views to be considered in detail when taking forward the statement. That includes careful consideration of the proper designation of human rights and their place in the statement. We intend to consult further on the statement to ensure that all relevant considerations are taken into account.

**Michael Russell:** If you are to consult further on a way in which the purpose of the land rights and responsibilities statement can be broadened, a reference to the evidence that Megan MacInnes from Global Witness gave would not be unhelpful.

**Aileen McLeod:** I agree.

**Graeme Dey (Angus South) (SNP):** The minister mentioned democratic oversight. Will the Government amend the bill to ensure that the land rights and responsibilities statement is debated and endorsed by Parliament?

**Aileen McLeod:** The Scottish Government's intention is that the land rights and responsibilities statement will be subject to appropriate levels of parliamentary scrutiny. As part of the five-yearly review, it is expected that ministers will reflect on progress to date, consult on any required changes and submit the revised statement to Parliament for scrutiny.

I understand that nothing is required in the bill to allow Parliament to consider or take evidence on the land rights and responsibilities statement at any point, but we appreciate that appropriate parliamentary scrutiny, in addition to public consultation, is vital to the statement's credibility and effectiveness. Before any finalising of the statement, we intend that Parliament will have the chance to debate the statement. However, we did not feel that it was necessary to mandate that in the bill. If the committee considers that a requirement in the bill to that effect is necessary, I will consider that alongside all the committee's other recommendations.

**Graeme Dey:** I welcome that consideration.

Is the land rights and responsibilities statement the first step towards having an overarching national policy? If so, will you ensure that policies are aligned with those on issues such as climate change, planning and housing?

**Aileen McLeod:** The statement will lay out an overarching vision and a set of principles to guide the development of public policy on the nature and character of land rights. The intention is that the statement will interrelate with existing policies, including the Scottish Government's economic strategy, the land use strategy and the national planning framework. Taken together, those will set out a consistent and holistic approach to how the land of Scotland should be used, controlled and managed. The issue that you raise would be worth considering further.

**Graeme Dey:** To press the point, do you accept that it is imperative that biodiversity and climate change are specifically mentioned in all that?

**Aileen McLeod:** I take that point. As I said to Mr Russell, there is a wealth of views and ideas to be considered in detail. However, we will certainly take that point away.

**Sarah Boyack (Lothian) (Lab):** I, too, welcome the minister's comments in relation to the previous two issues. She anticipated my supplementary question. We already have a number of policy documents that set out a vision, such as the national planning framework and the land use strategy. We are trying to get a sense of policy coherence. That is important in relation to the bill, because we have had representations from members of the farming community who are afraid that land will be taken out of farming and used for something else. The policy-in-the-round approach is important, and I welcome the minister's commitment to integration and policy coherence with other key documents.

**Aileen McLeod:** I thank Sarah Boyack for those comments. The land use strategy sets out 10 principles for sustainable land use that should be used by our policy makers and land managers, and the statement of rights and responsibilities will need to complement that. The land use strategy is under review. That review is due to be completed by March next year, and we will work closely with stakeholders on that.

17:30

**The Convener:** As there are no further points on that issue, we will start to look at the structure of the Scottish land commission, on which Jim Hume will ask the first questions.

**Jim Hume (South Scotland) (LD):** Good evening. Part 2 of the bill provides for the creation of a Scottish land commission, which will consist



of six members—five land commissioners and a tenant farming commissioner—and will review the impact and effectiveness of land law and policy. The commissioners will be appointed by ministers. As the committee that is scrutinising the bill, we are interested in how we can scrutinise the Government's work, and I wonder whether the Government will amend the bill to ensure that the strategic plan and the commissioners' work programme will be debated and endorsed by the Parliament rather than purely by a minister.

**Aileen McLeod:** The Scottish ministers want the commission to be independent in how it goes about its work, and we do not want to impose any burdensome statutory requirements on the land commissioners. We are keen that they just get on with the work that is required to deliver further land reform. I expect the land commissioners to be open in consulting all interested parties at crucial stages, so it is not considered necessary to place consultation duties on the land commissioners in the bill.

**Jim Hume:** Will the Parliament be able to scrutinise the commissioners' work programme? That was my main question.

**Aileen McLeod:** Sorry—yes, the Parliament will be able to scrutinise it. That is set out in the policy memorandum where we consider the set-up of the land commission as an executive non-departmental public body. The policy memorandum states:

"The Land Commission is accountable to Scottish Ministers, but the Scottish Parliament has the opportunity to scrutinise the appointment of the Land Commissioners, the programme of work, and will also be able to call Scottish Ministers to account for the implementation, or indeed non-implementation, of the recommendations of the Land Commissioners."

**Jim Hume:** So the work programme will not automatically come to the Parliament every year, every three years or every five years. MSPs will have to ask for it.

**Aileen McLeod:** The bill sets out that the commission will lay a copy of its work programme before the Parliament.

**Jim Hume:** Okay. Thanks for that.

The commission's strategic plan is to be reviewed every three years, but the land rights and responsibilities statement is to be reviewed every five years. Those periods seem to be out of kilter. What is the connection between the two documents?

**Aileen McLeod:** They are two separate issues. The Scottish land commission will be the body that is set up to support the functions of the land commissioners and the tenant farming commissioner, whereas the strategic plan will set out their objectives and priorities in the day-to-day

carrying out of their roles to fulfil their functions, as well as estimates of the costs of that. The plan will be about how the commissioners intend to work and keep to their budgets. Scottish Natural Heritage and Registers of Scotland have three-yearly strategic plans.

The land rights and responsibilities statement will be a high-level strategic statement of the Scottish ministers' land reform objectives.

**Jim Hume:** I will finish with a couple of small questions. We have a land use strategy, a national planning framework and a Land Court, all of which are important in rural matters, as the minister well knows. How will the commission work with those in mind? Will it be part of its remit to consider those things, which have been agreed by the Scottish Parliament in the past?

**Kate Thomson-McDermott (Scottish Government):** One of the key aims of setting up the Scottish land commission is to give the land commissioners as much flexibility as possible in setting their work programme. The functions of the land commissioners, which are set out in section 20 in chapter 2, are

"to review the impact and effectiveness of any law or policy" as well as

"any matter relating to land in Scotland".

As part of deciding their work programme and the issues that they want to pursue, the commissioners will have to consider a wide range of bodies and how they influence them, depending on the specific issue that they are looking at. They will have to consider the role of the Land Court and engage with it and with various other public bodies that are involved in land management and land use issues. They will also have to engage with the Scottish Government and key stakeholders, who will also be vital parts of how they structure their work.

What the land commissioners will need to do in each circumstance will depend on the specific area that they are looking at, so we are leaving them with flexibility to ensure that they can do that as effectively as possible.

**Jim Hume:** Please correct me if I am wrong, but I believe that the maximum length of appointment for the commissioners is to be two terms of five years. That is a total of 10 years, which is quite a long time. Would you consider a shorter period? Having someone in for a shorter time might mean that they are fresher and there is less chance of things being politicised, no matter the colour of the Government. Are you content to stick with two terms of five years or would you consider other options?

**Aileen McLeod:** I am happy to consider other options that the committee brings forward.

**Jim Hume:** Okay. Thank you.

**Angus MacDonald (Falkirk East) (SNP):** Good evening, minister. The evidence that we have received indicates that there is broad support for the appointment of commissioners who have wide knowledge of and expertise in the sector. However, can you confirm for the record that there will be a requirement that at least one of the commissioners is a Gaelic speaker? Also, how will the views and expertise of people in diverse sectors be taken into account as they are fed in?

**Aileen McLeod:** The Scottish Government fully recognises that the Gaelic language is an integral part of Scotland's heritage, contemporary culture and national identity. The members of the Scottish land commission will need to have a broad range of expertise and the bill requires the Scottish ministers to have regard to the desirability of the commission having expertise or experience in land reform; law; finance; economic issues; planning and development; and environmental issues. That is a non-exhaustive list, and nothing in the bill bars ministers from taking into consideration other areas of expertise when they appoint land commissioners or the tenant farming commissioner through the public appointments process.

Once the Scottish land commission is up and running, it will have regard to the national Gaelic language plan, and it may wish to appoint a Gaelic speaker as a member of staff.

**Jim Hume:** You mentioned the tenant farming commissioner. There is quite a strong view that the commissioners should have expertise in land management. Is that something that the Government will consider?

**Aileen McLeod:** I am aware that a number of representations have been made to the committee about the sectors that should be represented on the commission. It would be difficult to ensure that the commission could function efficiently and represent every single interest group. I stress to the committee that a robust public appointments process will be undertaken to ensure that the members of the commission have the required expertise, but we will be happy to consider any recommendations that the committee makes.

**Angus MacDonald:** There is, of course, an imperative that expertise on housing is included, given the rural housing challenges that we face.

**The Convener:** I take that as a positive.

**Dave Thompson (Skye, Lochaber and Badenoch) (SNP):** I will raise a final point on the issue. I have a concern—and concerns have been raised in evidence—that such a list could go on for

ever and that we will never be able to get everything covered by the six people on the commission. We have been told in evidence that we should be looking for commissioners with integrity, principle and vision. Those are the qualities that the commissioners should have, and the other items on the list can be dealt with. Some commissioners might have the skills on the list, but staff and others will have them. The suggestion that the focus should be on the principles that I mentioned is probably a better way to go. Will you comment on that?

**Aileen McLeod:** I have said to the committee before and I stress again that a pretty robust public appointments process will be undertaken to ensure that the membership of the commission has the required expertise. I give you that assurance.

**The Convener:** Thank you. We move on to part 3, which is on information about control of land. Sarah Boyack is going to kick off on that.

**Sarah Boyack:** One of the key lessons from our first piece of land reform legislation was that access to clear and up-to-date information is crucial not just in relation to land transfers but in relation to engagement between communities and landowners. Experience has shown that that can be problematic.

The land reform review group's suggestion was that, to achieve transparency and traceability and to deliver a proportionate, effective approach that is in line with European Union law and the ECHR, we should look at enabling only EU-registered entities to own land in Scotland. That recommendation was in the initial consultation document from ministers, but it is not in the bill. There have been many representations to the committee supporting the inclusion of that key potential measure, and some have described part 5 as the weakest part of the bill.

Given the evidence that we have received, and thinking back to the discussion that we had earlier today about the ECHR, the international covenant and economic, social and cultural rights, have you and your officials been thinking about that? Have you further considered whether the proposal that an entity should have to be EU registered before it can own land in Scotland should be reinstated in the bill? If not, how do you intend to identify landowners who do not want to be identified and are hiding behind layers of trusts or organisations to avoid being identified?

**Aileen McLeod:** Before I answer Sarah Boyack's question, I emphasise to the committee that the Government is committed to ensuring that there is greater transparency of land ownership and fuller information about who owns and

controls land in Scotland, because those are vital questions to us.

When the land reform review group recommended that only legal entities that are registered in an EU member state should be able to own land in Scotland, it was said that the purpose of that was to increase the transparency and accountability of land ownership. As we have said, the Scottish Government is committed to increasing the transparency of land ownership in Scotland and we believe that the provisions that are outlined in the bill, along with the additional measures that Registers of Scotland is taking to complete the land register for Scotland by 2024, including registration of all public sector land by 2019 and the setting up of Scotland's land information system by October 2017, will significantly increase the transparency of land ownership in Scotland.

We considered the land reform review group's proposal carefully and gave it close attention, but we came to the conclusion—after much consideration—that the measure would not significantly increase the accountability or transparency of land ownership in Scotland.

My officials wrote to the committee on 10 September setting out the Scottish Government's analysis of the land reform review group's recommendation on EU legal entities. As we said in that correspondence, there are varying requirements within the EU for the transparency of legal entities and we are not convinced that simply setting up a shell company within the EU, when the shares and the directors could still be based in offshore tax havens and obscured through complex corporate structures, would provide greater transparency of land ownership.

Given that it was not considered that the proposal would effectively achieve the policy aims that were sought, detailed analysis of the potential legal implications of the proposal was not considered necessary at that time. However, I am aware that stakeholders have been asking for the policy to be reinstated to prevent land in Scotland from being owned by companies that are based in tax havens.

It is worth adding that the desire to prevent land in Scotland from being owned by companies that are based in tax havens in order to prevent tax avoidance is an entirely different policy aim. When considering whether it would be appropriate to take forward the land reform review group's recommendation, it is essential to understand the aim of the policy and whether the measure would genuinely help to achieve that aim.

17:45

Of course, the Scottish Government supports the measures that are taken by the United Kingdom Government and the international community to combat tax avoidance. However, the committee must also recognise that the Scottish Parliament's ability to legislate in relation to taxation matters is limited. If the land reform review group's proposal was accepted, the Parliament would have to be satisfied that there was a legitimate devolved policy aim for the measure. If further evidence was presented that showed that the EU legal entities measure would be effective in achieving a devolved policy aim, a range of legal issues would still need to be considered in further detail.

I will bring in a legal official at this point, but I add that the Scottish Government will fully consider any recommendation that the committee makes in this regard.

**Rachel Rayner (Scottish Government):** As the minister said, it is essential that it can be demonstrated that there is a real problem that needs to be solved and that any measures that are proposed would not be likely to solve the problem in a way that disproportionately interfered with existing rights. The practical impact of any measure is important because it would be difficult to justify in law a measure that did not contribute in a rational and proportionate way to solving a clear problem.

A number of legal issues would need to be considered in order to determine whether limiting land ownership in Scotland to individuals and certain EU legal entities is within the legislative competence of the Scottish Parliament. The legal issues that were raised would include EU law, the ECHR and other international obligations. As the minister said, we would also need to consider whether the proposal related to or modified the law on a matter that is reserved to Westminster.

I can provide further detail if that would be helpful, but perhaps what I have said is sufficient.

**Sarah Boyack:** It seems that the minister is not of the view that the initial suggestion is either needed or within our powers. On whether it is needed, it is our job as a committee to test the alternative. We have had lots of evidence that basically says that people are not convinced that the measures in sections 35 and 36 will be an effective alternative. There is an argument that the measures in the bill will not meet the objective of enabling communities to gain access to buy land where it meets the test that the Government sets out elsewhere in the bill about sustainable development.

It is crucial to ask whether the alternative that the Government has suggested will be effective. I

think that other committee members will want to come in on a range of issues with sections 35 and 36, as it has been suggested to us that they will not meet the objective that the Government has set out in the bill that we are all here to try to support.

Who will the “request authority” in section 35 be and—this is crucial for members of the public—how will that system operate?

**Aileen McLeod:** I will bring in my policy expert in a moment, but the options for who the request authority will be are still to be assessed and no decision has been made. As it is a new role, it will be necessary to consider which public body or organisation is best placed to take it on. Who is to take on the role will be set out in the regulations, and before any draft regulations are laid before the Parliament, evidence will be taken on them in a public consultation. As the committee will have heard in the evidence that it has received, the keeper of the registers of Scotland will not take on the role.

**Sarah Boyack:** That is why I was keen to ask the question. We are being reassured that there is a better alternative, but it is going to be in secondary legislation and the minister is unable to answer the question on that at present. For me, there is a major concern about whether the alternative will work.

**Aileen McLeod:** The provisions in sections 35 and 36 will certainly help to ensure that there is greater transparency of land ownership in Scotland and more information about who owns and controls the land.

Section 35 will help to achieve that aim by providing that, in the future, on a case-by-case basis, it will be possible to look behind the legal owners of land to establish whether an individual has control over it. Section 36 ensures that additional information can be included in the land register on a voluntary basis, which could provide information about who has control of land and further details about the type of landowner. That will help us to understand the patterns of land ownership in Scotland.

The bill’s provisions must be considered alongside our commitment to complete the land register for the whole of Scotland by 2024 as well as the registration of all public sector land by 2019. We are also asking Registers of Scotland to develop Scotland’s land information system and make it operational by October 2017.

**Kate Thomson-McDermott:** We appreciate that some detail remains to be set out in the regulations, which is why we have opted for the affirmative procedure. That will ensure that there is potential for sufficient scrutiny when the regulations are laid before Parliament. As the

minister said, if the committee has strong views on the matter, we can consider that.

**Sarah Boyack:** We would like to know as soon as possible what will be in the secondary legislation. We cannot test the alternative, which the minister says is not appropriate, if we do not know what your proposal is. It is a really important part of the bill on which we have received lots of evidence. I find it difficult to rule out the land reform review group’s recommendation of an alternative when we do not know who the keeper is meant to be and may not know that for months or years. I do not see that as a strong position.

**Graeme Dey:** We all agree that we are seeking real transparency, so I wonder whether we can come at the issue from a different direction. Ought not the keeper’s powers under section 36 to be strengthened, so that they could require rather than request information as part of the registration process? Could we not, within the registration process, ask a series of questions to deliver meaningful transparency? For example, could we not seek the provision of a Scottish address at which people could readily contact the landowner? Could we not require a declaration of any natural persons deriving significant benefit from the registered entity? It strikes me that there is an opportunity for us to push the envelope as far as we can, albeit in a nuanced way, with the aim of securing transparency. I would hope that we could have a backstop whereby, if people declined to provide such information, they would face their acquisition failing to be registered and, therefore, completed.

**Aileen McLeod:** Graeme Dey makes a good point and we are happy to give that further consideration. The measure that is currently in section 36 will help to build better evidence and information on the owners of land, and we believe that the majority of applicants will provide the information that is requested without there being a need for sanctions.

The primary purpose of land registration is to provide secure legal rights to property. As such, registration plays a pivotal role in the conveyancing process. Therefore, as we said, without registration, it is not possible for property owners to legally become the owner.

**Kate Thomson-McDermott:** The primary purpose of land registration is to provide secure legal rights to property. As such, registration plays a pivotal role in the conveyancing process. Without registration, it is not possible for property owners to legally become the owner. In any case, where applicants are required to provide additional information and that information is not supplied, the appropriate sanction under the existing legislation on land registration would be rejection of the application. Therefore, the applicant would

not obtain their legal right in land. That would be an interference with the person's ability to obtain their legal right in land, which may affect the right to property that the person would have under ECHR. Although we are happy to go away and consider any additional ways in which we could improve transparency through the land registration provisions, we would have to consider carefully how those might interfere with the property owner's right to achieve a legal right in land.

**Graeme Dey:** Fine. That covers the last point. I accept that we might not be able to go that far, but I would welcome your going away and thinking about the matter from that direction, because it might allow us to start to get the degree of transparency that we all want to see and make the policy fly.

**Aileen McLeod:** Absolutely, and I would very much welcome that.

**Michael Russell:** The founding principles of the Scottish Parliament include transparency and accountability. Finding out who owns land goes along with ensuring that those who own it behave in a way that is accountable to those on the land and to wider society. Since John McEwen's "Who Owns Scotland?: A Study in Landownership" of the late 1970s, that has been a live issue in Scotland, and it is important that the bill is seen to be a way of resolving it.

I am slightly concerned that a mountain is being made out of a molehill. There is no right to anonymity in the ownership of land. It would be perverse to think that there was a right to anonymity in the ownership of land, because it is important to know who owns land if someone is to take legal action against them, or if they are a neighbour. It is also important to know who owns Scotland. That is the wider question. We need to know who is interested in buying Scotland and why.

I would hope that a degree of simplicity could be applied to the bill during the amendment process. It will come as no surprise to the minister that section 36 will require amendment. We could have something very simple that says that people will have the opportunity to know who owns a piece of land and that—going on to the next section, on which I also have questions—there will be some accountability. I am not necessarily talking about your back garden or farm but, as a Highlands MSP, I know that there are swathes of land in the Highlands, and indeed the Lowlands, that are owned by shady and shadowy corporations of which we know nothing. The bill is fulfilling an obligation to the Scottish people, as you rightly said in your opening remarks, and part of that obligation is to transparency and accountability. I hope that we might find our way there.

**Aileen McLeod:** We are certainly trying to bring in as much transparency as possible in as meaningful a way as possible. Transparency of ownership and information about who owns and controls land in Scotland are key issues. We know that land and how it is owned, used, governed and managed is of fundamental importance to the people of Scotland, and we are more than happy to look at any further evidence that the committee brings forward to help us to improve and strengthen the section.

**Michael Russell:** That is very helpful—thank you.

**The Convener:** In that regard, the EU's recently agreed fourth anti-money laundering directive includes a provision for a register to be kept of the owners of companies and the beneficial owners of private trusts. Can the directive and the policy that it implements be applied in Scotland? Is it being applied by the UK Government?

**Aileen McLeod:** I understand that the committee has been informed about the efforts that are being made in the EU context through the fourth anti-money laundering directive and in the UK to improve the transparency of companies and trusts for the purposes of increasing trust in UK companies, encouraging good corporate behaviour and stopping UK companies being used for money laundering and the financing of terrorists.

Although such measures will go some way towards increasing the transparency of UK companies that own land, it is not certain that they will increase the transparency of land ownership in Scotland in the way that we want.

**The Convener:** We should, however, pursue the question of what the register will contain in order to help us to move in the direction of finding out whether people in companies or trusts are the people who own the land of Scotland.

**Aileen McLeod:** One of the disadvantages of the directive is that it will not reveal the beneficial ownership of the land, and it will be easy to circumvent. Companies that are based outside the EU can be directors of EU companies. Shares can be held in the name of non-EU companies, and not all EU company structures are transparent. Land could still be owned by trusts, which can be less transparent than companies. The directive will certainly not allow communities or individuals to establish the name of an individual who has control over land.

18:00

**Sarah Boyack:** I have a supplementary question about the sanctions that will be available for those who do not comply with the spirit or detail

of the law. I am thinking back to Mike Russell's earlier comments.

Owners have all sorts of responsibilities. I can think of urban contexts in which it is difficult to get hold of an owner. That is a major issue for health and safety, and there are also the environmental impact issues that we discussed in relation to the Community Empowerment (Scotland) Act 2015.

This seems to be a real issue: it must be legitimate for the state to know who an owner is. In the context of the Land Reform (Scotland) Bill, surely that should be registered somewhere, somebody should be responsible for that and there must be some kind of sanction.

**Kate Thomson-McDermott:** It can get very confusing in this context to discuss the difference between legal owners and those who control land in beneficial ownership. The terminology can be confusing.

I reiterate that it is already possible to find out who the legal owners of land are in Scotland through application to the land register. That information is available from either the land register or the register of sasines. From that perspective, and when it comes to legal liability and so on, the legal owners of land can always be determined, other than in extreme circumstances.

You are absolutely right to highlight the real potential need to know who controls or makes decisions over land in certain circumstances in which harm is being caused. That is entirely the intention behind the provisions in section 35. When a real need to look behind the legal owner to find out who controls a piece of land can be evidenced, that information can be obtained, and that is the purpose behind section 35.

**Sarah Boyack:** If the bill is to enable communities to buy land where, for the purposes of sustainable development, that will improve the community and it is in the public interest, would that not be one of the tests that could be applied to that information being sought?

**Kate Thomson-McDermott:** In order for a community to exercise the right to buy, it would certainly need to be able to identify who the legal owner was. People can already do that through application to the land register.

If, as part of an application under part 5, one part of the community's evidence was that it was having no success in engaging effectively with the landowner, that would be taken into consideration by ministers, and it would be balanced with consideration of whether the tests under section 47 were met such that the application could be approved. I can see the correlation there.

**Sarah Boyack:** There is knowing who the owner is, and there is being able to contact them.

**Rachel Rayner:** Yes.

You asked about sanctions. On section 35, as my colleagues have said, it is possible to show a need for the information on a case-by-case basis. If that information is not provided, there is power for the regulations to provide for civil penalties and offences. In section 35, there is a mechanism that provides for sanctions for failure to provide information about persons who have control of land.

**Michael Russell:** We should be very clear in our minds about two things, which are not the same. It is not the same thing to have a need to know who the legal owner of land is and to have the right to know who controls and benefits from land. We need to know both those things, not just one of them. The word "rights" is very important here. I think that the citizens of Scotland have a right to know who owns Scotland. It is not a need to know that; it is a right to know it. There are many views, which we can always debate but, in my view, the bill must establish that right to know who controls and benefits from land. Therefore, needing to know the legality is not enough.

**The Convener:** Our case rests, minister.

We will move on to engaging communities in decisions relating to land, on which Alex Fergusson will lead.

**Alex Fergusson:** As the minister will know, section 37 requires ministers to

"issue guidance about engaging communities in decisions relating to land which may affect communities."

In preparing that guidance, regard must be paid to

"the desirability of furthering the achievement of sustainable development in relation to land".

The policy memorandum explores sustainable development in relation to communities but not in relation to land. Can you explain why that is?

If it is easier, you can come back to us in writing.

**Aileen McLeod:** I am happy to come back to you on that in a moment—I cannot find the information just now.

**Alex Fergusson:** Perhaps we can come back to it later.

The legislation will bring about a duty to consult communities. Would you agree that a duty to consult communities will inevitably lead to a raising of expectations in some communities about what they should be consulted on? How will the Scottish Government manage those expectations? How will the public be informed of their abilities within the content, scope and boundaries of the guidance? How will that exercise generally be managed?

**Aileen McLeod:** Thank you for that question—I have now found my page on sustainable development. We considered that it was not necessary to define sustainable development, because its meaning is well understood and the term is widely used in other legislation, and in other right-to-buy legislation in particular. I will ask my policy officials to add more detail.

With regard to engaging with communities, we intend that the Scottish ministers will work closely with stakeholders across the public, private, third and community sectors to develop and promote guidance to ensure that there is collective buy-in and good promotion of the importance of engagement as the guidance is developed. We will certainly consider that aspect as guidance is developed.

**Alex Fergusson:** Quite a lot of concerns have been raised with us from the farming sector in particular as to what it will be required to consult communities about. There is a concern, for instance, that consultation would be required on spreading slurry on a field next to a community.

Although we have received assurances that that will not be the case, how does the Government intend to clarify that in the bill?

**Aileen McLeod:** The part 4 guidance will be developed in collaboration and consultation with all the relevant stakeholders, including representatives of farmers and other land managers. That will define the type of land-based decisions to which the guidance will refer.

It is vital that the detail of the guidance is produced after consultation with those who work in farming and forestry, and with those with supporting interests in charities and Scotland's communities. However, it would be quite dangerous to put a disapplication for day-to-day decisions in the text of the bill, as that would pre-empt the detailed work of drawing up the guidance.

No one is proposing that communities should be consulted on each and every day-to-day business decision that a landowner takes, but we must be quite careful about what goes in the text of the bill. For instance, a certain decision about something that is carried out on a regular basis could stand in the way of sustainable development for a local community. That is why proper guidance must be drawn up in consultation with all the relevant stakeholders, and we should not pre-empt that stakeholder input.

**Alex Fergusson:** You will appreciate the slight difficulty that we have in determining the issue one way or another when we will not, I presume, see that proper guidance until after the next election.

I take you at your word that there is no intention for the provisions to have an impact on normal day-to-day farming activities such as the ones I mentioned—at least, I hope that that is the case.

What sanctions does the Government envisage imposing on anyone who does not comply with the guidance that is drawn up on consultation?

**Aileen McLeod:** The Scottish ministers are exploring ways in which a failure to engage with communities on land-based decisions might be taken into account in future decisions on the award of discretionary grants in relation to land.

**Alex Fergusson:** So withholding the single farm payment is the type of sanction that you envisage—sorry, I mean the basic payment, as it is now called.

**Aileen McLeod:** We are exploring various options—

**Alex Fergusson:** When will we know what the sanctions are likely to be?

**Kate Thomson-McDermott:** As the minister said, we are exploring a number of issues around cross-compliance, as we set out in the policy memorandum.

It is probably important to stress that part 4 aims to promote collaboration and trust between those who control the land and those who are affected by land-based decisions. Strictly defined duties on any one party would be overly prescriptive and would endanger the flexibility that is needed to develop better solutions and outcomes for Scotland's communities. The guidance that will be provided will be very much about promoting genuine engagement and collaboration across Scotland. If we moved to specific duties and sanctions, we would risk becoming overly prescriptive and having more of a tick-box exercise that would take us away from the collaboration and engagement that we are looking for.

In developing the guidance, we will want to consult stakeholders on cross-compliance issues as well as on what should be in the guidance.

**Alex Fergusson:** I understand that, but I hope that you appreciate that, the more aspects are not in the public domain, the more difficult it is to achieve the level of trust that you are looking for—quite rightly, as that is the right aim.

I will ask my final question, as I am sure that other members have things to ask. Do you foresee that there will be a role for the land commission in all of this?

**Aileen McLeod:** Yes, there will be.

**Alex Fergusson:** Of what sort?

**Aileen McLeod:** We want a culture of engagement, collaboration and trust across Scotland between those who control our land and those who are affected by land-based management decisions. If we placed strictly defined duties on one party, that could be overly prescriptive and could endanger the flexibility that is needed to co-develop better solutions and outcomes for Scotland's communities.

The bill states that

"Before issuing guidance ... the Scottish Ministers must consult such persons as they consider appropriate",

but there is nothing in the bill to prevent the land commission from becoming involved in developing or reviewing the guidance.

**Alex Fergusson:** Okay. Thank you.

**Michael Russell:** I asked the officials some questions about the issue when they gave evidence to the committee. I was encouraged by what they said, and I am encouraged by what you have said today.

The policy memorandum contains some detail on the issue that has not made it through to the bill yet. I say "yet" because I think that there is room to take what is a good idea about encouraging good practice and use the detail in the policy memorandum to strengthen the bill so that, in the classic environmental way, good practice is encouraged and bad practice is deterred—that follows on only if good practice is not encouraged. Is there some thinking about an amendment that would put the information from the policy memorandum into the bill? That would flesh out where we are at and generate enthusiasm for the bill's intent.

**Aileen McLeod:** I am certainly happy to consider that. If the committee wishes to make any recommendations on the issue, that would be helpful for us.

**Michael Russell:** It strikes me that, given the nature of the policy memorandum, any such amendments would be best brought forward by the Government, but I am sure that there can be a collaborative process. The material in the policy memorandum is good and I think that it would work well.

**Aileen McLeod:** It is also important to note what the guidance will try to do. It will set out the exact nature of the type of decisions on which community engagement should be carried out, the form of engagement to be followed by those who control land and what those who control land are expected to do following community consultation.

**The Convener:** We move on to the right to buy land to further sustainable development. Claudia Beamish will lead on that.

**Claudia Beamish (South Scotland) (Lab):** Good evening, minister and officials. I want to go into part 5 in a bit of detail, and I am sure that other members will want to ask questions on it as well, because it goes to the heart of the bill.

As you know, minister, the consultation on the right to buy land to further sustainable development proposed powers for ministers or another public body to intervene where the scale of land ownership or decisions of landowners act as a barrier to the sustainable development of communities. The committee has heard a great deal of evidence on the matter including some examples of positive experiences with landowners and some frankly deplorable ones, although fortunately they are in the minority.

In the context of part 5 of the bill—sections 38 to 65—does the Government intend that the provisions should apply to land that is currently being well managed? Should the bill be amended to provide clarification on that point? There has been some evidence that there might be a need for clarity.

18:15

**Aileen McLeod:** We need to bear in mind that part 5 applies to specific instances where communities propose to use a right to buy land to promote sustainable development. It is not a broad and general right. It will apply only in certain specific instances, and decisions will have to be made on a case-by-case basis. Fundamental to this is the identification of significant harm that is likely to affect the community if the land is not transferred, together with significant benefit to the community if the land is transferred, where only the transfer of the land can resolve those issues. Of course, that transfer of land must be in the public interest.

**Claudia Beamish:** If no one has any questions on that particular point, I will move to the next point that I want to cover.

**The Convener:** We have a long way to go.

**Claudia Beamish:** With a short break in the middle.

**The Convener:** No.

**Claudia Beamish:** I meant a break in the middle of the set of questions from me, convener.

On part 5, has any consideration been given to allowing bodies such as local authorities or the Government to buy land where there is currently no community? I do not mean that there is no community, exactly; I mean that there is no community interest and there is perhaps no one particularly close by or whatever.



**Aileen McLeod:** Certainly, the focus of the provisions has been on the relationships between communities and landowners, as we want to ensure that that balance is right and that we overcome barriers that communities face. A key consideration in drawing up the bill was to minimise Government intervention to what was necessary to achieve the overall aims. We examined ways of encouraging that better engagement and ensuring that there was a possibility of transfer under part 5 should no voluntary route succeed.

Of course, local authority land is not being precluded from consideration under part 5, but we would have to consider the guidance that is necessary to support decisions by communities about what route to go down. Obviously, the provisions in the Community Empowerment (Scotland) Act 2015 on public sector asset transfer are perhaps more appropriate, but the part 5 provisions in the bill might also apply.

**Sarah Boyack:** I want to ask about the registers that will be available and how accessible that information will be. I am particularly thinking about whether the provisions in the bill and in the Community Empowerment (Scotland) Act 2015 should be amended to enable the establishment of a single register of community interest in land. That would enable the coverage of land in need of sustainable development as well as abandoned and neglected land. I do not know whether it is logical to have two separate registers that people have to plough through. In terms of effort and transparency for communities, would it not make more sense to pull them together?

**Aileen McLeod:** Absolutely. We are currently considering amalgamating the two. I think that that might prove to be more efficient. Obviously, we have to balance that with the ease of understanding and accessibility to the registers by relevant parties, such as landowners and their agents and community bodies, as Sarah Boyack has pointed out.

**Sarah Boyack:** That is a helpful answer. Thank you. We are also interested in how the original community right to buy, the right to buy abandoned, neglected or detrimental land and the new right to buy land to further sustainable development will work together. Will they be hierarchical or completely separate?

**Aileen McLeod:** The right to buy in part 5 of the bill must be considered in the wider context of a package of legislative provisions for the community rights to buy and the public transfer of assets that were included in the Land Reform (Scotland) Act 2003 and the Community Empowerment (Scotland) Act 2015. We have a short-life working group on achieving the Scottish Government's 1 million acre target, which is

undertaking work to develop a range of recommendations on how best to support community ownership, including how best to provide guidance to communities and landowners on the various options and how they relate to one another.

The right in part 5 is a right to buy even if the seller is unwilling but only under specific circumstances. It is unlike the pre-emptive community right to buy in the 2003 act. The key test for the right to buy in new part 3A of the 2003 act, which was introduced by the 2015 act, is whether the land is abandoned or neglected or the use or management of the land is such that it causes harm to the community's environmental wellbeing. The key test under the 2015 act is about the condition and use of the land rather than the needs of the community. On the other hand, the key test for the right to buy land to further sustainable development under part 5 of this bill focuses on the outcomes for the community rather than on the condition of the land.

**Sarah Boyack:** When we visited Fife, we heard that this was a key issue for the community. That was with the existing legislation, and we are adding new provisions in the bill. The minister will not be able to explain those to every community so, somehow, whatever we agree to in the bill will have to be boiled down so that it is understandable to communities and landowners and everybody knows where they stand.

**Aileen McLeod:** Some of that work is being done by our short-life working group, which has been set up to consider how we achieve the Government's 1 million acre target. It is considering a range of recommendations for how we best support community ownership, including how we provide the guidance that brings together all the different rights to buy.

**The Convener:** When will it report?

**Aileen McLeod:** Shortly.

**The Convener:** I call Claudia Beamish again, after her short break.

**Claudia Beamish:** Why are the definitions of "sustainable development", "public interest", "significant benefit" and "significant harm" not included in the bill? For a range of reasons, there has been conflicting evidence about whether they should be in the bill or considered only in secondary legislation. It would be helpful for the committee if we could hear your present thoughts on that.

**Aileen McLeod:** That addresses some of the points that I was trying to pick up in answer to Mr Fergusson's question.

As we said, it was not considered necessary to define "sustainable development" because its

meaning is well understood and the term has been widely used in other legislation, particularly in the other right-to-buy legislation. I will bring in my officials to explain some of the detail about that.

Our view is that “significant benefit” and “significant harm” are ordinary language. The terms are understood by the courts and the public and can be assessed case by case. I read with interest that that position was supported by a statement from Charles Livingstone of Brodies in response to a question from Mr Fergusson about the definitions of “significant harm” and “significant benefit” in the human rights evidence-taking session on 7 October. Mr Livingstone responded:

“‘Significant benefit’ and ‘significant harm’ are really just ordinary language, and the courts and anybody who would be affected by the bill would be more than capable of understanding, or at least estimating, what those might mean in a particular case.”—[*Official Report, Rural Affairs, Climate Change and Environment Committee, 7 October 2015; c 31.*]

Similarly, “public interest” is well understood and we did not consider that it was necessary to set out a definition in the bill.

**Claudia Beamish:** That brings us, perhaps seamlessly, to my next question, which is about community understanding of the terms in the bill. You have touched on this in relation to landowners and the community. Although it may be possible for people to understand those terms, there will be different understandings of them, as you have acknowledged in saying that it will be a case of estimating what the terms mean. Whether something is put in the bill or in regulation, communities and landowners will need to understand the terms very clearly if the bill is going to work effectively.

**Aileen McLeod:** I will bring in my policy officials.

**Kate Thomson-McDermott:** The point that the minister made earlier was that, in taking the policy forward, there will be a need to develop, with communities and landowners, really good guidance that will explain how the provisions work and what, in general, is meant by the terms. There is no avoiding the fact that, if the provisions are to work effectively, they will need to be considered on a case-by-case basis. What “sustainable development” means in one case, for one community, will be very different from what it means in another case, for a different community. The first step will be to ensure that there is strong guidance. The second step will be to ensure that every party has a full opportunity during the application process to set out clearly what they mean and that the process is designed to ensure that communities must present robust evidence on harm, benefit and how the transfer would promote sustainable development. Landowners must also

be given strong opportunities within the process to give their corresponding views on the issue. Through those measures, we can ensure that both sides have a clear understanding of what is meant in the particular context.

**Claudia Beamish:** Thank you. Minister, is there any specific legal reason for the inclusion of the term “significant harm”? The question has been answered, in part, by your official. How can significant harm be proved?

**Aileen McLeod:** Given that it is a legal issue, I will pass it on to my legal colleagues.

**Rachel Rayner:** The test that has been created is the test that meets the policy intention. That is what drove the test, as the minister has said. It is about identifying circumstances in which the transfer of land will achieve a significant benefit and avoid significant harm, where it is in the public interest and it will further sustainable development. The reason for choosing the test was to meet the policy objective.

**Claudia Beamish:** Right. Thank you.

**Alex Fergusson:** I have two brief supplementary questions, if the convener will allow them. The first takes us back to Claudia Beamish’s first question, on which I need some clarification. The question was whether the Government intends that the provisions should apply to land that is currently being well managed. At our evidence session in Skye, I asked Peter Peacock of Community Land Scotland about that issue. There are four tests that a community must meet in order to further its application to buy, and the landowner or land manager—be they a tenant, landlord or whatever—has a right to put their case as well. I asked what would happen in a 50:50 situation, when it was impossible to say that one case was stronger than the other, and the answer that I got was that the provision is about further empowering communities for sustainable development and that, in a 50:50 situation, the decision would be made in favour of the community however well the land was being managed. Can you clarify that the answer to Claudia Beamish’s original question, about whether the Government intends the provisions to apply to land that is being well managed, is, in certain circumstances, yes?

**Aileen McLeod:** As we have said, decisions will be made on a case-by-case basis. The community would have to make a strong application that showed the significant benefit that would be delivered and which identified the harm that would be caused to the community if the transfer did not go ahead. Cases will be looked at individually and judged on their own merits.

**Alex Fergusson:** But, on occasion, the answer to that question might be yes.

**Aileen McLeod:** It might be yes.

**Alex Fergusson:** Thank you. My second supplementary question is on the provision to allow a third party to be nominated by the applicant community body to own the land. Some say that the provision is innovative; some say that it is rather cloudy in its intention. Can you clarify for us what the intention of that provision is?

18:30

**Aileen McLeod:** A key part of the test for an application under part 5 is that community bodies could give evidence to show that the transfer of land to the community or the third party was necessary to provide a significant benefit, to prevent or remove significant harm and to further sustainable development. The benefit of the provision is that third parties might have resources or expertise that would not otherwise be available to communities. Part of ministers' consideration of any application would involve looking at the robustness of the community's plans and the agreement between the community body and the third party. They might expect community and third-party partners to have legal agreements that set out delivery timescales, rights, liabilities and maintenance arrangements.

**Alex Fergusson:** I take us back to the session that we had this afternoon, at which I asked members of the audience whether they shared the concern that the provision might allow—unless it is extremely clear in what circumstances it can and cannot be used—a third party to use a compliant community as a smokescreen for furthering its own idea of sustainable development. In such a case, I suspect that rather more would be done for the economic and profitable development of the third party than would be done for the development of the community. I know that that might be an extreme example, but what assurances can you give us that the bill will take care of such a scenario? When I put that question to the audience this afternoon, quite a lot of people said yes and nobody said no.

**Aileen McLeod:** I will ask my officials to deal with that.

**Kate Thomson-McDermott:** I re-emphasise the point that the minister made. In developing the guidance and in providing support to communities, it will be important to point out the risks and to support them in going through the process to make sure that they do not find themselves in circumstances in which a potential rogue third party takes advantage of them. A key aim is to provide communities with the support that they need so that they are aware of that possibility and can plan to make sure that it does not happen to them.

Secondly, ministers will have to look at any such arrangements in a very robust manner during the process. Provision is made for not only landowners but any third party that might have a relevant interest to provide views about an application. In that way, ministers will be able to take on board the views of local authorities or housing association representative bodies. A wide range of evidence would be taken and ministers would look at the proposed arrangements very robustly to make sure that the sort of situation that you describe was prevented as much as possible.

**The Convener:** Am I correct in saying that there are places in the Highlands where there are no longer communities, in relation to which community bodies such as Community Land Scotland could act as a third party in identifying whether there was a possibility of a settlement being re-established?

**Aileen McLeod:** Under the criteria, there still needs to be a community body.

**The Convener:** Yes, but if there are places where there are no people but where people used to live, would this part of the bill apply?

**Aileen McLeod:** We would need to have a look at the longer-term implications of that.

**The Convener:** Graeme Dey has a question before we move on to the next part.

**Graeme Dey:** It is a brief question to wrap up the discussion. In relation to the consultation with communities and the right to buy, it is accepted by everyone that guidance will be hugely important. Can you give us some indication of when work on developing that guidance will begin? How long might it take for those with a direct interest in the issue to have, at the very least, some idea of what form the guidance might take and what it might amount to?

**Kate Thomson-McDermott:** As the minister mentioned earlier, the short-life working group on the Scottish Government's 1 million acre target is already developing detailed recommendations on how best to support communities and landowners in the future. Part of the group's role will be to set out clearly in recommendations what it will be necessary to provide to communities by way of guidance.

A range of work has already begun to develop guidance for the new right-to-buy provisions and the reviewed right-to-buy provisions under the Community Empowerment (Scotland) Act 2015. There is a general workstream in progress looking at both; at the moment, it is not possible to say exactly when that will be ready. We are in the process of scoping that work and planning for it, and we intend to do it as soon as possible.

**Aileen McLeod:** The short-life working group is currently finalising the report for me. It will contain a set of recommendations and priorities for action that the group feels will have the most impact in achieving that 1 million acre target through the different workstreams.

**Graeme Dey:** Okay, but that is going on behind the scenes. My question is: at what point will some of this get into the public domain so that people begin to understand what might be in any consultation process? What timeframes are we working to?

**Kate Thomson-McDermott:** In taking forward the changes and the new rights to buy under the Community Empowerment (Scotland) Act 2015 and in the Land Reform (Scotland) Act 2003, a number of areas of secondary legislation will be needed. The timings will to a large extent be dependent on that secondary legislation.

I understand that colleagues in our community empowerment team are working closely with the committee on the timings of the secondary legislation for the Land Reform (Scotland) Act 2003 provisions, and we absolutely intend to do the same for the provisions in the bill following the election and into the next session of Parliament. It will not be possible to take forward the necessary secondary legislation until the next session. That is another factor that needs to be taken into consideration in mapping the timescales.

**Graeme Dey:** I am sorry to push this, but are we talking about the tail end of next year or into the following year? Roughly, when will it be?

**Kate Thomson-McDermott:** That would be a reasonable indication: we are talking about the end of next year or the beginning of the year after before all the measures can be taken forward. I would not want to provide a date at the moment because, as I said, it depends on the recommendations coming out of the short-life working group and on on-going discussions about the timing of secondary legislation.

**Graeme Dey:** That is a general indication—thank you.

**The Convener:** We move on to part 6, which is on entry in the valuation roll of shootings and deer forests. Jim Hume will kick off on that.

**Jim Hume:** The Scottish Assessors Association said:

“every shooting right should be in the valuation roll.”—*[Official Report, Rural Affairs, Climate Change and Environment Committee, 30 September 2015; c 42.]*

We have heard from organisations such as Scottish Land & Estates and NFU Scotland that taking away the exemption from rates of those with sporting rights would affect not only large

estates but smaller farms, crofts and even tenants who have the right to shoot even though they do not take up the sport or who use shooting for vermin control.

I appreciate that a small business might be able to apply for an exemption through the small business scheme, but that would of course be hugely bureaucratic. Will the minister clarify exactly who part 6 of the bill is aimed at and what criteria will be used in deciding who will be liable for the new rates?

**Aileen McLeod:** Part 6 is about the routine taxation of non-domestic property. It will mainstream shooting and deerstalking property. Obviously, it is about the principles of fairness and revenue raising. The revenue that is raised will contribute to the Scottish Government's commitment to extend the Scottish land fund until 2020 to continue to support our communities through community ownership.

The measure will affect all shootings and deer forests that are non-domestic properties. That could range from farms up to large estates, but many properties will get rates relief. It is worth pointing out that, although this is a revenue-raising proposal, it is fundamentally about a principle of fairness and there is not a target amount to raise.

**Jim Hume:** To clarify, some people might be exempt through the small business scheme that exists at the moment—although it might of course disappear in the future—but is the minister saying that the measure will include absolutely every piece of land that has sporting or shooting rights?

**Aileen McLeod:** Before I answer, I will bring in officials.

**Kate Thomson-McDermott:** To provide a bit of information, I note that we are talking about a valuation provision rather than a ratings provision. It is about putting those properties back on the roll. As with all non-domestic rates, it will be for the assessors to determine the definition and what should be placed on the roll.

**Jim Hume:** So it would be just the assessors who would judge that. The assessors are local authority employees, and local authorities are under pressure to bring in more income, so there may be quite a lot of pressure on the assessors to gain as much income as they can.

**Kate Thomson-McDermott:** As with all non-domestic rates, the correct valuation methodology is very important. Historically, it has always been done by independent assessors, who are informed by dialogue with the sector. The assessors work with the respective sectors to develop the methodology, which is subject to appeal by the ratepayer, right up to the Court of Session. There is already a range of checks and balances to

protect ratepayers in relation to the valuation methodology.

**Jim Hume:** So might every single small farm have to go the Court of Session to see whether they are exempt?

**Kate Thomson-McDermott:** No, the assessors will engage closely with stakeholders. Scottish Government officials responsible for non-domestic rates are already engaging strongly with stakeholders, and there will be a whole process to determine the valuation methodology. That is an issue for later when the rates provisions are introduced under secondary legislation.

**Aileen McLeod:** In the past, the assessors went out and spoke to the sector and to prospective rateable occupiers as they saw fit.

**Jim Hume:** Should those processes not have come forward before this part of the bill was introduced?

**Kate Thomson-McDermott:** The legislative provision is necessary in order to remove the exemption so that the properties can go back on the valuation rolls. It is only when they go back on the rolls that the assessors can go out and do the valuation. That is the process for how things happen in relation to non-domestic rates legislation.

**Jim Hume:** Okay—thank you.

**Michael Russell:** To be accurate and fair, I note that, when the ratings were removed in 1995, farms were not part of the rating, nor were small plots of ground with shooting rights. I own a little bit of ground around my but and ben in the Highlands. I do not actually shoot on it, but people would be welcome to come and do so because it has never been rated in such a way. Just for the sake of accuracy and fairness, I point out that there was no such proposal in the past because such land was not rated, and as I understand it—the minister can confirm this—there is no such proposal now to bring farms and small plots of ground into the scheme.

**Aileen McLeod:** There is not.

**Graeme Dey:** Let us see if I am getting this right. There will be a requirement to add every significant shooting right on to the valuation roll. Is that correct?

**Aileen McLeod:** Yes.

**Graeme Dey:** That has resource implications for the assessors and the local authorities. Have those been assessed and does the Scottish Government accept that there may be a need to provide additional resources in order for assessors and local authorities to carry out the necessary groundwork in a timely fashion?

**Aileen McLeod:** We have had numerous discussions with landowner and deer management stakeholders. We are very grateful for their input on the matter. Officials have also engaged the assessors, the Convention of Scottish Local Authorities and our council practitioners. There will be an incremental increase in the administrative burden for the assessors and councils with shooting and deerstalking in their areas, but from our discussions it seems that the burden will be relatively low and sustainable. We are continuing to have discussions, and there will be time to put all the practical arrangements in place.

**Angus MacDonald:** The committee has received quite a bit of evidence on the impact on rural communities, jobs and agricultural holdings of ending the exemption, and that evidence voiced some concern. What work has the Scottish Government done to assess the impact on rural communities, jobs and agricultural holdings of ending the exemption and what does the Scottish Government research show so far?

**Aileen McLeod:** Having reflected on the evidence and the views that we have received, we feel that the measure is sustainable. Property tax is only one factor in business decisions and, even if we had accurate knowledge of the revenue, it would not be possible to model implications for jobs and so on at a national level.

We recognise that tax can have adverse impacts, but it is necessary for public spending; I also point out that tax breaks, too, can have adverse impacts by narrowing the tax base and by pushing the burden on to that narrower base. Of course, non-domestic rates are a proportionate tax; they are based on a property's rental value, and the rates liability will be relatively low and sustainable, as it has been for more than 100 years.

18:45

**Angus MacDonald:** Concern has also been expressed about the effect of the end of the exemption for deer management. The National Farmers Union Scotland has stated:

“The proposals appear to be contradictory in that landowners will have additional requirements to control deer, whilst at the same time potentially have to pay rates which could be based on numbers killed.”

It has also been suggested in evidence that the removal of the exemption might affect the viability of conservation management. What thought has been given to the impact of the measure on deer management and other biodiversity work that the estates are currently carrying out? Do you believe that gamekeepers' jobs could be at risk as a result?

**Aileen McLeod:** There could be a conflict with deer management, but we believe that it will be manageable. A robust and fair valuation methodology is required and, as we have said previously, that is for the assessors to develop in partnership with the sector. Pre-1995, the assessors took account of deer management policies and, similarly, we would expect them to consider relevant factors in future. We recognise the biodiversity and other benefits of positive deer management, but we believe that there are better ways of targeting support—for example, through the Scottish rural development programme—than a blanket rates exemption.

**Angus MacDonald:** Are any amendments being considered to this part of the bill to incentivise good practice in deer management and conservation? I am thinking in particular of the Scottish Wildlife Trust's suggestion in evidence to the committee of an incentive or rebate for complying with proper deer culling, but is the Government considering any other such incentives?

**Aileen McLeod:** We have considered the issue but thus far we have not been persuaded of the case for a new rates relief. As I have said, we think that it would be better to target support through, say, SRDP funding, but we are very happy to consider the matter further.

**Angus MacDonald:** Of course, SRDP funding is a finite resource. I suggest, therefore, that the Government consider the SWT's suggestion.

**Aileen McLeod:** We are very happy to do so.

**Alex Fergusson:** I was interested in the minister's earlier comment that this is a revenue-raising exercise. Contrary to some opinion that has been put forward, sporting rates were removed—back whenever it was—because the cost of collecting them was virtually the same as the amount of rates collected. In other words, it was almost revenue neutral.

I know that the Government's best estimate of the gross tax revenue is £4 million or thereby, but has there been any economic analysis to establish the net revenue that would be raised? As the minister has already, I think, alluded to and as the First Minister has said publicly, the idea is to put the revenue that is raised into the Scottish land fund, but if there is no revenue to raise the exercise seems rather pointless.

**Aileen McLeod:** We still estimate the revenues at £4 million, subject to considerable rates relief. The cost of rates collection is relatively low. As I have said, this is a revenue-raising proposal.

I should point out that the bill provides for valuation, not rating—it is just one part of the tax equation. The tax base itself is not easily

estimated, which is why for more than 100 years now legislation has provided for assessors to undertake that task. As we do not yet know the 2017 poundage, we cannot predict revenue from any sector for 2017, but the key point is that we will know the emerging values from the assessors ahead of implementation in 2017. That will give us options for setting the tax burden through setting the annual poundage and then for deciding on any rates relief. The bill is only the first part of the equation for setting the tax burden.

**Alex Fergusson:** Maybe I could turn the question around. If you do not know—I understand why you would not—the likely net revenue and if the gross revenue is a bit of a guess, how much do you want to raise through that revenue-raising tax? What is the target?

**Aileen McLeod:** As I said, it is a revenue-raising proposal, but fundamentally it is about a principle of fairness, not raising a target amount.

**Alex Fergusson:** I am beginning to ask what it is for.

**Aileen McLeod:** This is about a principle of fairness.

**Alex Fergusson:** Okay. Thank you.

**The Convener:** Graeme Dey has a supplementary question.

**Graeme Dey:** On the principle of fairness, the opportunities for access to modern apprenticeships in rural areas are not the same as those in urban areas. The measure will inevitably or potentially take money out of the rural economy. Could we look to redeploy some of the sums that have been raised to support accredited modern apprenticeships that are based on rural skills so that we help to support our young people to remain in rural areas?

**Aileen McLeod:** I agree with Graeme Dey's sentiments and would be more than happy to look at anything that the committee wishes to bring forward in that regard.

**The Convener:** We will now look at part 8 of the bill, which is on deer management. That follows on nicely from what we have discussed.

**Michael Russell:** I presume that the minister is aware of a report that is on the SNH website that certainly surprised a number of us, because SNH gave evidence to the committee and did not mention that the report was on its website. That report looked at the existing deer management groups, assessed them according to the benchmark of progress that the committee set for 2016, and examined them on public benefit criteria. I think that you will agree, if you are familiar with the report, that it is not the most stunning endorsement of voluntary deer

management. The benchmarked progress is distinctly mixed, and the results on delivering in the public interest were, to be frank, appalling. That indicates that there is a severe problem with voluntary deer management.

We have a hybrid system of statutory and voluntary deer management. In the light of the SNH report, do you agree that we need to move to a tougher regime—tougher than the bill would provide for? As you know, other information indicates that voluntarism is not providing the type of deer management in Scotland that we need and that deer numbers continue to rise exponentially.

**Aileen McLeod:** Mr Russell is quite right to point to that report. In 2014, SNH carried out an assessment of the public-interest features of deer management plans. Obviously, many existing plans focused on operational matters and were fit for that purpose, but they did not reflect the public interest in deer management that was identified in the wild deer strategy. That assessment provides a baseline against which progress can be measured in a further assessment in 2016, and will feed in to the review of the effectiveness of deer management groups. That review was agreed by the Rural Affairs, Climate Change and Environment Committee and my predecessor last year. Its outcome will inform whether the deer provisions need to be commenced and, indeed, whether further legislation may be required.

My understanding is that the committee very much wants to be able to give the voluntary approach the chance to deliver, and substantial support is being provided to do so.

**Michael Russell:** You are aware of my position on the matter. My view is that the voluntary system has had the opportunity to deliver for the best part of a century, but deer numbers keep rising. In that light, I want to press you on the report. I hope that SNH, which might be listening to this discussion, realises that putting a report on a website but not distributing it in any way is not publication. Would you consider looking again at the voluntary principle?

**Aileen McLeod:** I will certainly do that, because after the RACCE Committee inquiry in 2013-14, agreement was reached with ministers that there would be a review of the effectiveness of deer management groups by late 2016. We would be acting in bad faith if we turned our back on that agreement.

**Michael Russell:** We may—as friends—have to agree to differ on the matter. The situation is serious. It is only getting more serious, and the longer we wait, the more serious it will become.

**Alex Fergusson:** The minister might be pleased to know that I wish to support her on the

issue. I feel quite strongly that, as a committee, we delivered quite a kick to a certain part of the anatomy of deer management groups, and gave them a limited time to show significant improvement. That time is only a year away. Outside organisations would lose faith if, after a decision had been taken by the committee, we were suddenly to turn round and take away some of the time that we had given them. It may well be that they fail to come up to the mark. I am afraid that I have not yet read SNH's report, but I encourage the minister to stick to her resolve on this one.

**The Convener:** The minister is not saying anything, so I will bring in Claudia Beamish.

**Claudia Beamish:** I want to take the issue a little bit forward, and highlight the concerns that have been expressed by Michael Russell. SNH's assessment took place in 2014 and the report has, as I understand it, been on its website since August 2015. I am looking at page 14 of that SNH report. Some of the issues are of great concern, particularly in relation to the risk of establishment of invasive non-native species, which has not been dealt with. Indeed, the groups are not good at delivering that element. There are also issues around carbon; the work on that is extremely poor.

I acknowledge that we gave the deer management groups time, but there are, having heard evidence from Richard Cooke and others, serious concerns. If I may, I will refer to my notes. The policy memorandum explains that the Government intends that the bill's powers could be used following the review of deer management planning, which SNH is to complete by the end of 2016. In view of SNH's report, will there be an opportunity, in discussion with officials, the groups and the committee, to bring forward the deer management review?

**Aileen McLeod:** We looked at the various policy options in the policy memorandum. We were hoping that the review, which is due to report at the end of 2016, would point to how our statutory system should look and how we should take it forward. I am meeting the Association of Deer Management Groups next week; I hope also to meet the Lowlands deer management groups shortly.

**Claudia Beamish:** It would be helpful, minister, if you would consider referring back to the committee on those meetings, because the figures in SNH's report are cause for concern. I do not know whether that would be appropriate.

**Aileen McLeod:** I am happy to write to the committee.

**Claudia Beamish:** Thank you. If I understand correctly, the new powers for SNH to require deer management plans would allow SNH to require a

plan and then either to approve or reject it, but not to amend it or draw up its own plan. Why?

**Aileen McLeod:** In practice, the development of any plan is an iterative process between the landowner or occupier, their agents, and Scottish Natural Heritage, which would, ultimately, be able to propose amendments to a plan before approving or rejecting it. As a gradual escalation, the provisions under section 70 put the onus on SNH to propose the necessary deer management measures. Ultimately, the new provisions are intended to reinforce the point that responsibility for deer management lies with the landowner, as is already set out in SNH's "Code of Practice on Deer Management".

**Claudia Beamish:** Right. Thank you.

19:00

**The Convener:** It appears that the report from 2014 has only just appeared on SNH's website—I presume after its official gave evidence to the committee. It is important for us to find out the process so that we can investigate with SNH when the report was published and whether it was referred to in the evidence from SNH. We are confused—not for the first time—and we need to be unconfused.

**Aileen McLeod:** If I can help to deconfuse—

**The Convener:** That is the word.

**Aileen McLeod:** I am more than happy to write to the committee.

**The Convener:** If we continue with the voluntary approach, what happens if a deer management plan is rejected by SNH?

**Aileen McLeod:** If a deer management plan were to be rejected or not implemented, SNH would have to play a more active role in facilitating the agreement of a plan through the development of a voluntary deer control agreement under section 7 of the Deer (Scotland) Act 1996.

**The Convener:** Do you agree with SNH that the existence of section 8 powers gives SNH leverage when negotiating section 7 agreements?

**Aileen McLeod:** Although a section 7 agreement is a voluntary arrangement, it represents a level of intervention by SNH arising from concern about management of deer in a particular locality. I agree that the existence of powers to impose a control scheme should concentrate the minds of the parties involved. That is particularly the case following the changes that were made under the Wildlife and Natural Environment (Scotland) Act 2011, which mean that SNH can begin initiating a deer control scheme six months after the date of serving notice that it wishes to develop a control agreement,

when it has been unable to do so within that period.

**The Convener:** Why, two years after the committee was told that use of section 8 powers was imminent, is SNH only now beginning the process of negotiating section 7 agreements?

**Aileen McLeod:** I understand that the SNH board considered a number of options and concluded that a sustainable deer management plan at Ardvar woodlands had to consider deer management throughout the Assynt peninsula rather than just on the designated site.

**The Convener:** What approaches has SNH made to the Government about the use of section 8 powers in the Assynt peninsula?

**Aileen McLeod:** As I understand it, SNH approached Scottish ministers in late 2013 and provided a briefing to my predecessor, Paul Wheelhouse, on the process. The legislation stipulates that ministerial support is required before a deer control scheme may be imposed. Ministers were—and remain—supportive in principle of such an approach, where SNH deems it necessary and appropriate. SNH is aware of that.

**The Convener:** We have been talking about the problem at Ardvar, which I saw with my own eyes, and the time that it has taken to do anything about it. It has been hinted that SNH feels that it must have sufficiently convincing evidence on the issue that would stand up before a minister. Do you think that there is some other legal requirement involved? Is SNH frightened about it being challenged in the courts?

**Aileen McLeod:** The legislation requires Scottish ministers to confirm any control scheme made under section 8 of the 1996 act. We are not giving SNH a blank cheque, but SNH is aware that ministers are prepared to consider confirming such a scheme, where SNH thinks that it is necessary.

On the specific point, legislation requires that SNH be satisfied that the deer are causing damage and that action is necessary. Officials have indicated that there may well be circumstances in which a one-off assessment of damage would be sufficient to progress to using compulsory measures, if necessary, and that the purpose of control schemes would be to prevent further damage.

**The Convener:** Alex Fergusson wanted to ask about this issue.

**Alex Fergusson:** I did? Oh yes, I did. You are quite right.

As a south of Scotland member, I am sure that the minister is aware of the very different issues in Lowlands deer management, compared to



Highlands deer management. I am a little concerned that, so far, the bill takes a one-size-fits-all approach. I wonder whether she would expand on her thinking on how the bill might differ for Lowlands deer management, as opposed to Highlands deer management.

**Aileen McLeod:** We recognise the need to support deer management in the Lowlands, too. The legislation, the wild deer strategy and the SNH deer code have been framed to ensure that we can take account of all deer species in all areas.

**Alex Fergusson:** I will keep monitoring that, minister. I can see that you are very aware of the differing issues in the two areas.

**Aileen McLeod:** Yes.

**The Convener:** You have offered to come back to us with some sort of idea about what has happened with regard to the SNH report.

**Aileen McLeod:** Absolutely.

**The Convener:** Could that happen fairly soon, because it may be that we wish to take evidence from the deer management group concerned?

**Aileen McLeod:** I will do that as soon as possible.

**The Convener:** Thank you.

That was the last of the questions. I thank the minister and her officials for their evidence. We will reconvene on 4 November, in Edinburgh, to take evidence on part 10 of the bill from the Cabinet Secretary for Rural Affairs, Food and Environment, Richard Lochhead. For the benefit of everyone who has come to this meeting, you can watch that on a webcast and will be able to read the *Official Report*.

The committee has continued to scrutinise the bill to the full. I thank everybody who has come here tonight to witness the process, and I thank particularly my colleagues and the ministerial team for taking us through a complex series of matters related to the Land Reform (Scotland) Bill, which is one of the biggest pieces of legislation that has been taken through the Parliament in this session.

*Meeting closed at 19:06.*



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